



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

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of §
Registered Nurse License Number 811558 §
issued to EDWARD CHARLES BLIVEN §

ORDER OF THE BOARD

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of EDWARD CHARLES BLIVEN, Registered Nurse License Number 811558, hereinafter referred to as Respondent.

This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Order.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent's license to practice as a professional nurse in the State of Texas is in current status.
2. Respondent waived notice and hearing, and agreed to the entry of this Order.
3. Respondent received an Associate Degree from Community College, Pittsburgh, Pennsylvania on December 21, 2006. Respondent was licensed to practice professional nursing in the State of Texas on January 5, 2012.
4. Respondent's professional nursing employment history includes:

04/07 - 5/11	Staff Nurse	Department of Veterans Affairs North Texas Health Care System Dallas, Texas
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Respondent's professional nursing employment history continued:

05/11 - 04/12	Staff Nurse	Texas Regional Medical Center Sunnyvale, Texas
05/12 - Unknown	Charge Nurse	Dallas Regional Medical Center Mesquite, Texas
07/14 - 08/14	RN	Advantage Nursing Services, LLC Regency Hospital of Fort Worth Fort Worth, Texas
09/14 - 12/14	Unknown	
01/15 - 01/15	RN	Advantage Nursing Services, LLC Baylor Medical Center of Frisco Frisco, Texas
07/15 - 08/15	RN	Advantage Nursing Services, LLC Agency Nurse with American Healthcare LLC, LifeCare Hospital of Plano Plano, Texas
08/15 - Present	Unknown	

5. On or about January 2, 2012, Respondent was issued a Corrective Action by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Corrective Action dated January 2, 2012, is attached and incorporated by reference as part of this Order.
6. On or about January 21, 2016, Respondent was issued an Order of Suspend Probate by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Corrective Action dated January 21, 2016, is attached and incorporated by reference as part of this Order.
7. On or about April 20, 2016, Respondent failed to comply with the Agreed Order issued to Respondent on January 21, 2016, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Roman Numeral IV. Monetary Fine of the Agreed Order which states, in pertinent part:

RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500.00) within ninety (90) days of entry of this Order.

8. On February 22, 2017, the Board received a notarized statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's statement, dated February 16, 2017, is attached and incorporated herein by reference as part of this Order.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555 , the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation(s) of and 22 TEX. ADMIN. CODE §217.12(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1)&(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 811558, heretofore issued to EDWARD CHARLES BLIVEN, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

TERMS OF ORDER

NOW, THEREFORE, IT IS ORDERED that the **VOLUNTARY SURRENDER** of Registered Nurse License Number 811558, heretofore issued to EDWARD CHARLES BLIVEN, to practice nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:


1. RESPONDENT SHALL NOT practice professional/registered nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying herself/himself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until at least one (1) year has elapsed from the date of this Order.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

Effective this 22nd day of February, 2017.

TEXAS BOARD OF NURSING

By:


Katherine A. Thomas, MN, RN, FAAN
Executive Director on behalf
of said Board

EDWARD CHARLES BLIVEN
2105 Noviembre
El Paso, Texas 79935
Registered Nurse License Number 811558

Voluntary Surrender Statement

Dear Texas Board of Nursing:

I no longer desire to be licensed as a nurse. Accordingly, I voluntarily surrender my license(s) to practice in Texas. I waive representation by counsel and consent to the entry of an Order which outlines requirements for reinstatement of my license. I understand that I may not petition for reinstatement until one (1) year from the effective date of the Order. I understand that I will be required to comply with the Board's Rules and Regulations in effect at the time I submit any petition for reinstatement.

Signature *E. Bliven*

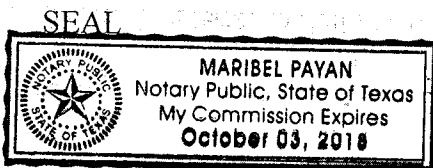
Date 2/16/17

Registered Nurse License Number 811558

The State of Texas

Before me, the undersigned authority, on this date personally appeared EDWARD CHARLES BLIVEN 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 before me the 16th day of February, 2017.



Maribel Payan
Notary Public in and for the State of Texas

RECEIVED FEB 15 2017



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.
A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Registered Nurse License Number 811558 §
issued to EDWARD CHARLES BLIVEN § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of EDWARD CHARLES BLIVEN, Registered Nurse License Number 811558, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(2),(8),(10),(12)&(13), Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on November 19, 2015.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Respondent waived notice and hearing and agreed to the entry of this Order.
3. Respondent's license to practice as a professional nurse in the State of Texas is in current status.
- ~~4. Respondent received an Associate Degree in Nursing from Community College, Pittsburgh, Pennsylvania, on December 21, 2006. Respondent was licensed to practice professional nursing in the State of Pennsylvania on March 8, 2007, was licensed to practice professional nursing in the State of Texas on January 5, 2012.~~
5. Respondent's nursing employment history includes:

04/07 - 5/11	Staff Nurse	Department of Veterans Affairs North Texas Health Care System Dallas, Texas
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Respondent's nursing employment history continued:

05/11 - 04/12	Staff Nurse	Texas Regional Medical Center Sunnyvale, Texas
05/12 - Unknown	Charge Nurse	Dallas Regional Medical Center Mesquite, Texas
07/14 - 08/14	RN	Advantage Nursing Services, LLC Regency Hospital of Fort Worth Fort Worth, Texas
09/14 - 12/14	Unknown	
01/15 - 01/15	RN	Advantage Nursing Services, LLC Baylor Medical Center of Frisco Frisco, Texas
07/15 - 08/15	RN	Advantage Nursing Services, LLC Agency Nurse with American Healthcare LLC, LifeCare Hospital of Plano Plano, Texas
02/15 - Present	Unknown	

6. On or about January 2, 2012, Respondent was issued a Corrective Action by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Corrective Action dated January 2, 2012, is attached and incorporated by reference as part of this Order.
7. On or about August 22, 2013, while holding a license as a Registered Nurse in the State of Texas, Respondent submitted an online renewal application to the Texas Board of Nursing in which he provided false, deceptive, and/or misleading information, in that he answered "No" to the question:

~~"Are you currently the target or subject of a grand jury or governmental agency investigation?"~~

Respondent failed to disclose that on or about July 18, 2013, the Pennsylvania Board of Nursing's Probable Cause Screening Committee issued an Order compelling him to submit to a mental and physical examination.

8. On or about October 11, 2013, the Pennsylvania Board of Nursing filed a Motion To Enter Default and Deem Facts Admitted after he failed to submit to a mental and physical

examination ordered by the Board on July 18, 2013. On or about October 29, 2013, Respondent was issued a Memorandum Order from the Pennsylvania Board of Nursing, wherein he was notified that he was in default for failing to submit to a mental and physical examination and that his license would be indefinitely suspended unless he filed an answer, along with a request for hearing, within twenty (20) days from the date of the Order. On or about November 18, 2013, Respondent's license to practice professional nursing in the State of Pennsylvania was suspended indefinitely.

9. On or about July 13, 2014, through August 5, 2014, while employed as an Agency Nurse with Advantage Nursing Services, LLC, and on assignment at Regency Hospital of Fort Worth, Fort Worth, Texas, Respondent withdrew one (1) tab of Alprazolam 0.25mg, three (3) tabs of Hydrocodone/APAP 5/325mg, two (2) tabs of Oxycodone/APAP 5/325mg, one (1) tab Zolpidem 5mg, one (1) tab of Acetaminophen ES, and three (3) tabs of Hydrocodone/APAP 10/325mg from the medication dispensing system for Patient Medical Record Numbers 193770, 193766, 193776, 193782, and 193772 but failed to document, and/or accurately and completely document, the administration of the medications in the patients' Medication Administration Record (MAR) and/or Nurse's Notes. Respondent's conduct was likely to injure the patients, in that subsequent care givers would rely on his documentation to further medicate the patients, which could result in an overdose. Additionally, Respondent's conduct placed the hospital in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
10. On or about July 13, 2014, through August 5, 2014, while employed as an Agency Nurse with Advantage Nursing Services, LLC, and on assignment at Regency Hospital of Fort Worth, Fort Worth, Texas, Respondent withdrew one (1) tab of Alprazolam 0.25mg, three (3) tabs of Hydrocodone/APAP 5/325mg, two (2) tabs of Oxycodone/APAP 5/325mg, one (1) tab Zolpidem 5mg, one (1) tab of Acetaminophen ES, and three (3) tabs of Hydrocodone/APAP 10/325mg from the medication dispensing system for Patient Medical Record Numbers 193770, 193766, 193776, 193782, and 193772 but failed to follow the facility's policy and procedure for wastage of the unused portions of the medications. Respondent's conduct left medications unaccounted for, was likely to deceive the hospital pharmacy, and placed the pharmacy in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
11. On or about July 13, 2014, through August 5, 2014, while employed as an Agency Nurse with Advantage Nursing Services, LLC, and on assignment at Regency Hospital of Fort Worth, Fort Worth, Texas, Respondent misappropriated one (1) tab of Alprazolam 0.25mg from Patient Medical Record Number 193770, two (2) tabs of Oxycodone-Acetaminophen 5/325mg from Patient Medical Record Number 193776, two (2) tabs of Zolpidem 5mg from Patient Medical Record Number 193782, one (1) tab of Acetaminophen 500mg from Patient Medical Record Number 193770, two (2) tabs of Hydrocodone/APAP 10/325mg from Patient Medical Record Number 193782, one tab of Hydrocodone /APAP 10/325mg from

