



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Patricia A. Plummer
Executive Director of the Board

DOCKET NUMBER 507-14-2572

**IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 186022
ISSUED TO
IRMA JEAN RUSSELL**

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**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

OPINION AND ORDER OF THE BOARD

**TO: IRMA JEAN RUSSELL
17710 RED OAK DRIVE, APT. 209
HOUSTON, TX 77090**

**SARAH STARNES
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701**

At the regularly scheduled public meeting on July 17-18, 2014, the Texas Board of Nursing (Board) considered the following items: (1) Order Number 1, *Order Dismissing Case*, issued by the ALJ in the above cited matter; (2) Staff's recommendation that the Board revoke the Respondent's vocational nursing license by default; and (3) Respondent's recommendation to the Board regarding the above cited matter, if any.

On June 3, 2014, the ALJ convened a hearing on the merits in this matter. Staff of the Board was present for the hearing. However, the Respondent was not present at the hearing, and no one appeared on her behalf. During the hearing on June 3, 2014, Staff introduced evidence into the record demonstrating that Respondent had been sent a Notice of Hearing by first class certified mail return receipt requested to her last known address of record maintained by the Board in accordance with 22 Tex. Admin. Code §213.10(a). The ALJ found that Staff's notice was adequate and issued Order No. 1, granting Staff's Motion for Default and dismissing the case from the docket of SOAH and remanding it to the Board for informal disposition on a default basis in accordance with the Government Code §2001.056.

The Board, after review and due consideration of Order Number 1, *Order Dismissing Case*, issued by the ALJ in the above cited matter, finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with the Government Code §2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Occupations Code Chapter 301 (Nursing Practice Act) for retention of Respondent's license to practice vocational nursing in the State of Texas. The Board further finds that the Formal Charges were properly initiated and filed in accordance with the Occupations Code §301.458. The Board further finds that proper and timely notice regarding the violations alleged in the Formal Charges was given to Respondent in accordance with the requirements of the Government Code §2001.051 and §2001.052 and 1 Tex. Admin. Code §155.501. The Board further finds that the Respondent failed to appear in accordance with 22 Tex. Admin. Code Chapter 213 and 1 Tex. Admin. Code §155.501. As a result of the Respondent's failure to appear, the Board

has determined that the factual allegations listed in the Formal Charges are to be deemed admitted by default and the Board is authorized to enter a default order against the Respondent pursuant to the Government Code §2001.056 and 22 Tex. Admin. Code §213.22. Further, the Board has determined that it is entitled to revoke the Respondent's vocational nursing license pursuant to 22 Tex. Admin. Code §213.33(m).

Therefore, the Board hereby adopts the factual allegations, which have been deemed admitted, and the conclusions of law contained in the Formal Charges, which are attached hereto and incorporated herein by reference for all purposes, and Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing in accordance with the Government Code Chapter 2001 and 22 Tex. Admin. Code §213.23(l), as applicable. All parties have a right to judicial review of this Order. All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

IT IS, THEREFORE, ORDERED THAT Permanent Certificate Number 186022, previously issued to IRMA JEAN RUSSELL, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privileges, if any, to practice nursing in the State of Texas.

FURTHER, pursuant to the Occupations Code §301.467, RESPONDENT is not eligible to petition for reinstatement of licensure until at least one (1) year has elapsed from the date of this Order. Further, upon petitioning for reinstatement, RESPONDENT must satisfy all then existing requirements for relicensure.

Entered this 17th day of July, 2014.

TEXAS BOARD OF NURSING



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR FOR THE BOARD

Attachment: Formal Charges

TEXAS BOARD OF NURSING

In the Matter of Permanent

Certificate No. 186022

Issued to IRMA JEAN RUSSELL

NOTICE OF HEARING

SOAH Docket No. 507-14-2572

Respondent: IRMA JEAN RUSSELL
17710 Red Oak Drive, Apt. 209
Houston, TX 77090

In accordance with Section 2001.051 et seq., Texas Government Code, you are hereby notified that a hearing will be held before an Administrative Law Judge (ALJ), beginning on the **Third (3rd) day of June, 2014, at 9 a.m., and continuing day-to-day as ordered by the Administrative Law Judge (ALJ), at the State Office of Administrative Hearings, William P. Clements Building, 300 W. 15th Street, 4th Floor, Austin, Texas, 78701,** regarding Formal Charges previously filed and served upon you by the Texas Board of Nursing. The Formal Charges are attached and incorporated by reference as a part of this notice.

