



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.
Stephanie Charnock
Executive Director of the Board

DOCKET NUMBER 507-17-4358

**IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 302509,
ISSUED TO
MELISSA ROBERTS RAY**

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§**

**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

OPINION AND ORDER OF THE BOARD

**TO: MELISSA ROBERTS RAY
3802 W. UNIVERSITY, APT. 6101
DURANT, OK 74701**

**KERRI JO QUALTROUGH
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701**

At the regularly scheduled public meeting on October 26-27, 2017, the Texas Board of Nursing (Board) considered the following items: (1) Order No. 1, *Conditional Order of Default Dismissal and Remand*, issued by the ALJ in the above cited matter; (2) Staff's recommendation that the Board revoke the Respondent's vocational nursing license by default; and (3) Respondent's recommendation to the Board regarding the above cited matter, if any.

On July 10, 2017, the ALJ convened a hearing on the merits in this matter. Staff of the Board was present for the hearing. However, the Respondent was not present at the hearing, and no one appeared on her behalf. During the hearing on July 10, 2017, Staff introduced evidence into the record demonstrating that Respondent had been sent a Notice of Hearing by first class certified mail return receipt requested to her last known address of record maintained by the Board in accordance with 22 Tex. Admin. Code §213.10(a). The ALJ found that Staff's notice was adequate and issued Order No. 1, *Conditional Order of Default Dismissal and Remand*, granting Staff's Motion for Default and dismissing the case from the docket of SOAH and remanding it to the Board for informal disposition on a default basis in accordance with the Government Code §2001.056.

The Board, after review and due consideration of Order No. 1, issued by the ALJ in the above cited matter, finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with the Government Code §2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Occupations Code Chapter 301 (Nursing Practice Act) for retention of Respondent's license to practice vocational nursing in the State of Texas. The Board further finds that the Formal Charges were properly initiated and filed in accordance with the Occupations Code §301.458. The Board further finds that proper and timely notice regarding the violations alleged in the Formal Charges was given to Respondent in accordance with the requirements of the Government Code §2001.051 and §2001.052 and 1 Tex. Admin. Code §155.501. The Board further finds that the Respondent failed to appear in accordance with 22 Tex. Admin. Code Chapter 213 and 1 Tex. Admin. Code §155.501. As a result of the Respondent's failure to appear, the Board has determined that

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

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

IT IS, THEREFORE, ORDERED THAT Permanent Certificate Number 302509, previously issued to MELISSA ROBERTS RAY, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

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

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

Entered this 26th day of October, 2017.

TEXAS BOARD OF NURSING



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

Attachment: Formal Charges

In the Matter of § BEFORE THE TEXAS
Permanent Vocational Nurse §
License Number 302509 §
Issued to MELISSA ROBERTS RAY, §
Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MELISSA ROBERTS RAY, is a Vocational Nurse holding License Number 302509, which is in current status at the time of this pleading.

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

CHARGE I.

On or about May 24, 2016, Respondent's Oklahoma practical nurse license was SEVERELY REPRIMANDED by the Oklahoma Board of Nursing, Oklahoma City, Oklahoma. A copy of the Oklahoma Board of Nursing Stipulations, Settlement and Order dated May 24, 2016, is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8), Texas Occupations Code.

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

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

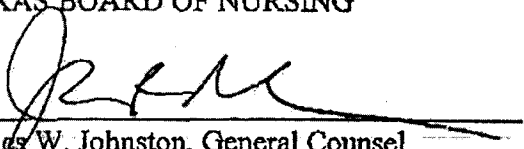
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on adopted policies related to Behavior Involving Lying and Falsification; and related to Behavior Involving Fraud, Theft, and Deception, which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, located at 22 TEX. ADMIN. CODE §213.33(b), which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, www.bon.texas.gov.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Oklahoma Board of Nursing Stipulations, Settlement and Order dated May 24, 2016.

Filed this 25 day of October, 2016.