Patient Medical Record Number 193776, and one (1) tab of Hydrocodone/APAP 5/325mg from Patient Medical Record Number 193772, belonging to the facility or patients thereof, or failed to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

12. On or about January 15, 2015, through January 16, 2015, while employed as an Agency Nurse with Advantage Nursing Services, LLC, and on assignment at Baylor Medical Center of Frisco, Frisco, Texas, Respondent withdrew six (6) tabs of Nucynta 50mg from the medication dispensing system for Patient Medical Record Numbers 3498615 and 3536604 but failed to document, and/or accurately and completely document, the administration of the medications in the patients' Medication Administration Record (MAR) and/or Nurses' Notes. Respondent's conduct was likely to injure the patients, in that subsequent care givers would rely on his documentation to further medicate the patients, which could result in an overdose. Additionally, Respondent's conduct placed the hospital in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
13. On or about January 15, 2015, through January 16, 2015, while employed as an Agency Nurse with Advantage Nursing Services, LLC, and on assignment at Baylor Medical Center of Frisco, Frisco, Texas, Respondent withdrew six (6) tabs of Nucynta 50mg from the medication dispensing system for Patient Medical Record Numbers 3498615 and 3536604 but failed to follow the facility's policy and procedure for wastage of the unused portions of the medications. Respondent's conduct left medications unaccounted for, was likely to deceive the hospital pharmacy, and placed the pharmacy in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
14. On or about January 15, 2015, through January 16, 2015, while employed as an Agency Nurse with Advantage Nursing Services, LLC, and on assignment at Baylor Medical Center of Frisco, Frisco, Texas, Respondent misappropriated four (4) tablets of Nucynta 50mg from Patient 3498615 and two (2) tablets of Nucynta 50mg from Patient 3536604, belonging to the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications.
15. In response to Findings of Fact Numbers Seven (7) and Eight (8), Respondent states that he contacted the Pennsylvania Board to see if an evaluator could be found in Texas, where he was living and practicing. Respondent states that the Pennsylvania Board indicated they would only accept an evaluation from an evaluator in Pennsylvania, but informed him he could let his license go inactive if he did not plan to practice in Pennsylvania. Respondent took no further action in reference to the Pennsylvania investigation and his license was subsequently suspended by default. Respondent apologizes for not reporting the Pennsylvania matter on his renewal application. In response to Findings of Fact Numbers Nine (9) and Ten (10), Respondent acknowledges some instances of forgetting to chart but

denies misappropriating medication. Respondent states he was drug tested and the results were negative.

16. On May 19, 2015, Respondent presented for a chemical dependency evaluation to Joyce M. Gayles, Ph.D. Dr. Gayles states that although Respondent's responses on the face valid items of the SASSI-3 and his responses on the PESQ-A give the impression that there are no problems with substance abuse, overall results from the SASSI-3 show that Respondent meets criterion (Rule 9) for a high probability of a Substance Dependence Disorder. Dr. Gayles states that at worst, the alleged incidents are indicative of a problem with substances consistent with the overall results on the SASSI-3, although it is more likely that this result represents a false positive. Dr. Gayles states that additional evaluation will be necessary to definitely rule out Substance Dependence. Dr. Gayles states that as an alternative, Respondent could be required to submit to random drug testing. In addition, Respondent could be required to complete classes that would improve his knowledge and skills about the process of medication administration/documentation and his performance should be monitored for a period of time.
17. On or about August 9, 2015, while employed as an Agency Nurse with Advantage Nursing Services, LLC, Metairie, Louisiana, and as an Agency Nurse with American Healthcare LLC, Dallas, Texas, and on assignment at LifeCare Hospital of Plano, Plano, Texas, Respondent withdrew eleven (11) tabs of Hydrocodone/APAP 10/325mg, two (2) carpjects of Morphine Sulfate 2mg/1ml, two (2) tabs of Hydrocodone/APAP 5/325mg, (2) tabs of Hydromorphone 4mg, and two (2) injections of Hydromorphone HCL 1mg/1ml from the medication dispensing system for Patient Medical Record Numbers 306341, 307565, 307580, 307600, and 307640 but failed to document, and/or accurately and completely document, the administration of the medications in the patients' Medication Administration Record (MAR) and/or Nurses' Notes. More specifically, Respondent documented administering medications before they were pulled and/or documented administering medications fifteen (15) minutes or longer after there were pulled. Respondent's conduct was likely to injure the patients, in that subsequent care givers would rely on his documentation to further medicate the patients, which could result in an overdose. Additionally, Respondent's conduct placed the hospital in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
- ~~18. Formal Charges were filed on October 20, 2015.~~
19. Formal Charges were mailed to Respondent on October 20, 2015.
20. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B),(1)(C)&(1)(D) and 22 TEX. ADMIN. CODE §217.12 217.12(1)(A),(1)(B),(1)(C),(4),(6)(G),(6)(I),(10)(C)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2),(8),(10),(12)&(13) Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 811558, heretofore issued to EDWARD CHARLES BLIVEN, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

TERMS OF ORDER

I. **SANCTION AND APPLICABILITY**

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Registered Nurse License Number 811558, previously issued to EDWARD CHARLES BLIVEN, to practice nursing in Texas is hereby **SUSPENDED** with the suspension **STAYED** and Respondent is hereby placed on **PROBATION**, in accordance with the terms of this Order, for a minimum of three (3) years **AND** until Respondent fulfills the requirements of this Order.

- A. This Order **SHALL** apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- B. This Order **SHALL** be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

- C. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Order.

III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) **within one (1) year of the effective date of this Order, unless otherwise specifically indicated:**

- A. **A Board-approved course in Texas nursing jurisprudence and ethics** that shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. Home study courses and video programs will not be approved.
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- B. **A Board-approved course in medication administration with a didactic** portion of not less than six (6) hours and a clinical component of not less than twenty-four (24) hours. Both the didactic and clinical components be provided by the same Registered Nurse. The course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the six (6) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The clinical component SHALL focus on

tasks of medication administration only. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. Successful completion of this course requires RESPONDENT to successfully complete both the didactic and clinical portions of the course.

- C. A Board-approved course in nursing documentation that shall be a minimum of six (6) hours in length. The course's content shall include: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. Home study courses and video programs will not be approved.
- D. The course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension.

In order to receive credit for completion of this/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at www.bon.texas.gov/compliance.*

IV. MONETARY FINE

RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500.00) within ninety (90) days of entry of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

V. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse, providing direct patient care in a licensed healthcare setting, for a minimum of sixty-four (64) hours per month for twelve (12) quarterly periods [three (3) years] of employment. This requirement will

not be satisfied until twelve (12) quarterly periods of employment as a nurse have elapsed. Any quarterly period without continuous employment with the same employer for all three (3) months will not count towards completion of this requirement. Periods of unemployment or of employment that do not require the use of a registered nurse (RN) or a vocational nurse (LVN) license, as appropriate, will not apply to this period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** RESPONDENT SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.
- C. **Direct Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse. Direct supervision requires another nurse, as applicable, to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- D. **No Night or Rotating Shifts, Overtime, or On-Call:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Respondent is regularly assigned.

- E. **No Critical Care:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL NOT practice as a nurse in any critical care area. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.
- F. **No Administration of Controlled Medications:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, Propofol, or other synthetic opiates.
- G. **Indirect Supervision:** For the remainder of the probation period, RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse, who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- H. **Nursing Performance Evaluations:** RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT'S capability to practice nursing. These reports shall be completed by the nurse who supervises the RESPONDENT and these reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month quarterly period for twelve (12) quarters [three (3) years] of employment as a nurse.

VI. DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, RESPONDENT SHALL abstain from the use of alcohol, tramadol and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. In the event that prescriptions for controlled substances are

required for periods of two (2) weeks or longer, the Board may require and RESPONDENT SHALL submit to a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.

B. While working as a nurse under the terms of this Order, RESPONDENT SHALL submit to random periodic screens for alcohol, tramadol, and controlled substances. The Board will provide instructions on how to enroll in the Board's drug and alcohol testing program following the entry of this Order and screening will begin when Respondent obtains employment and submits the Notification of Employment form to the Board.

- For the first three (3) month [1st quarter] period RESPONDENT works as a nurse under the terms of this Order, random screens shall be performed at least once per week.
- For the next three (3) month [2nd quarter] period, random screens shall be performed at least twice per month.
- For the next six (6) month period [3rd & 4th quarters], random screens shall be performed at least once per month.
- For the remainder of the probation period, random screens shall be performed at least once every three (3) month quarterly period.

All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board. Any test result for a period of time in which the RESPONDENT is not working as a nurse under the terms of this Order will not count towards satisfaction of this requirement. All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the stipulation/probation period.

Specimens shall be screened for at least the following substances and their metabolites:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the RESPONDENT'S place of employment at any time during the probation period and require RESPONDENT to produce a specimen for screening.

Consequences of Positive or Missed Screens. Any positive result for which RESPONDENT does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject RESPONDENT to further disciplinary action, including TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas. Further, failure to report for a drug screen, excessive dilute specimens, or failure to call in for a drug screen may be considered the same as a positive result or refusal to submit to a drug or alcohol screen.