The hearing is to be held under the legal authority and jurisdiction of the Administrative Procedures Act, Texas Government Code §2001 et seq.; Title I Part VII Texas Administrative Code Chapter 155; the Nursing Practice Act, Texas Occupations Code §301.451 through §301.555; and the Board of Nursing Rule 213 at 22 Texas Administrative Code.

The particular sections of statutes and rules involved in determining the charges are stated in the attached Formal Charges in connection to the facts or conduct alleged.

Pursuant to 22 TEX. ADMIN. CODE §213.22, you are required to enter an appearance in this proceeding by filing a written answer or other responsive pleading with the State Office of Administrative Hearings, P.O. Box 13025, Austin, Texas, 78711-3025, with a copy to the staff (General Counsel, Texas Board of Nursing, 333 Guadalupe, Suite 3-460, Austin, Texas 78701). **FAILURE TO ENTER AN APPEARANCE BY FILING A WRITTEN ANSWER OR OTHER RESPONSIVE PLEADING TO THE FORMAL CHARGES WITHIN TWENTY (20) DAYS OF THE DATE THIS NOTICE WAS MAILED, SHALL ENTITLE THE STAFF TO A CONTINUANCE AT THE TIME OF THE HEARING.** "Staff" is defined by 22 TEX. ADMIN. CODE §213.1(41). Continuances are set by the Administrative Law Judge.

You have the right to appear at this hearing and to have legal representation at the hearing at your own expense. **FAILURE TO APPEAR AT THE HEARING IN PERSON OR BY LEGAL REPRESENTATIVE, REGARDLESS OF WHETHER AN APPEARANCE HAS BEEN ENTERED, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF SHALL BE GRANTED BY DEFAULT.**

If it is determined that the Formal Charges are substantiated, then any prior disciplinary action that has been taken against your license will be considered when determining the appropriate sanction for these violation(s).

Issued, dated, and mailed this, the 12th day of March, 2014.



TEXAS BOARD OF NURSING

A handwritten signature in black ink that reads 'Katherine A. Thomas'.

By: _____

Katherine A. Thomas, MN, RN, FAAN
Executive Director

In the Matter of § BEFORE THE TEXAS
Permanent Vocational Nurse §
License Number 186022 §
Issued to IRMA JEAN RUSSELL, a/k/a §
IRMA JEAN CHOICE, IRMA JEAN GONZALES §
Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, IRMA JEAN RUSSELL, is a Vocational Nurse holding License Number 186022, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about June 25, 2002, Respondent submitted an Application for Licensure by Examination to the Board of Vocational Nurse Examiners, in which she provided false, deceptive, and/or misleading information, in that she answered "No" to the question:

Have you ever been convicted of a felony?

Have you ever been convicted of a misdemeanor other than a minor traffic violation?

Respondent failed to disclose that, on or about October 3, 1990, Respondent entered a plea of Guilty to and was convicted of POSSESSION CONTROLLED SUBSTANCE, a misdemeanor offense committed on October 23, 1989, in the County Criminal Court at Law No. 5 of Harris County, Texas, under Cause No. 8940487.

Respondent also failed to disclose that, on or about July 21, 1994, Respondent entered a plea of Guilty and was convicted of VIOLATION: 18 U.S.C. §924(C)(1), a Felony offense committed on February 18, 1994, in the United States District Court Eastern District of Texas, Beaumont Division, under Cause No. 1:94CR35.

The above action constitutes grounds for disciplinary action in accordance with Section 302.402(a)(2)&(10)(eff 9/1/01), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §239.11(8)(eff. 9/1/01).

CHARGE II.

On or about June 3, 2005, Respondent entered a plea of Guilty to and was convicted of DWI, a Class B misdemeanor offense committed on February 22, 2005, in the County Criminal Court at Law No. 13 of Harris County, Texas, under Cause No. 1287267. As a result of the conviction, Respondent was sentenced to confinement in the Harris County Jail for a period of one hundred eighty (180) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of one (1) year and ordered to pay a fine and court costs.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

CHARGE III.

On or about November 22, 2005, Respondent submitted a Texas Online Renewal Document License Vocational Nurse to the Board of Nurse Examiners, in which she provided false, deceptive, and/or misleading information, in that she answered "No" to the question:

"Have you been convicted, adjudged guilty by a court, plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrest (excluding minor traffic violations) since the last renewal? This includes expunged offense and deferred adjudications with or without prejudice of guilt. Please note that DUI's, DWI's, PI's must be reported and are not considered minor traffic violations. (one time minor in possession {MIP} or minor in consumption {MIC} do not need to be disclosed, therefore, you may answer "No". If you have two or more MIP's or MIC's, you must answer "yes".)"