TEXAS BOARD OF NURSING


James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
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Jena Abel, Assistant General Counsel
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333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-8657
F: (512) 305-8101 or (512)305-7401

Attachments: Oklahoma Board of Nursing Stipulations, Settlement and Order dated May 24, 2016

D(2016.10.03)

BEFORE THE OKLAHOMA BOARD OF NURSING

**IN THE MATTER OF MELISSA PAMALAJEAN ROBERTS RAY, L.P.N.
LICENSE NO. L0052773**

STIPULATIONS, SETTLEMENT AND ORDER

This matter comes on before the Informal Disposition Panel ("Panel") of the Oklahoma Board of Nursing ("Board") on the 11th day of May, 2016, in the Conference Room of the Board Office, 2901 North Classen Boulevard, Suite 105, Oklahoma City, Oklahoma.

Sandra Terry, R.N., a Nurse Investigator with the Board, appears in person, and Melissa Pamalajeane Roberts Ray, L.P.N., (hereinafter, "Respondent") having received notice voluntarily appears in person with counsel, James M. Barber, Esq., before the Panel on this date. Respondent, Respondent's counsel and the Nurse Investigator participated in an investigative conference on December 16, 2015, and subsequently consented to this Stipulations, Settlement and Order ("Order"). The Respondent and her counsel agree that she has received timely Notice of the agreed Stipulations, Settlement and Order to be presented to the Informal Disposition Panel and to the Board.

The Board of Nursing has jurisdiction of this matter and authority to discipline Respondent through 59 O.S. §§567.2 and 567.8 and OAC 485:10-11.

STIPULATIONS

Respondent and the Panel hereby stipulate and agree to the following joint stipulations and proposed Order of the Board incorporating these stipulations and agreements in the above-styled matter.

1. Respondent is licensed to practice licensed practical nursing in the State of Oklahoma and is the holder of License No. L0052773 issued by the Oklahoma Board of Nursing.

2. On or about June 3, 2014, the Respondent, while working as a licensed practical nurse for Home Health at the Medical Center of Southeastern Oklahoma in Durant, Oklahoma ("Home Health"), submitted a falsified Daily Visit Record to Home Health Administration, indicating a fifty-nine (59) minute home visit for Patient #1 on the same date.

3. On or about June 4, 2014, Patient #1's mother contacted the Home Health Clinical Supervisor to ask why a nurse visit had not occurred on June 3, 2014. When confronted by the Clinical Supervisor, the Respondent admitted to failing to make the home visit for Patient #1 on June 3, 2014. The Respondent was terminated from the Home Health on June 10, 2014.

4. On or about December 16, 2015, during an investigative conference the Respondent admitted to Board staff that while employed and working as a licensed practical nurse for Home Health and assigned to provide nursing care to Patient #2, the Respondent practiced outside the professional boundaries of a licensed practical nurse when the Respondent had Patient #2 accompany her during a scheduled home visit to an automobile dealership to co-sign a note to obtain an automobile loan for the Respondent.

5. Respondent's conduct violates the Oklahoma Nursing Practice Act, 59 O.S. §§567.1, *et seq.*, specifically, §§567.8 A.1.a.2.3.B.3.7.8.12. and Board Rules, OAC 485:10-11-1.(a)(b)(2)(3)(H)(R)(4)(D).

6. No formal Complaint has been filed as of the date of these stipulations charging Respondent with violations of the Oklahoma Nursing Practice Act. Respondent understands that Respondent has a right to require that a formal Complaint be filed and the right to a formal hearing before the Board at which time Respondent could confront the witnesses against Respondent, cross-examine those witnesses, and present evidence in Respondent's own behalf.

Respondent understands that by signing and agreeing to this Order Respondent is waiving those rights.

7. This Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this matter. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of this Order. Furthermore, should this Order not be accepted by the Board, it is agreed that presentation to and consideration of this Order and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

8. Respondent fully understands and agrees that this Order will in no way preclude additional proceedings by the Board against Respondent for acts or omissions not specifically made a part of this Order.

9. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of this joint stipulation of facts, conclusions of law and imposition of discipline, and the Order of the Board incorporating said stipulations.

10. It is expressly understood that this Order is subject to approval of the Board and has no force and effect until approved and Ordered by the Board.