- C. While under the terms of this Order, RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. RESPONDENT SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by RESPONDENT. RESPONDENT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) month quarterly period. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

VII. FURTHER COMPLAINTS

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

VIII. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that when this Order becomes final and the terms of this Order become effective, a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including possible revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 14 day of DEC, 2015.

Edward Charles Bliven
EDWARD CHARLES BLIVEN, Respondent

Sworn to and subscribed before me this 14th day of DECEMBER, 2015.



Mary M. [Signature]

Notary Public in and for the State of NEW MEXICO

EXPIRES Aug 2017

Approved as to form and substance.
[Signature]

Dan Iype, Attorney for Respondent

Signed this 15 day of December, 2015.

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WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 14th day of December, 2015, by EDWARD CHARLES BLIVEN, Registered Nurse License Number 811558, and said Order is final.

Effective this 21st day of January, 2016.



Katherine A. Thomas, MN, RN, FAAN
Executive Director on behalf
of said Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	ELIGIBILITY
EDWARD CHARLES BLIVEN,	§	
PETITIONER for Eligibility for Licensure	§	CORRECTIVE ACTION

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of the Endorsement Application, which has been processed as a Petition for Declaratory Order pursuant to 22 TEX. ADMIN. CODE §217.5(e) and §213.30, and the supporting documents filed by EDWARD CHARLES BLIVEN, hereinafter referred to as Petitioner, together with any documents and information gathered by staff and Petitioner's Certification contained herein.

Information received by the Board produced evidence that PETITIONER may be ineligible for licensure pursuant to Sections 301.452(b)(2)&(10) and 301.453, Texas Occupations Code.

PETITIONER waived representation by counsel and agreed to the entry of this Corrective Action offered on November 4, 2011, by Katherine A. Thomas, MN, RN, FAAN, Executive Director.

FINDINGS OF FACT

1. On or about March 30, 2011, PETITIONER submitted an Endorsement Application requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.257, and 301.260, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §217.5(e) and §213.30.
2. PETITIONER waived representation by counsel and agreed to the entry of this Corrective Action.
3. PETITIONER received an Associate Degree in Nursing from Community College of

Allegheny County, Pittsburgh, Pennsylvania, on December 1, 2006.

4. PETITIONER completed the Endorsement Application and answered "No" to the question which reads: *"For any criminal offense, including those pending appeal, have you:*
 - 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?"*
5. PETITIONER failed to truthfully disclose the following criminal history, to wit:
 - A. On or about April 2, 1975, Petitioner was arrested by the El Paso Police Department, El Paso, Texas, for POSSESSION OF MARIJUANA. Petitioner was subsequently charged in the County Court at Law El Paso County, Texas, under Cause No. 069707-CR3, and placed in a pretrial diversion program. On or about June 14, 1976, Cause No. 069707-CR3 was dismissed in the County Court at Law of El Paso County, Texas.
6. There is no evidence of any subsequent criminal conduct.
7. The above action constitutes grounds for corrective action pursuant to Section 301.652, Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.32(2)(D).
8. The Board has jurisdiction over this matter pursuant to Sections 301.453 and 301.651 *et seq.*, Texas Occupations Code.
9. Petitioner has sworn that, with the exception of matters disclosed in connection with the Endorsement Application, his past behavior conforms to the Board's professional character requirements at 22 TEX. ADMIN. CODE §213.27.
10. Petitioner presented no evidence of behavior which is inconsistent with good professional character.
11. The Executive Director considered evidence of Petitioner's past behavior in light of the character factors set out in 22 TEX. ADMIN. CODE §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character.

12. The Executive Director considered evidence of Petitioner's past criminal conduct in light of the considerations and criteria provided in 22 TEX. ADMIN. CODE §§213.28 & 213.33, and, if applicable, Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.
13. Licensure of PETITIONER poses no direct threat to the health and safety of patients or the public provided PETITIONER complies with the conditions outlined in this Corrective Action.
14. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of PETITIONER'S disclosures.
15. PETITIONER has been advised by the Board that any information found to be incomplete, incorrect or misleading to the Board or a subsequent discovery of a basis of ineligibility will be considered by the Board and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through fraud or deceit.
16. PETITIONER shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452(b), Texas Occupations Code.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Sections 301.452 and 301.453, Texas Occupations Code.
2. On or about March 30, 2011, PETITIONER submitted an Endorsement Application requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.257, and 301.260, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §217.5(e) and §213.30.
3. Petitioner's history reflects conduct which may constitute grounds for denial of a license under Section 301.452(b)(2)&(10), Texas Occupations Code.
4. The Board may probate the denial of a license under conditions for a specified term pursuant to Section 301.453, Texas Occupations Code.
5. The Board may resolve violations of and potential ineligibility for licensure under the Nursing Practice Act and the Board's Rules and Regulations Relating to Nurse Education, Licensure and Practice with Corrective Action pursuant to Section 301.651 *et seq.*, Texas Occupations Code.
6. The Board may license an individual who has been previously convicted, adjudged guilty by a court, pled guilty or pled nolo contendere to any crime whether or not a sentence was imposed upon consideration of the factors set out in 22 TEX. ADMIN. CODE §213.28 and evaluating the direct relationship to nursing according to 22 TEX. ADMIN. CODE §213.28 and,

if applicable, Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.

7. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 TEX. ADMIN. CODE §213.27, and pursuant to 22 TEX. ADMIN. CODE §213.33, the Board is satisfied that the individual is able to consistently conform his conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.
8. This Corrective Action is conditioned upon the accuracy and completeness of PETITIONER'S disclosures. Any subsequently discovered discrepancies will result in investigation and possible disciplinary action, up to Revocation of Petitioner's license(s).

CORRECTIVE ACTION

IT IS THEREFORE AGREED that the application of EDWARD CHARLES BLIVEN, PETITIONER, is hereby GRANTED, and, until successfully completed, all licenses issued to PETITIONER shall be subject to the following CORRECTIVE ACTION:

PETITIONER SHALL obtain and read the Texas Nursing Practice Act, and the Rules and Regulations Relating to Nurse Education, Licensure and Practice.

PETITIONER SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.*

Upon payment of the necessary fees, PETITIONER SHALL be issued an appropriate license to practice nursing in the State of Texas.

(1) PETITIONER SHALL, within one (1) year of licensure, successfully complete a course in Texas nursing jurisprudence and ethics. PETITIONER SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) hours in length.

The course's content shall include the Nursing Practice Act, standards of practice, documentation of

care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. PETITIONER SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify PETITIONER'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Corrective Action, if any, and in addition to any continuing education requirements the Board has for relicensure. Board-approved courses may be found at the following Board website address: <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.

(2) PETITIONER SHALL pay a monetary fine in the amount of five hundred dollars (\$500.00). PETITIONER SHALL pay this fine within forty-five (45) days of licensureAction. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Corrective Action, this matter shall be closed and this Corrective Action shall remain confidential. However, should PETITIONER fail to successfully complete the terms of this Corrective Action, this matter shall be terminated immediately and shall be treated as a disciplinary proceeding under Subchapter J, Texas Occupations Code. Further, should PETITIONER commit a subsequent violation of the Nursing Practice Act or Board Rules, this Corrective Action shall be treated as prior disciplinary action.

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CONTINUED ON NEXT PAGE.

PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past criminal conduct and I have caused a complete and accurate criminal history to be submitted to the Texas Board of Nursing from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. I certify that my past behavior, except as disclosed in my Temporary License/Endorsement Application has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of conviction such as conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

In connection with my application, I acknowledge that I have read and I understand Sections 301.157(d), 301.252, 301.253, 301.257, 301.258, 301.260, 301.452 and 301.453, as well as Chapter 53, Section 53.001 *et seq.*, of the Texas Occupations Code, and 22 TEX. ADMIN. CODE 213.27, 213.28, 213.29, and 213.30, which are incorporated by reference as a part of this Corrective Action. I agree with all terms of this Corrective Action. I agree to inform the Board of any other grounds for denial of licensure prior to accepting any permit or license from the Texas Board of Nursing.

I understand that if I fail to successfully complete all terms and conditions of this Corrective Action, I will be subject to investigation and disciplinary sanction, including possible revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

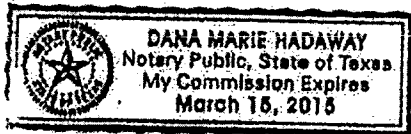
I understand that I can be represented by an attorney in this matter. I waive representation and request that the Executive Director of the Texas Board of Nursing enter this Corrective Action.

Signed this 22nd day of December, 2011.

Edward Charles Bliven
EDWARD CHARLES BLIVEN, PETITIONER

Sworn to and subscribed before me this 22nd day of December, 2011.

SEAL



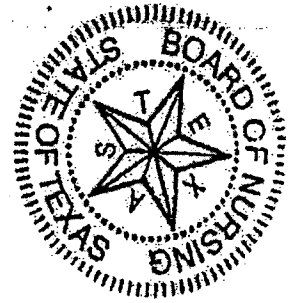
Dana Hadaway
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby ratify and adopt the Corrective Action that was signed on the 22nd day of December, 2011, by EDWARD CHARLES BLIVEN, Petitioner for Eligibility for Licensure.

