



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.
William C. Thomas
Executive Director of the Board

DOCKET NUMBER 507-14-3865

**IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 126608,
ISSUED TO
BARBARA ALINE HARVIN**

§
§
§
§
§

**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

OPINION AND ORDER OF THE BOARD

**TO: BARBARA ALINE HARVIN
2405 BIRDCREEK
TEMPLE, TX 76502**

**BETH BIERMAN
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701**

At the regularly scheduled public meeting on October 23-24, 2014, the Texas Board of Nursing (Board) considered the following items: (1) Order Number 1, *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 July 23, 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 July 23, 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, *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 126608, previously issued to BARBARA ALINE HARVIN, 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 23rd day of October, 2014.

TEXAS BOARD OF NURSING


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

Attachment: Formal Charges

In the Matter of	§	BEFORE THE TEXAS
Permanent Vocational Nurse	§	
License Number 126608	§	
Issued to BARBARA ALINE HARVIN,	§	
Respondent	§	BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, BARBARA ALINE HARVIN, is a Vocational Nurse holding License Number 126608, 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 1.

On or about September 8, 2013, Respondent submitted an Online Renewal Document Registered Nurse to the Texas Board of Nursing, in which Respondent 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 August 8, 2013, Respondent entered a plea of Guilty to and was convicted of ISSUANCE OF A BAD CHECK, a Class C misdemeanor offense committed on July 10, 2011, in the County Court in and for Bell County, Texas, under Cause No. CC1109392.

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. 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.

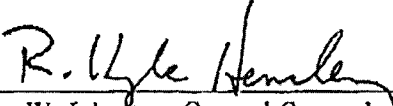
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Lying and Falsification, which can be found at the Board's website, www.bon.texas.gov.

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.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order dated June 11, 1996.

Filed this 14th day of November, 20 13.

TEXAS BOARD OF NURSING


James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Abel, Assistant General Counsel
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel
State Bar No. 24066924

John R. Griffith, Assistant General Counsel
State Bar No. 24079751

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

John F. Legris, Assistant General Counsel
State Bar No. 00785533

TEXAS BOARD OF NURSING
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6811
F: (512) 305-8101 or (512) 305-7401

Attachments: Order of the Board dated June 11, 1996

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Noted by Secretary to Board of Vocational Nurse Examiners, State of Texas, on 1/28/95. The Board of Vocational Nurse Examiners, State of Texas, has received the above information and has taken appropriate action. The Board of Vocational Nurse Examiners, State of Texas, has taken appropriate action. The Board of Vocational Nurse Examiners, State of Texas, has taken appropriate action.

BOARD OF VOCATIONAL NURSE EXAMINERS

STATE OF TEXAS

VS.

BARBARA ALINE HARVIN

COUNTY OF TRAVIS

AGREED BOARD ORDER

On this day came to be considered by the Board of Vocational Nurse Examiners the matter of vocational nurse license number 126608 held by BARBARA ALINE HARVIN, hereinafter called Respondent.

By letter, the Board of Vocational Nurse Examiners sent preliminary notice to Respondent of its intent to take disciplinary action with respect to said license held by Respondent, as a result of a complaint and subsequent investigation. Said investigation produced evidence indicating that Respondent has engaged in unprofessional or dishonorable conduct that, in the opinion of the Board, is likely to deceive, defraud, or injure the public, in violation of Article 4528c, Section 10 (a) (9), Revised Civil Statutes of Texas, in the following manner:

I.

a. Respondent was employed as a Licensed Vocational Nurse at Saint Jo Nursing Center in Saint Jo, Texas, on or about January 28, 1995.

b. While so employed, on said date, at about 4:00 p.m., it was reported to Respondent by a co-worker that resident M.D. was having trouble breathing. As a result of said report, Respondent assessed said resident and noted a change in

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AGREED BOARD ORDER

RE: BARBARA ALINE HARVIN, LVN #126608

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condition. Subsequently, Respondent telephoned said resident's physician and received an order to updraft breathing treatment every four (4) hours, if distress continued to notify physician.

c. On said date, from about 4:00 p.m. to about 8:00 p.m., Respondent continued to note a change in resident M.D.'s condition, but failed to notify the physician of said resident's continued distress, as per his orders.

d. On said date, at about 11:16 p.m., resident M.D. was found in her room unresponsive and without respirations at which time she was transported to Nacona General Hospital by the oncoming shift. Subsequently, said resident expired.

e. On said date, the Director of Nurses notified Respondent by telephone that resident M.D. had expired. Further, the Director of Nurses questioned Respondent due to the fact that said resident's Nurse's Notes did not reflect any documentation after 8:00 p.m. Subsequently, Respondent came back to said facility and inappropriately documented in said resident's chart.

By Respondent's signature on this Order, Respondent neither admits nor denies the truth of the matters previously set out in this Order with respect to the above mentioned investigation. By Respondent's signature on this Order, Respondent acknowledges that they have read and understood this Order and have approved it for consideration by the Board.

By their notarized signature on this Order, Respondent does hereby waive the right to a formal Complaint, Notice of Hearing and a Public Hearing held before an Administrative Law Judge with the State Office of Administrative Hearings, and to judicial review of this disciplinary action. Notice of this disciplinary action will appear in the Board's newsletter sent to Texas employers.