Respondent failed to disclose that, on or about June 3, 2005, Respondent entered a plea of Guilty to and was convicted of DWI, a Class , a Class B misdemeanor offense committed on February 22, 2005, in the County Criminal Court at Law No. 13 of Harris County, Texas, under Cause No. 1287267.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(2)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(6)(I).

CHARGE IV.

On or about October 8, 2010, Respondent entered a plea of Guilty and was convicted of FAIL TO ID TO P.O. FALSE INF/F, a Class A misdemeanor offense committed on August 16, 2010, in the County Criminal Court at Law No. 8 of Harris County, Texas, under Cause No. 1700761. As a result of the conviction, Respondent was sentenced to confinement in the Harris County Jail for a period of four (4) days and ordered to pay court costs.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

CHARGE V.

On or about January 28, 2011, Respondent entered a plea of Guilty and was convicted of FAIL TO ID TO P.O. FALSE INF, a Class B misdemeanor offense committed on January 20, 2011, in the County Criminal Court at Law No. 5 of Harris County, Texas, under Cause No. 1733074. As a result of the conviction, Respondent was sentenced to confinement in the Harris County Jail for a period of four (4) days and ordered to pay court costs.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

CHARGE VI.

On or about April 5, 2013, Respondent submitted a License Renewal form (Delinquent for over 90 days) to the Texas Board of Nursing, in which she provided false, deceptive, and/or misleading information, in that she answered "No" to the question: "Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

- A. been convicted of a misdemeanor?
- B. been convicted of a felony?
- C. pled nolo contendere, no contest, or guilty?
- D. received deferred adjudication?
- E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
- F. been sentenced to serve jail or prison time? court-ordered confinement?
- G. been granted pre-trial diversion?
- H. been arrested or any pending criminal charges?
- I. been cited or charged with any violation of the law?
- J. been subject of a court-martial; Article 15 violation, or received any form of military judgment/punishment/action?"

Respondent failed to disclose that, on or about October 8, 2010, Respondent entered a plea of Guilty and was convicted of FAIL TO ID TO P.O. FALSE INF/F, a Class A misdemeanor offense committed on August 16, 2010, in the County Criminal Court at Law No. 8 of Harris County, Texas, under Cause No. 1700761.

Respondent also failed to disclose that, on or about January 28, 2011, Respondent entered a plea of Guilty and was convicted of FAIL TO ID TO P.O. FALSE INF, a Class B misdemeanor offense committed on January 20, 2011, in the County Criminal Court at Law No. 5 of Harris County, Texas, under Cause No. 1733074.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(2)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(6)(I).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33 and TEX. OCC. CODE Ch. 53. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

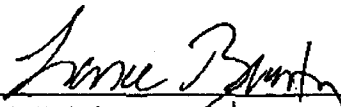
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Guidelines for Criminal Conduct and on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, for Lying and Falsification, for Fraud, Theft and Deception, which can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.texas.gov/disciplinaryaction/discp-matrix.html.

Filed this 15 day of November, 2013.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel

Board Certified - Administrative Law

Texas Board of Legal Specialization

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TEXAS BOARD OF NURSING

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D/2012.06.19

SOAH DOCKET NO. 507-14-2572

TEXAS BOARD OF NURSING,
Petitioner

v.

IRMA JEAN RUSSELL
(LVN # 186022),
Respondent


§ BEFORE THE STATE OFFICE
§
§
§ OF
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§ ADMINISTRATIVE HEARINGS

ORDER NO. 1
ORDER DISMISSING CASE

Administrative Law Judge (ALJ) Sarah Starnes convened the hearing on the merits on June 3, 2014, as scheduled. Assistant General Counsel John R. Griffith appeared on behalf of the staff (Staff) of the Texas Board of Nursing. Respondent Irma Jean Russell did not appear and was not represented at the hearing. Staff's exhibits established that Respondent received adequate notice of the hearing.¹ Therefore, the ALJ finds that Respondent received proper notice of the hearing, and grants Staff's oral motion for default. Accordingly,

It is **ORDERED** that this matter is **DISMISSED** from the State Office of Administrative Hearings docket on a default basis, and the file is being returned to the Texas Board of Nursing for informal disposition on a default basis. Tex. Admin. Code § 155.501(d); Tex. Gov't Code § 2001.056.²

SIGNED June 13, 2014.


SARAH STARNES
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

¹ Staff Exhibits 1-12 were admitted into evidence.

² The ALJ only reviewed the adequacy of the notice and not the sufficiency of the factual allegations.