Effective this 2nd day of January, 20 12.



Katherine A. Thomas, MN, RN, FAAN
Executive Director on behalf
of said Board



ORIGINAL

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs

vs.

Edward Charles Bliven, R.N.,
Respondent

Docket No. 1499 -51-13
File No. 13-51-00530

PROTHONOTARY
2013 OCT 11 AM 11:42
Department of State

MOTION TO ENTER DEFAULT AND DEEM FACTS ADMITTED

AND NOW, comes the Commonwealth of Pennsylvania ("Commonwealth"), by and through its Prosecuting Attorney, Michael J. Gennett, to file this Motion To Enter Default And Deem Facts Admitted pursuant to 1 Pa. Code §§35.35 & 35.37 and 63 P.S. §224(a)(2), and in support thereof, avers as follows:

1. On or about July 18, 2013, the Commonwealth submitted a Petition for Mental and Physical Examination to the State Board of Nursing's Probable Cause Screening Committee requesting that Edward Charles Bliven, R.N., (Respondent) be ordered to submit to a Mental and Physical Examination.
2. On or about July 18, 2013, the State Board of Nursing's Probable Cause Screening Committee¹ issued an Order Compelling the Respondent to submit to a Mental and Physical Examination by Robert M. Weltstein, M.D. (Dr. Weltstein).
3. On or about July 18, 2013, a Notice of Mental and Physical Examination was issued compelling Respondent to submit to a mental and physical examination by Dr. Weltstein on September 10, 2013 at 1:00 p.m.

¹ The State Board of Nursing's Probable Cause Screening Committee consisted of the following members: Suzanne Hendricks, BSBH, LPN; Bette M. Wildgust, CRNA, MS, MSN and Robert E. Ames.

4. The Petition for Mental and Physical Examination, Order Compelling Mental and Physical Examination, and Notice of Mental and Physical Examination are attached and incorporated herein as Exhibit A.

5. The Commonwealth served a true and correct copy of the Petition for Mental and Physical Examination, Order Compelling Mental and Physical Examination, and Notice of Mental and Physical Examination upon Respondent by mailing it to Respondent by certified mail, return receipt requested and by first class mail, postage prepaid to the following address:

Edward Charles Bliven
4029 Towne Crossing Blvd
Mesquite, TX 75150

6. On or about August 6, 2013, the USPS delivered the Petition and Preliminary Order sent by certified mail to the Respondent's address on file with the Board as evidenced by a printout out from the USPS website (<http://www.usps.com>), Track and Confirm, for Article #9171 9690 0935 0030 5219 16.

7. A true and correct copy of the printout out from the USPS website Article #9171 9690 0935 0030 5219 16 is attached and incorporated as Exhibit B.

8. The Petition for Mental and Physical Examination, Order Compelling Mental and Physical Examination, and Notice of Mental and Physical Examination (Notice) mailed by First Class Mail, Postage Prepaid, was not returned to the Commonwealth by the United States Postal Service and is, therefore, presumed to have been delivered to and received by Respondent.

9. By letter dated September 10, 2013, Dr. Wettstein informed the Commonwealth that the Respondent did not show up for the scheduled appointment.

10. A true and correct copy of Dr. Wettstein's letter dated September 10, 2013 is attached as Exhibit C.

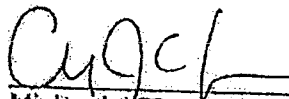
11. The Respondent failed to submit to the Mental and Physical Examination ("the examination") by Dr. Wettstein on September 10, 2013 as directed by the Board's Order Compelling Mental and Physical Examination and Notice.

12. Respondent has not contacted either the undersigned prosecuting attorney or Dr. Wettstein to explain Respondent's failure to attend the examination or to reschedule the examination.

13. The Professional Nursing Act at 63 P.S. §224(a)(2) provides that failure to submit to such examination when directed shall constitute an admission of the allegations against the licensee unless failure is due to circumstances beyond licensee's control, and this provision permits the Board to enter a Default and Final Order without the taking of testimony or the presentation of evidence.

WHEREFORE, the Commonwealth requests that, in accordance with 1 Pa. Code §§35.35 & 35.37 and 63 P.S. §224(a)(2), the Board of Nursing enter a default against Respondent, deem admitted the factual allegations set forth in the Petition for Mental and Physical Examination, and pursuant to 63 P.S. §224(b)(3) order that Respondent's license be immediately suspended until such time as Respondent complies with the Board's Order and impose upon Respondent any other appropriate penalty for the actions set forth in the Petition for Mental and Physical Examination.

Respectfully submitted,



Michael J. Gennett
Prosecuting Attorney
Commonwealth of Pennsylvania
Department of State

DATE: OCTOBER 11, 2013

MJG/acg

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

In Re:

The Fitness of Edward Charles Bliven,
R.N. to Practice as a Registered Nurse
With Reasonable Skill and Safety

File No. 13-51-00530

NOTICE OF MENTAL AND PHYSICAL EXAMINATION

AND NOW, this 18th day of JULY 2013, pursuant to the attached Order Compelling Mental and Physical Examination (Order) issued by the Probable Cause Screening Committee of the State Board of Nursing (Committee), Edward Charles Bliven, R.N. (Respondent) license number RN582831, shall submit to a mental and physical examination by Robert M. Wettstein, M.D. (Dr. Wettstein) at 1:00 p.m. on Tuesday, September 10, 2013 at: 401 Shady Avenue, B103, Pittsburgh, PA 15206, Telephone Number (412)661-0300, and any intake interview or subsequent sessions as required by Dr. Wettstein to complete the evaluation.

If Respondent knows at the time Respondent receives this Notice that Respondent has an unavoidable conflict with the above-scheduled examination, Respondent shall immediately notify the Commonwealth's Prosecuting Attorney for rescheduling of the examination. Rescheduling will be permitted only for circumstances beyond Respondent's control.

Respondent shall: (1) execute releases including releases for all of Respondent's medical, substance abuse treatment, psychiatric, and mental health records and cause Respondent's physicians and any other health care providers to transmit said records directly to Dr. Wettstein at least ten (10) days prior to the examination; (2) transmit a copy of Respondent's curriculum vitae to Dr. Wettstein at least ten (10) days prior to the examination; (3) cooperate fully with the Commonwealth's prosecuting attorney and Dr. Wettstein in the event the examination needs to


1

EXHIBIT
A

be rescheduled; (4) submit to all tests administered by Dr. Wettstein during the examination and attend subsequent appointments as requested; and (5) answer truthfully all questions asked by Dr. Wettstein during the examination and provide any information that he requests.

Respondent's failure to submit to the above-scheduled examination, or to a rescheduled examination as agreed to by the Commonwealth's prosecuting attorney and Dr. Wettstein, shall constitute an admission of the allegations set forth in the Commonwealth's Petition to Compel Mental and Physical Examination, upon which a Default and Final Order may be entered without the presentation of testimony or other evidence, and may result in the State Board of Nursing taking disciplinary or corrective action against Respondent as authorized by the Professional Nursing Law, Act of May 22, 1951, P.L. 317, ("Act") including the imposition of a civil penalty, and the imposition of costs of any investigation.

Respectfully submitted,


Michael J. Gennet
Prosecuting Attorney
Commonwealth of Pennsylvania
Department of State

DATE: July 18, 2013

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

In Re:

The Fitness of Edward Charles Bliven,
R.N. to Practice as a Registered Nurse
With Reasonable Skill and Safety

File No. 13-51-00530

ORDER COMPELLING MENTAL AND PHYSICAL EXAMINATION

AND NOW, this 18th day of July, 2013, upon consideration

of the Petition to Compel Mental and Physical Examination filed by the Prosecuting Attorney for the Commonwealth of Pennsylvania, the Probable Cause Screening Committee of the State Board of Nursing FINDS that there is probable cause to believe that Edward Charles Bliven, R.N. (Respondent) license number, RN582831, is unable to practice professional nursing with reasonable skill and safety by reason of mental or physical illness or condition or dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination. Therefore, the Petition is GRANTED.

The Probable Cause Screening Committee of the State Board of Nursing ORDERS as follows in accordance with Section 14(a)(2) of the Act, 63 P.S. § 224(a)(2):

1. Respondent shall submit to a mental and physical examination by Robert M. Wettstein, M.D. (Dr. Wettstein) within 60 days of service of this Order, at the time, date and place to be specified by the Commonwealth's prosecuting attorney in a notice to be served upon Respondent.
2. Respondent shall immediately contact Dr. Wettstein to confirm the scheduling and Respondent's availability for the examination.

3. If requested by Dr. Wettstein, Respondent shall undergo a comprehensive physical examination by a physician designated by Robert M. Wettstein, M.D. within sixty (60) days of the service of this Order, at a time, date and location specified by Dr. Wettstein.

4. Respondent shall:

a. submit all documentation as requested by Dr. Wettstein, including releases for all of Respondent's medical, substance abuse treatment, psychiatric, and mental health records (collectively, "medical records") and cause Respondent's physicians and any other health care providers to transmit said records directly to Dr. Wettstein;

b. transmit a copy of Respondent's curriculum vitae to Dr. Wettstein;

c. ensure that Respondent's curriculum vitae and medical records are provided to Dr. Wettstein at least ten (10) days prior to the scheduled examination.

d. submit to all tests recommended by Dr. Wettstein;

e. answer truthfully all questions asked by Dr. Wettstein during the examination and provide any information that he requests;

f. attend subsequent appointments as requested by Dr. Wettstein, and

g. cooperate fully with the Commonwealth's prosecuting attorney and Dr. Wettstein in the event the examination needs to be rescheduled.

