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Patricia A. Johnson
Executive Director of the Board

DOCKET NUMBER 507-16-5622

IN THE MATTER OF § BEFORE THE STATE OFFICE
PERMANENT CERTIFICATE §
NUMBERS 800220 & 218132, § OF
ISSUED TO §
JOSEPH ALFRED MANGO § ADMINISTRATIVE HEARINGS

OPINION AND ORDER

TO: JOSEPH ALFRED MANGO
5010 W. LOOP 250 N. APT.#15-F
MIDLAND, TX 79707

LAURA M. VALDEZ
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting of the Eligibility and Disciplinary Committee of the Texas Board of Nursing (Committee) on December 13, 2016, the Committee, pursuant to 22 Tex. Admin. Code §213.23, considered the following items: (1) Order No. 1, *Default Dismissal*, issued by the ALJ in the above cited matter; (2) Staff's recommendation to the Committee that the Respondent's registered and vocational nursing licenses be revoked by default; and (3) Respondent's recommendation to the Committee regarding the above cited matter, if any.

On September 12, 2016, 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 his behalf. During the hearing on September 12, 2016, 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 his 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, *Default Dismissal*, 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 and §2001.058(d-1).

The Committee, after review and due consideration of Order No. 1, 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 licenses to practice professional and vocational nursing in the State of Texas. The Committee further finds that the Formal Charges were properly initiated and filed in accordance with the Occupations Code §301.458. The Committee 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 Committee

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 Committee has determined that the factual allegations listed in the Formal Charges are to be deemed admitted by default and the Committee is authorized to enter a default order against the Respondent pursuant to the Government Code §2001.056 and §2001.058(d-1) and 22 Tex. Admin. Code §213.22. Further, the Committee has determined that it is entitled to revoke the Respondent's registered and vocational nursing licenses pursuant to 22 Tex. Admin. Code §213.23 and §213.33(m).

Therefore, the Committee 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 Numbers 800220& 218132, previously issued to JOSEPH ALFRED MANGO, to practice nursing in the State of Texas be, and the same are 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 13th day of December, 2016.

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 Registered Nurse §
License Number 800220 & §
Permanent Vocational Nurse §
License Number 218132 §
Issued to JOSEPH ALFRED MANGO, §
Respondent § **BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, JOSEPH ALFRED MANGO, is a Registered Nurse holding License Number 800220, which is in current status at the time of this pleading, and is a Vocational Nurse holding License Number 218132, which is in delinquent 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 May 23, 2013, Respondent submitted an Online Renewal Document to the Texas Board of Nursing in which he provided false, deceptive, and/or misleading information, in that he 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 have 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 September 12, 2012, Respondent was arrested by the Midland County Sheriff's Office, Midland, Texas, for DRIVING WHILE INTOXICATED, a Class B misdemeanor offense. Respondent was subsequently charged under Cause No. CR140492 for DRIVING WHILE INTOXICATED. The charge was pending at the time of renewal.

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)(l).

CHARGE II.

On or about August 7, 2013, Respondent was arrested by the Midland County Sheriff's Office, Midland, Texas, for ASSAULT CAUSES BODILY INJURY FAMILY MEMBER, a Class A misdemeanor offense. On or about November 10, 2014, Respondent entered a plea of Nolo Contendere to and was convicted of lesser included ASSAULT, a Class A misdemeanor offense, committed on August 7, 2013, in the County Court at Law 2, Midland County, Texas, under Cause No. CR144289. As a result of the conviction, Respondent was 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 August 16, 2013, Respondent entered a plea of Nolo Contendere to and was convicted of DRIVING WHILE INTOXICATED, a Class B misdemeanor offense, committed on September 12, 2012, in the County Court at Law 2, Midland County, Texas, under Cause No. CR140492. As a result of the conviction, Respondent was sentenced to confinement for a period of three (3) months; however, imposition 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 IV.

On or about May 28, 2015, Respondent submitted an Online Renewal Document to the Texas Board of Nursing in which he provided false, deceptive, and/or misleading information, in that he 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 have 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:

On or about August 7, 2013, Respondent was arrested by the Midland County Sheriff's Office, Midland, Texas, for ASSAULT CAUSES BODILY INJURY FAMILY MEMBER, a Class A misdemeanor offense. On or about November 10, 2014, Respondent entered a plea of Nolo

Contendere to and was convicted of lesser included ASSAULT, a Class A misdemeanor offense, committed on August 7, 2013, in the County Court at Law 2, Midland County, Texas, under Cause No. CR144289. As a result of the conviction, Respondent was ordered to pay a fine and court costs.

On or about August 16, 2013, Respondent entered a plea of Nolo Contendere to and was convicted of DRIVING WHILE INTOXICATED, a Class B misdemeanor offense, committed on September 12, 2012, in the County Court at Law 2, Midland County, Texas, under Cause No. CR140492. As a result of the conviction, Respondent was sentenced to confinement for a period of three (3) months; however, imposition of confinement was suspended and Respondent was placed on probation for a period of one (1) year.

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 V.

On or about October 4, 2015, while employed as a Registered Nurse with Oceans Behavioral Hospital, Midland Adolescent Unit, Midland, Texas, Respondent engaged in the intemperate use of marijuana in that Respondent produced a specimen for a random drug screen which resulted positive for Marijuana Metabolite.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9),(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.11(1)(A), and 22 TEX. ADMIN. CODE §217.12(10)(D).

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 policies related to Substance Use Disorders and Other Alcohol and Drug Related Conduct; and related to Behavior Involving Lying and Falsification, which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of 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, located at 22 TEX. ADMIN. CODE §213.33(b), which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, www.bon.texas.gov.

Filed this 12th day of January, 20 16.

TEXAS BOARD OF NURSING



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