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AGREED BOARD ORDER
RE: BARBARA ALINE HARVIN, LVN #126608
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ORDER OF THE BOARD

NOW THEREFORE, IT IS ORDERED that license number 126608, heretofore issued to BARBARA ALINE HARVIN, to practice vocational nursing in the State of Texas be, and the same is hereby suspended until such time as Respondent enrolls in or is tutored and successfully completes nursing program course(s) encompassing the following areas of study: Legal Aspects of Nursing (to include Charting, & Patient Confidentiality) (at least 8 hours in length), Nursing Assessment (at least 6 weeks in length), and submits proof of successful course completion to the Board office. Respondent shall be responsible for locating said course(s) and obtaining prior ~~written~~ approval of Board staff prior to enrollment. Said course(s) shall be in-house at a community college, university, or nursing program, and/or tutored by a state approved, licensed nursing program faculty member. The expense of said course(s) shall be borne by Respondent.

It is ordered that upon proof of course enrollment, Respondent shall be issued a temporary license. The temporary license issued to Respondent shall be for the express purpose of meeting the educational requirements of this Board Order. Any attempt by Respondent to practice vocational nursing for remuneration with the temporary license, will result in criminal prosecution.

It is further ordered that upon receipt of said documentation reflecting satisfactory completion of said course(s), the suspension of said license shall be automatically stayed and the license placed on probation for a period of one (1) year.

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AGREED BOARD ORDER

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The probation of said license is subject to the following stipulations, to wit:

1. That if Respondent's place of employment, name, address or telephone number changes, Respondent is to notify the Board office immediately, or no later than ten (10) days after said change has occurred. Said notification shall be in the form of a written letter or report.
2. That Respondent shall comply with Federal, State, and local laws, and all the provisions of the Vocational Nurse Act and Rules and Regulations of the Board.
3. That by copy of this Board Order, Respondent shall provide notice of Board disciplinary action to his/her immediate nursing supervisor(s) and Director(s) of Nursing, throughout the term of probation.
4. That Respondent shall be responsible for causing his/her immediate nursing supervisor(s) to submit satisfactory reports directly to the Board office on a monthly basis for the first six (6) months of probation. Thereafter, and throughout the remainder of said probation, Respondent shall be responsible for causing his/her immediate nursing supervisor(s) to submit satisfactory reports directly to the Board office on a quarterly basis. The receipt of an unfavorable and/or untimely report shall be considered a violation of probation.
5. That any period(s) of nursing unemployment must be documented in writing by Respondent and submitted to the Board office, as provided in Stipulation No. four (4).
6. That Respondent shall work only under the direct supervision of a licensed medical professional (M.D., R.N., L.V.N.) who is physically present on the work premises during Respondent's shift assignment(s), throughout the term of probation.

This Agreed Order shall not be effective or take effect and become enforceable in accordance with its terms until endorsed by a majority of the Board present and voting, at its next regularly called session.

Dated this the 2 day of April, 19 86.

Barbara A. Harvin
Signature of Respondent

1201 N. 4th St.
Current Address

Dallas TX 75230
City, State and Zip

817 1-872-0124 or 817-380-9765
Area Code and Telephone Number

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AGREED BOARD ORDER

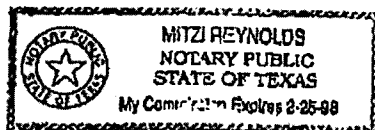
RE: BARBARA ALINE HARVIN, LVN #126608
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The State of Texas,

County of Munroe

Before me, the undersigned authority, on this day personally appeared BARBARA ALINE HARVIN, who being duly sworn by me stated that he or she executed the above for the purpose therein contained, and that he or she understood same.

SWORN TO AND SUBSCRIBED before me on this the 2 day of April, 1996.



Mitzi Reynolds
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My Commission Expires 2-25-98

Marjorie A. Bronk
Marjorie A. Bronk, R.N.
Agent for the Board of
Vocational Nurse Examiners

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the 8th day of April, 1996.



Linda Rae Kent
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

APR 05 1996

00126608

AGREED BOARD ORDER

RE: BARBARA ALINE HARVIN, LVN #126608

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ENDORSEMENT OF THE BOARD
To The Agreed Board Order
in the matter of Vocational Nurse
License No. 126608
Issued to Barbara Aline Harvin

At its regularly called session, on the 11th day of June, 1996, came on to be considered the indicated Agreed Board Order pertaining to Barbara Aline Harvin. The Board having reviewed the contents of said Order, the Order should be, and is hereby, endorsed as an Order of the Board and made an official act of the Board of Vocational Nurse Examiners for the State of Texas.

Said Order is rendered on this the 11th day of June, 1996.

William Brown
Carol McCran
Russell Cheney
W. J. Moore
Paul Robinson
James Wood
Michael E. Thompson



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BOARD ORDER
RE: BARBARA ALINE HARVIN, LVN #126608
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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of June, 1976,
a true and correct copy of the foregoing Order was served by placement in the
U.S. Mail, first class, and addressed to the following person(s):

Barbara Aline Harvin
1201 N. Mill
Bowie, Texas 76230

Marjorie A. Bronk
Marjorie A. Bronk, R.N.
Executive Director
Agent for the Board of Vocational Nurse Examiners