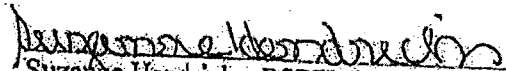
5. Dr. Wettstein shall submit a written report of his examination to the Prosecuting Attorney within thirty (30) days of completion of his examination and any additional consultations and examinations.

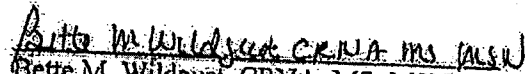
6. Dr. Wettstein shall release all relevant medical records, examination and test results to the Prosecuting Attorney upon issuance of his report and be prepared to testify in this matter, if necessary.

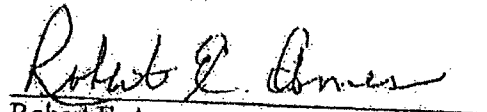
7. Respondent's failure to comply with this Order, except for circumstances beyond his control, shall constitute an admission of the allegations contained in the Petition to Compel Mental and Physical Examination upon which a Default and Final Order may be entered without the taking of testimony or presentation of evidence. Such Final Order may result in the State Board of Nursing taking disciplinary or corrective action against Respondent including, but not limited to, license suspension, the imposition of a civil penalty of up to \$10,000 per violation, and the costs of investigation.

8. The cost for examination and evaluation of Respondent and preparation of any report mandated by this Order by Dr. Wettstein shall be paid by the Board. Other incidental costs associated with the examination and evaluation, including but not limited to the reproduction of medical records required for review by Dr. Wettstein, parking and travel expenses of the Licensee, etc., shall be the responsibility of the Licensee.

BY ORDER:
BEFORE THE STATE BOARD OF NURSING
PROBABLE CAUSE SCREENING PANEL


Suzanne Hendricks, BSBFI, LPN
Committee Member


Bette M. Wildgust, CRNA, MS, MSN
Committee Member


Robert E. Ames
Committee Member

For the Commonwealth:

Michael J. Gennett
Prosecuting Attorney
Commonwealth of Pennsylvania
Bureau of Professional and Occupational Affairs
P.O. Box 2649
Harrisburg, PA 17105-2649

Respondent:

Edward Charles Bliven, R.N.
4029 Towne Crossing BLVD
Mesquite, TX 75150

File No.:

13-51-00530

Date of Mailing:

JULY 22, 2013

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

In Re:

The Fitness of Edward Charles Bliven,
R.N. to Practice as a Registered Nurse
With Reasonable Skill and Safety

File No. 13-51-00530

PETITION TO COMPEL MENTAL AND PHYSICAL EXAMINATION

AND NOW, comes the Commonwealth of Pennsylvania, Bureau of Professional and Occupational Affairs (Commonwealth), by and through its Prosecuting Attorney, Michael J. Gennett, to file the within Petition to Compel Mental and Physical Examination in accordance with the Professional Nursing Law, Act of May 22, 1951, P.L. 317, ("Act"), 63 P.S. §§ 211-226, and particularly Section 14(a)(2) of the Act, 63 P.S. § 224(a)(2), and in support thereof, avers upon knowledge, information and belief as follows:

1. At all times relevant and material hereto, Edward Charles Bliven, R.N., (Respondent) held a license issued by the State Board of Nursing (Board) to practice as a registered nurse in the Commonwealth of Pennsylvania, license number RN582831.
2. Respondent's license is active through April 30, 2014 and may be renewed, reactivated or reinstated thereafter upon the filing of the appropriate documentation and payment of the necessary fees.
3. Respondent's address on file with the Board is: 19022 Bailey Lane, Forney, TX 75126 but it is believed that he currently resides at 4029 Towne Crossing Blvd, Mesquite, TX 75150.
4. Section 14(a)(2) of the Act, 63 P.S. § 224(a)(2), provides that the Board, upon finding that probable cause exists to believe that a person holding a license to practice as a registered nurse is unable to practice professional nursing with reasonable skill and safety by reason of

mental or physical illness or condition or dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination, may require the licensee to submit to a mental and physical examination by a physician designated by the Board.

5. Respondent was reported to the State Board of Nursing by the Department of Veterans Affairs (North Texas) after their investigation revealed that Respondent had 96 episodes where the quantity of controlled substances removed from the Omnicell was greater than the documented delivered dose to patients.

6. Respondent was offered participation in the Voluntary Recovery Program (VRP), but refused to cooperate.

7. Probable cause consists of available facts and circumstances that would warrant a person of reasonable caution to believe that a person cannot practice as a registered nurse with reasonable skill and safety to patients by reason of illness, addiction to hallucinogenic, narcotic or other drugs or alcohol, or mental incompetence. Probable cause exists when a person of reasonable caution would believe the truthfulness of allegations presented. Commonwealth v. Wilson, 414 Pa. Superior Court 302, 606 A.2d 2111 (1992); Commonwealth v. Merriwether, 382 Pa. Superior Ct. 411, 555 A.2d 906 (1989).

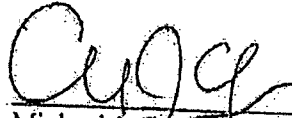
8. Based upon the foregoing, there are available facts and circumstances leading to the belief that Respondent may not be able to practice as a registered nurse with reasonable skill and safety to patients by reason of illness, addiction to hallucinogenic, narcotic or other drugs or alcohol, or mental incompetence.

9. It is respectfully requested that the Board approve Robert M. Wettstein, M.D. (Dr. Wettstein), to conduct a mental and physical evaluation of Respondent in accordance with Section 14(a)(2) of the Act, 63 P.S. § 224(a)(2); that the Board empower Dr. Wettstein, to

disclose all records, reports and results of the examination(s) to the Prosecuting Attorney and, if necessary, to testify as to his examination(s) of Respondent.

WHEREFORE, the Prosecuting Attorney respectfully requests that the Board (1) FIND that probable cause exists that Respondent may not be able to practice as a registered nurse with reasonable skill and safety to patients, (2) ISSUE an Order compelling a mental and physical examination of Respondent to occur within sixty (60) days of service as scheduled by the Commonwealth, (3) COMPEL Respondent to execute releases including releases for all of Respondent's medical, substance abuse treatment, psychiatric, and mental health records and cause Respondent's physicians and any other health care providers to transmit said records directly to Dr. Wettstein prior to the examination; (4) COMPEL Respondent to transmit a copy of Respondent's curriculum vitae to Dr. Wettstein prior to the examination; (5) COMPEL Respondent to cooperate fully with the Commonwealth's prosecuting attorney and Dr. Wettstein in the event the examination needs to be rescheduled; (6) COMPEL Respondent to submit to all tests administered by Dr. Wettstein during the examination and attend subsequent appointments as requested; (7) COMPEL Respondent to answer truthfully all questions asked by Dr. Wettstein during the examination and provide any information that he requests; and (8) DIRECT Dr. Wettstein to promptly provide the Commonwealth with a written report of his evaluator's examination of Respondent, together with all relevant medical records and test results pertaining to Respondent, and to be prepared to testify before the Board about his examination of Respondent.

Respectfully submitted,



Michael J. Bennett
Prosecuting Attorney
Commonwealth of Pennsylvania
Department of State

DATE: JULY 18, 2013

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

In Re:

The Fitness of Edward Charles Bliven,
R.N. to Practice as a Registered Nurse
With Reasonable Skill and Safety


File No. 13-51-00530

CERTIFICATE OF SERVICE

I, Michael J. Gennett, certify that I have this 22nd day of July, 2013, caused a true and correct copy of the foregoing Order Compelling Mental and Physical Examination, Notice and Petition to Compel Mental and Physical Examination to be served upon all parties of record in this proceeding in accordance with the requirements of Section 33.31 of the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 33.31 (relating to service by the agency).

CERTIFIED MAIL-ELECTRONIC RECEIPT and
FIRST CLASS MAIL, POSTAGE PREPAID

Edward Charles Bliven
4029 Towne Crossing BLVD
Mesquite, TX 75150
9171 9690 0935 0030 5219 16


Michael J. Gennett
Prosecuting Attorney
Commonwealth of Pennsylvania
Department of State

2601 North Third Street
P.O. Box 2649
Harrisburg, PA 17105-2649
(717) 783-7200

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August 8, 2013, 10:22 am	Delivered	MESQUITE, TX 76149
July 25, 2013, 6:29 pm	Notice Left	MESQUITE, TX 76150
July 26, 2013	Depart USPS Sort Facility	DALLAS, TX 76260
July 24, 2013, 9:38 pm	Processed through USPS Sort Facility	DALLAS, TX 76280
July 24, 2013, 3:25 pm	Processed through USPS Sort Facility	COPPELL, TX 76099
July 23, 2013	Depart USPS Sort Facility	HARRISBURG, PA 17107
July 23, 2013, 12:04 am	Processed at USPS Origin Sort Facility	HARRISBURG, PA 17107
July 22, 2013, 8:38 pm	Processed at USPS Origin Sort Facility	HARRISBURG, PA 17107
July 22, 2013, 7:21 pm	Accepted at USPS Origin Sort Facility	HARRISBURG, PA 17110
July 22, 2013	Electronic Shipping Info Received	

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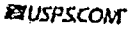
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EXHIBIT B

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Robert M. Wettstein, MD
401 Shady Avenue
Suite B103
Pittsburgh, PA 15206
412-661-0300

September 10, 2013

Michael Gennett, Esq.
Commonwealth of Pennsylvania
Department of State Legal Office
P.O. Box 2649
Harrisburg, PA 17105-2649

RE: Edward Bliven, RN
File No. 13-51-00530

Dear Mr. Gennett:

I am writing about the above Respondent who failed to appear for his Nursing Board ordered Mental and Physical Examination in my office on September 10, 2013. I received none of his medical records or his resume all of which are necessary to conduct the Examination. He never contacted me to confirm or reschedule this appointment.

Please feel free to contact me about this matter. I am available to conduct the Examination if appropriate.

Sincerely,



Robert M. Wettstein, M.D.
Board Certified in Psychiatry and
Forensic Psychiatry

RMW/r

EXHIBIT
C

VERIFICATION

I, Michael J. Gennett, verify that the facts set forth in the foregoing Motion To Enter Default And Deem Facts Admitted are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



Michael J. Gennett
Prosecuting Attorney
Commonwealth of Pennsylvania
Department of State

DATE: 0010 362 11, 2013

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs

vs.

Edward Charles Bliven, R.N.,
Respondent

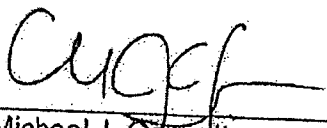
Docket No. -51-13
File No. 13-51-00530

CERTIFICATE OF SERVICE

I, Michael J. Gennett, certify that I have this 11th day of October, 2013, served a true and correct copy of the foregoing Motion To Enter Default And Deem Facts Admitted upon all parties of record in this proceeding in accordance with the requirements of §33.31 of the General Rules of Administrative Practice and Procedure, 1 Pa. Code §33.31 (relating to service by the agency).

FIRST CLASS MAIL, POSTAGE PREPAID:

Edward Charles Bliven
4029 Towne Crossing Blvd
Mesquite, TX 75150


Michael J. Gennett
Prosecuting Attorney
Commonwealth of Pennsylvania
Department of State

P.O. Box 2649
Harrisburg, PA 17105-2649
(717) 783-7200

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Department of State
PROTHONOTARY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

Commonwealth of Pennsylvania,
Bureau of Professional and
Occupational Affairs
v.
Edward Charles Bliven, R.N.,
Respondent

File No. 13-51-00530
Docket No. 1499-51-13

MEMORANDUM ORDER

AND NOW, this 29th day of October 2013, the State Board of Nursing (Board), upon consideration of the Motion to Enter of Default and Deem Facts Admitted (Motion) filed by the Commonwealth on October 11, 2013, concerning the Commonwealth's Petition to Compel Mental and Physical Examination (Petition) of Edward Charles Bliven, R.N. (Respondent), license number RNS82831, and pursuant to Section 14(a)(2) of the Professional Nursing Law (Act), Act of June 22, 1951 (P.L. 317, No. 69), as amended, 63 P.S. § 244(a)(2), and the holding of *Lencovich v. Bureau of Professional and Occupational Affairs*, 829 A.2d 1238 (Pa.Cmwlth. 2003), the Board finds that:

1. On or about July 18, 2013, the Commonwealth submitted a Petition to the Board's Probable Cause Screening Committee¹ (PCC) requesting that Respondent be ordered to submit to a mental and physical examination. (Paragraph 1, Motion; Exhibit A, Motion)
2. On or about July 18, 2013, the PCC issued an Order Compelling the Respondent to submit to a mental and physical examination with Robert M. Wettstein, M.D. (Dr. Wettstein). (Paragraph 2, Motion; Exhibit A, Motion)

TRUE AND CORRECT COPY
CERTIFIED FROM THE RECORD
THIS 8th DAY OF NOV AD. 2013

[Signature]
PROTHONOTARY

¹The members of the Board that participated on the Probable Cause Screening Committee for this matter were Suzanne Hendricks, BSBH, LPN, Bette M. Wildgust, CRNA, MS, MSN and Robert E. Ames.

3. On or about July 18, 2013, a Notice of Mental and Physical Examination (Notice) was issued compelling Respondent to submit to a mental and physical examination by Dr. Wettstein on September 10, 2013 at 1:00 p.m. (Paragraph 3, Motion; Exhibit A, Motion)

4. The Commonwealth mailed the Petition, Notice and Order to the Respondent by mailing it via the United States Postal Service (USPS) by certified mail, return receipt requested and first class mail, postage prepaid, to the following address: 4029 Towne Crossing Blvd., Mesquite, TX 75150. (Paragraph 5, Motion; Exhibit B, Motion)

5. On or about August 6, 2013, the USPS delivered the Petition, Order and Notice sent by certified mail to the Respondent's address on file with the Board as evidenced by a printout from the USPS website (<http://www.usps.com>), Track and Confirm, for Article #9171 9690 0935 0030 5219 16. (Paragraph 6, Motion; Exhibit B, Motion)

6. By letter dated September 10, 2013, Dr. Wettstein informed the Commonwealth that the Respondent did not show up for the scheduled appointment. (Paragraph 9, Motion; Exhibit C; Motion)

7. The Respondent failed to attend the examination with Dr. Wettstein on September 10, 2013 as directed by the Board's Order and Notice and has not contacted either the prosecuting attorney or Dr. Wettstein to explain his failure to attend the examination or to reschedule it. (Paragraphs 11-12, Motion)

Accordingly, it appears that Respondent is in default for failing to submit to an examination, which authorizes the Board to **INDEFINITELY SUSPEND** Respondent's license to practice professional nursing subject to notice, hearing, adjudication and appeal. The indefinite suspension will become effective unless Respondent files an Answer, specifically admitting or denying each allegation of each numbered paragraph of the petition/Motion to

challenge the validity of the order compelling the examination or to contest the allegations of the Motion, along with a request for a hearing, within 20 days from the date of this order.

Respondent shall file his Answer and request for hearing with Prothonotary, Department of State, 2601 North Third Street, Harrisburg, PA 17110. A copy of the Answer and request for hearing shall be served on the prosecuting attorney identified below and mailed to the address set forth below. A hearing before a hearing examiner shall be scheduled within 30 days of receipt of the request for a hearing and answer. Continuances will only be granted for good cause shown. If any future formal proceedings related to this matter occur, the record developed during the hearing described above may be introduced by the parties subject to appropriate objections.

After the hearing and close of the record, the hearing examiner shall issue a proposed adjudication. Unless either party files a brief on exceptions under 1 Pa. Code § 35.211 (procedure to except to proposed report), the hearing examiner's proposed adjudication will become final under 1 Pa. Code § 35.226(3) (final orders include proposed report upon the expiration of the time provided for an appeal to or review by the agency head without the appeal or review having been initiated). Nothing herein shall be construed as prohibiting the Commonwealth from bringing charges pursuant to provisions of the Act that the Commonwealth determines are warranted.

If a request for hearing and answer are not filed within the time period set forth above, Respondent's license will be **SUSPENDED INDEFINITELY** effective November 18, 2013, (20 days after the date of mailing of this order as indicated below) and a final adjudication and order to that effect will be issued by the Board. If Respondent's license is indefinitely suspended for having failed to request a hearing and file an answer within this time frame, Respondent shall, at reasonable intervals, be afforded an opportunity to demonstrate that he can resume a

competent practice of professional nursing with reasonable skill and safety to patients.

BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS

BY ORDER:
STATE BOARD OF NURSING

Kathy J. Barley

Ann M. Coughlin

KATHY J. BARLEY
ACTING COMMISSIONER

ANN COUGHLIN, MBA, MSN, RN
CHAIRPERSON

Respondent:

Edward Charles Bliven
4029 Towne Crossing Blvd.
Mesquite, TX 75150

Prosecuting attorney:

Michael J. Gennett, Esquire

Board counsel:

Beth Sender Michlovitz, Esquire

Date of Mailing:

Oct. 29, 2013

COPY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

BEFORE THE STATE BOARD OF NURSING

COMMONWEALTH OF PENNSYLVANIA,
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

v.

EDWARD CHARLES BLIVEN, R.N.

DOCKET NO. 1499-51-13
FILE NO. 13-51-00530

FINAL ADJUDICATION AND ORDER

TRAVIS N. GERY, ESQ., COMMISSIONER
BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS

ANN M. COUGHLIN, MBA, MSN, RN
CHAIRPERSON
STATE BOARD OF NURSING

2601 North Third Street
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649

PROTHONOTARY
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Department of State

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HISTORY

This matter comes before the State Board of Nursing (Board) following the Board's issuance of a Memorandum Order on October 29, 2013. The matter commenced on July 18, 2013, when the Commonwealth presented a Petition to Compel Mental and Physical Examination (Petition) of Edward Charles Bliven, R.N., (Respondent), to the Board's Probable Cause Screening Committee (Committee).¹ The Petition alleged that there was probable cause to believe that Respondent was unable to practice professional nursing with reasonable skill and safety to patients by reason of mental or physical illness or condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination, pursuant to Section 14(a)(2) of the Professional Nursing Law (Act), Act of May 22, 1951, P.L. 371, as amended, 63 P.S. § 224(a)(2)².

¹The members of the Probable Cause Screening Committee were Suzanne Hendricks, BSBH, LPN, Bette M. Wildgust, CRNA, MS, MSN and Robert E. Ames.

² Section 14(a)(2) of the Act provides as follows:

Section 14 Refusal, Suspension or Revocation of Licenses

- (a) The Board may refuse, suspend or revoke any license in any case where the Board shall find that:

* * *

(2) The licensee is unable to practice professional nursing with reasonable skill and safety to patients by reason of mental or physical illness or condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination, so long as such dependence shall continue. In enforcing this clause, the Board shall, upon probable cause, have authority to compel a licensee to submit to a mental or physical examination as designated by it. After notice, hearing, adjudication and appeal as provided for in section 15, failure of a licensee to submit to such examination when directed shall constitute an admission of the allegations against him or her unless failure is due to circumstances beyond his or her control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A licensee affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume a competent practice of professional nursing with reasonable skill and safety to patients.

On July 18, 2013, the Committee issued a Notice and Order Compelling Respondent to submit to a Mental and Physical Examination (Order) with Robert M. Wettstein, M.D., (Dr. Wettstein) on September 10, 2013 at 1:00 p.m. On July 22, 2013, the Commonwealth mailed Respondent the the Petition, Order and Notice by first class mail, postage prepaid, and by certified mail, return receipt requested to Respondent's following address: 4029 Towne Crossing Blvd., Mesquite, TX 75150. On August 6, 2013, the USPS delivered the Petition, Notice and Order sent by certified mail as evidenced by a printout from the USPS website, track and confirm, for article #9171 9690 0935 0030 5219 16. The Petition, Order and Notice mailed by first class mail, postage prepaid was not returned to the Commonwealth and therefore is presumed to have been delivered and received by Respondent.

Respondent did not appear for the mental and physical examination by Dr. Wettstein as scheduled on September 10, 2013. On October 11, 2013; the Commonwealth filed a Motion to Enter Default and Deem Facts Admitted (MDFA). On October 29, 2013, the Board issued a Memorandum Order finding Respondent in default for failing to undergo the mental and physical examination and notifying Respondent that his license would be indefinitely suspended if he failed to file an Answer or request a hearing within 20 days. Respondent did neither.

The Board, absent the Probable Cause Screening Committee, now issues this Final Adjudication and Order in final resolution of this matter.

FINDINGS OF FACT

1. At all times relevant and material hereto, Respondent held a license issued by the State Board of Nursing (Board) to practice as a registered nurse in the Commonwealth of Pennsylvania, license number RN582831. (Board records; Petition at ¶ 1).
2. Respondent's license was active through April 30, 2014, but was suspended as of November 18, 2013 pursuant to the Board's Memorandum Order. (Board records; Petition at ¶ 2).
3. Respondent's address on file with the Board is: 19022 Bailey Lane, Forney, TX 75126, but it is believed that he currently resides at 4029 Towne Crossing Blvd., Mesquite, TX 75150. (Board records; Petition at ¶ 3).
4. Respondent was reported to the Board by the Department of Veterans Affairs (North Texas) after its investigation revealed that Respondent had 96 episodes where the quantity of controlled substances removed from the Omnicell was greater than the documented delivered dose to patients. (Petition at ¶ 5)
5. Respondent was offered participation in the Voluntary Recovery Program (VRP), but refused to cooperate. (Petition at ¶ 6)
6. On or about July 18, 2013, the Commonwealth submitted a Petition to the Committee requesting that Respondent be ordered to submit to a mental and physical examination. (Memorandum Order at ¶ 1; MDFA at ¶ 1; Exhibit A, MDFA)
7. On or about July 18, 2013, the Committee issued an Order Compelling the Respondent to submit to a mental and physical examination (Order) with Dr. Wettstein. (Memorandum Order at ¶ 2; MDFA at ¶ 2; Exhibit A, MDFA)

8. On or about July 18, 2013, a Notice was issued compelling Respondent to submit to a mental and physical examination by Dr. Wettstein on September 10, 2013 at 1:00 p.m. (Memorandum Order at ¶ 3; MDFA at ¶ 3; Exhibit A, MDFA)

9. The Commonwealth mailed the Petition, Notice and Order to the Respondent by mailing it via USPS by certified mail, return receipt requested and by first class mail, postage prepaid to the following address: 4029 Towne Crossing Blvd., Mesquite, TX 75150. (Memorandum Order at ¶ 4; MDFA at ¶ 5)

10. On or about August 6, 2013, the USPS delivered the Petition, Order and Notice sent by certified mail to the Respondent's address on file with the Board as evidenced by a printout from the USPS website (<http://www.usps.com>), Track and Confirm, for article #9171 9690 0935 0030 5219 16. (Memorandum Order at ¶ 5; MDFA at ¶ 6; Exhibit B, MDFA)

11. The Petition, Order and Notice mailed by First Class, Postage Prepaid, were not returned to the Commonwealth by the USPS and is, therefore, presumed to have been delivered to and received by Respondent. (MDFA at ¶ 8)

12. By letter dated September 10, 2013, Dr. Wettstein informed the Commonwealth that the Respondent did not show up for the scheduled appointment. (Memorandum Order at ¶ 6; MDFA at ¶ 9; Exhibit C, MDFA)

13. The Respondent failed to attend the examination with Dr. Wettstein on September 10, 2013 as directed by the Board's Order and Notice and has not contacted either the prosecuting attorney or Dr. Wettstein to explain his failure to attend the examination or to reschedule it. (Memorandum Order at ¶ 7; MDFA at ¶ ¶ 11-12)

14. On October 11, 2013, the Board issued a Motion to Enter Default and Deem Facts Admitted. (Docket no. 1499-51-13)

15. On October 11, 2013, the Commonwealth served the MDFA upon Respondent at his Mesquite, TX address by mailing it first class mail, postage prepaid. (Docket no. 1499-51-13).

16. On October 29, 2013, the Board issued a Memorandum Order, granting the Commonwealth's Motion. (Memorandum Order, Docket No. 1499-51-13).

17. ~~The Memorandum Order notified Respondent that if he did not file an Answer or request for a hearing to challenge the validity of the order compelling the examination or to contest the allegations of the Motion within 20 days from the date of the order his license would be indefinitely suspended.~~ (Memorandum Order, Docket No. 1499-51-13)

CONCLUSIONS OF LAW

1. The Board has jurisdiction over Respondent in this matter. (Findings of Fact Nos. 1-3).
2. Respondent has been afforded reasonable notice of the requirement that he submit to a mental and physical examination, including the possibility of licensure suspension for failure to comply, and has been afforded an opportunity to be heard in accordance with the Administrative Agency Law, 2 Pa.C.S. § 504. (Findings of Fact Nos. 6-17)
3. In that Respondent was reported by the Department of Veterans Affairs (North Texas) after its investigation had revealed 96 episodes where the quantity of controlled substances removed from the Omnicell was greater than the documented delivered dose to patients and was offered participation in the VRP but refused to cooperate, along with Respondent's failure to submit to the mental and physical examination as Ordered by the Board, Respondent is subject to discipline under section 14(a)(2) of the Professional Nursing Law ("the Act"), 63 P.S § 224(a)(2), in that he is unable to practice professional nursing with reasonable skill and safety to patients by reason of mental or physical illness or condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination, so long as such dependence shall continue. (Findings of Fact Nos. 4-5)

DISCUSSION

DUE PROCESS

Respondent did not file an Answer contesting the allegations of the Motion or challenging the validity of the Order compelling him to undergo a mental and physical examination despite having been given a chance to do so. Under the foregoing circumstances, the Board must first determine whether Respondent has been afforded the appropriate due process to permit it to render a final decision based on the merits of the case.

If Respondent is made sufficiently aware of the charges against him and the procedures by which he can defend himself, then due process rights are protected. *Clark v. Department of Public Welfare*, 427 A.2d 712 (Pa. Cmwlth 1981); *Celane v. Insurance Commissioner*, 415 A.2d 130, 132 (Pa. Cmwlth, 1980). See also, *Gutman v. State Dental Council and Examining Board*, 463 A.2d 114 (Pa. Cmwlth, 1983).

Section 33.31 of the General Rules of Administrative Practice and Procedure, 1 Pa. Code §331.31, authorizes service by mail. "Notice of administrative action which is mailed to the interested party's last known address has been found to be reasonable notice." *Kobylski v. Milk Marketing Board*, 516 A.2d 75 (Pa. Cmwlth, 1986), citing *Yarbrough v. Department of Public Welfare*, 478 A.2d 956 (Pa. Cmwlth, 1984). Respondent is deemed in default and relevant facts stated in the order may be deemed admitted, if Respondent fails to file an answer within the time provided in the Order to Show Cause. 1 Pa. Code §35.37. See also, *Kinniry v. Professional Standards and Practices Commission*, 678 A.2d 1230 (Pa. Cmwlth, 1986).

In this case, Respondent was repeatedly notified of the charge against him as well as the procedure to challenge that charge. The charge that Respondent was unable to practice

professional nursing with reasonable skill and safety to patients by reason of mental or physical illness or condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination was contained in the Petition, Order, Notice, and Memorandum Order. The Commonwealth made a good faith effort to notify Respondent of the charge against him by serving him with the Petition, Order and Notice by first class mail, postage prepaid and certified mail, return-receipt requested, at his last address of record with the Board. The certified copies of the Petition, Order and Notice were delivered to the Respondent as evidenced by a printout from the USPS, Track and Confirm, Article #9171 9690 0935 0030 5219 16. The copies of the Petition, Order, and Notice mailed by first class mail were not returned by the USPS, and therefore, service by first class mail is properly presumed. *Kobylski, supra.*

Having determined that Respondent was provided with sufficient notice of the charge against him, the Board is also satisfied that the record reflects that Respondent was repeatedly provided with an opportunity to challenge the charge and defend himself. Beginning with the Notice and Order, Respondent was advised that because there was probable cause to believe that he was unable to practice nursing he was required to undergo a pre-scheduled mental and physical examination. Further, he was repeatedly advised that if he failed to comply with the examination Order the allegations in the Petition would be deemed admitted and he may be subject to discipline. Specifically, Paragraph 7 of the Order Compelling Mental and Physical Examination advised:

Respondent's failure to comply with this Order, except for circumstances beyond his control, shall constitute an admission of the allegations contained in the Petition to Compel Mental and Physical Examination upon which a Default and Final Order may be entered without the taking of testimony or presentation of evidence. Such Final Order may result in the State Board of Nursing taking disciplinary or corrective action against Respondent including, but not limited to,

license suspension, the imposition of a civil penalty of up to \$10,000 per violation, and the costs of investigation.

(Paragraph 7, Order)

The last paragraph of the Notice advised:

Respondent's failure to submit to the above-scheduled examination, or to a rescheduled examination as agreed to by the Commonwealth's prosecuting attorney and Dr. Wettstein, shall constitute an admission of the allegations set forth in the Commonwealth's Petition to Compel Mental and Physical Examination, upon which a Default and Final Order may be entered without the presentation of testimony or other evidence, and may result in the State Board of Nursing taking disciplinary or corrective action against Respondent as authorized by the Professional Nursing Law, Act of May 22, 1951, P.L. 317, ("Act") including the imposition of a civil penalty, and the imposition of costs of any investigation.

(Notice)

In its Memorandum Order, the Board delineated in great detail the procedure by which Respondent could challenge the validity of the Order and/or contest the allegations of the Motion, the mechanics of the hearing process as well as the penalty for inaction. Specifically, it advised:

Accordingly, it appears that Respondent is in default for failing to submit to an examination, which authorizes the Board to INDEFINITELY SUSPEND Respondent's license to practice professional nursing subject to notice, hearing, adjudication and appeal. The indefinite suspension will become effective unless Respondent files an Answer, specifically admitting or denying each allegation of each numbered paragraph of the Petition/Motion to challenge the validity of the Order compelling the examination or to contest the allegations of the Motion, along with a request for a hearing, within 20 days from the date of this order.

Respondent shall file his Answer and request for hearing with Prothonotary, Department of State, 2601 North Third Street, Harrisburg, PA 17110. A copy of the Answer and request for hearing shall be served on the prosecuting attorney identified below and mailed to the address set forth below. A hearing before a hearing examiner shall be scheduled within 30 days of receipt of the request for a hearing and answer. Continuances will only be granted for good cause shown. If any future formal proceedings related to this matter occur, the record developed during the hearing described above may be introduced by the parties subject to appropriate objections.

After the hearing and close of the record, the hearing examiner shall issue a proposed adjudication. Unless either party files a brief on exceptions under 1 Pa. Code § 35.211 (procedure to except to proposed report), the hearing examiner's proposed adjudication will become final under 1 Pa. Code § 35.226(3) (final orders include proposed report upon the expiration of the time provided for an appeal to or review by the agency head without the appeal or review having been initiated). Nothing herein shall be construed as prohibiting the Commonwealth from bringing charges pursuant to provisions of the Act that the Commonwealth determines are warranted.

If a request for hearing and answer are not filed within the time period set forth above, Respondent's license will be **SUSPENDED INDEFINITELY** effective November 18, 2013, (20 days after the date of mailing of this order as indicated below) and a final adjudication and order to that effect will be issued by the Board. If Respondent's license is indefinitely suspended for having failed to request a hearing and file an answer within this time frame, Respondent shall, at reasonable intervals, be afforded an opportunity to demonstrate that he can resume a competent practice of professional nursing with reasonable skill and safety to patients.

(Memorandum).

Despite being advised of the consequences of failing to obtain the examination and being provided with specific information about his due process rights, Respondent failed to answer the Motion or challenge the validity of the Order. In light of the foregoing, the Board is satisfied that Respondent has been provided with notice and an opportunity to be heard.

ANALYSIS

The facts deemed admitted provide substantial evidence that Respondent is unable to practice professional nursing with reasonable skill and safety to patients by reason of mental or physical illness or condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination. Respondent was reported to the Board by the Department of Veterans Affairs after its investigation revealed that the Respondent had 96 episodes where the quantity of controlled

substances removed from the Omnicell was greater than the documented delivered dose to patients. In addition, Respondent was offered participation in the VRP, but refused to cooperate and he failed to submit to the Board's Order and attend the mental and physical examination.

The Board is permitted to make reasonable inferences based upon the outlined deemed admitted facts. *Shrader v. Bureau of Professional and Occupational Affairs*, 673 A.2d 1 (Pa. Cmwith. 1995). Based on the investigation which revealed 96 episodes where the quantity of controlled substances removed from the Omnicell were greater than the documented delivered dose to patients and Respondent's refusal to participate in the VRP, along with his non-compliance with the Board's Order Compelling a Mental and Physical Examination, the inference reasonably deduced in this case is that Respondent is unable to practice professional nursing with reasonable skill and safety to patients by reason of mental or physical illness or condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination. As such, the Board is authorized to discipline Respondent pursuant to Section 14(a)(2) of the Act, 63 P.S. § 224(a)(2).

SANCTION

In determining the appropriate sanction, the Board considers, as paramount, its duty to protect the public from practitioners that cannot safely practice. Respondent's actions/inactions constitute sufficient evidence that Respondent cannot practice professional nursing with reasonable skill and safety to patients. The public can only be protected by the Board's issuing an order indefinitely suspending Respondent's license until such time as he submits to a drug and alcohol/mental and physical evaluation by a PHMP-approved provider and demonstrates at a hearing that he can resume a competent practice of professional nursing with reasonable skill and

safety to patients. In any petition for reinstatement, Respondent shall also verify that he has not practiced nursing during the period of his suspension and completed the administrative requirements for reinstatement of his license.

Accordingly, the Board enters the following order:

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

Commonwealth of Pennsylvania,
Bureau of Professional and
Occupational Affairs

v.

Edward Charles Bliven, R.N.,
Respondent

File No. 13-51-00530

Docket No. 1499-51-13

FINAL ORDER

AND NOW, this 4th day of March 2014, the State Board of Nursing, upon consideration of the entire record in this matter, including the Findings of Fact, Conclusions of Law and Discussion, and in accordance with the memorandum order issued October 29, 2013, **ORDERS** that Respondent's license to practice nursing, license no. RN582831, be **SUSPENDED INDEFINITELY**, retroactive to November 18, 2013.

Respondent may petition for reinstatement of his license after completing a drug and alcohol evaluation by a PHMP-approved provider, submitting a verification of non-practice and completing applicable administrative requirements. In a formal hearing on his petition, Respondent must demonstrate that he can resume the competent practice of professional nursing with reasonable skill and safety to patients.


If Respondent has not already done so, within 10 days of the effective date of this order, Respondent shall surrender the wall certificate, registration certificate, wallet card, and other licensure documents by forwarding them to the following address: State Board of Nursing, Board Administrator, P.O. Box 2649, Harrisburg, PA 17105-2649.

Failure to comply with this order may result in additional disciplinary action.


This order shall be effective immediately.

BY ORDER:

BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS


TRAVIS N. GERX, ESQ.,
COMMISSIONER

STATE BOARD OF NURSING


ANN M. COUGHLIN, MBA, MSN, RN
CHAIRPERSON

Respondent:

Edward Charles Bliven, R.N.
4029 Towne Crossing Blvd.
Mesquite, TX 75150

Prosecuting attorney:

Michael J. Gennett, Esquire

Board counsel:

Megan E. Castor, Esquire

Date of Mailing:

March 4, 2014

NOTICE

The attached Adjudication and Order represents the final agency decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a Petition for Review with that Court within 30 days after the entry of the order in accordance with the Pennsylvania Rules of Appellate Procedure. See Chapter 15 of the Pennsylvania Rules of Appellate Procedure entitled "Judicial Review of Governmental Determinations," Pa. R.A.P. 1501 - 1561. Please note: An order is entered on the date it is mailed. If you take an appeal to the Commonwealth Court, you must serve the Board with a copy of your Petition for Review. The agency contact for receiving service of such an appeal is:

Board Counsel
P.O. Box 2649
Harrisburg, PA 17105-2649

The name of the individual Board Counsel is identified on the Order page of the Adjudication and Order.