11. This Order constitutes formal disciplinary action.

STIPULATED DISPOSITION AND ORDER

IT IS THEREFORE ORDERED by the Oklahoma Board of Nursing that Respondent's license to practice licensed practical nursing in the State of Oklahoma remains in effect, and that Respondent is disciplined as follows:

1. Respondent shall, within ninety (90) days before or after the receipt of this Order, successfully complete a course on Nursing Jurisprudence. Respondent shall obtain Board approval of the course prior to enrollment. Home study courses, video Programs and Internet courses will not be approved. In order for the course to be approved, the target audience must include licensed nurses. It must be a minimum of four (4) contact hours in length. The course must include an examination of the scope of nursing practice from the Oklahoma Nursing Practice Act and Rules of the Board; other laws; policies; and accreditation guidelines that govern the practice of nursing; the role of delegation and supervision; and an exploration of the ethical basis of nursing practice. Courses focusing on malpractice issues will not be accepted. The course description must indicate goals and objectives for the course; resources to be utilized; and the methods to be used to determine successful completion of the course. Respondent shall cause the sponsoring institution to submit verification of Respondent's successful completion of the course to the Board office.

2. Respondent shall, within one hundred eighty (180) days before or after the receipt of this Order, successfully complete a course in The Roles and Responsibilities of the Licensed Practical Nurse, to include all applicable state and federal regulations. Respondent shall obtain Board approval of the course prior to enrollment. Courses that exclusively include home study courses, video Programs, and Internet courses will not be approved. The target audience must

include licensed nurses. The course must be a minimum of sixteen (16) contact hours in length. For approval the course content must include delegation, supervision, patient assessment, critical thinking, scope of practice of each discipline; and responsibilities related to reporting incidents. The course description must indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. Respondent shall cause the sponsoring institution to submit verification of Respondent's successful completion of the course to the Board office.

3. Within sixty (60) days from receipt of this Order, Respondent shall pay an administrative penalty payable to the Oklahoma Board of Nursing in the full amount of \$1,000.00. Partial payments are not accepted. The administrative penalty shall be paid only by certified check, money order or cash.

4. Respondent agrees not to work as a licensed practical nurse in Home Health Care for a period of five (5) years. After five (5) years, the Respondent shall provide a copy of this Order of May 24, 2016 to future Home Health Care employers.

IT IS FURTHER ORDERED that the license to practice licensed practical nursing held by Respondent is hereby severely reprimanded.

IT IS FURTHER ORDERED that Respondent shall comply in all respects with the Oklahoma Nursing Practice Act, 59 O.S. Sections 567.1 et seq., the Rules, OAC Title 485 Chapters 1 and 10 and Guidelines relating to nursing education, licensure and practice and this Order.

IT IS FURTHER ORDERED, prior to the Respondent's successful completion of this Order, any violations of the Oklahoma Nursing Practice Act by the Respondent, except as set forth

herein, may require Respondent's appearance before the Board to Show Cause why Respondent's license should not be revoked or other such action taken as the Board deems necessary and proper.

IT IS FURTHER ORDERED that in the event the Certified Mail delivery of Respondent's Order is unsuccessful a process server will be hired to obtain service of the Order. If it is necessary to serve the Respondent by a process server, the Respondent shall reimburse the Board for the actual cost of the process server. The Respondent shall pay to the Board the actual cost of the process service within sixty (60) days of service of the process served Order. The process service fee shall be paid only by certified check, money order or cash to the Board.

IT IS FURTHER ORDERED that any failure to comply with submission of the administrative penalty, reimbursement of cost of process server, and/or written documentation by the due date, including but not limited to the proof of successful completion of educational courses, will result in a three (3) month suspension of license. If a license is suspended, all Board ordered classes must be successfully completed and administrative penalty and process server costs must be paid prior to reinstatement of license. At the completion of the three-month suspension, any application for reinstatement may be submitted for processing by Board Staff for approval in accordance with the agency approval process or for referral to the Board. An administrative penalty of \$500.00 for each violation of Respondent's Board Order shall be paid by certified check, money order, or cash prior to reinstatement pursuant to statute, 59 O.S. §567.8.J.1. and 2., and OAC §485:10-11-2(c) of the Rules promulgated by the Board.

IT IS FURTHER ORDERED that the parties agree that both (all) parties have participated in the drafting of this Order and that no presumption or construction against any party as

the drafter of this Order, shall apply or be applied in the event of a claim of ambiguity of the document or a provision thereof.

IT IS FURTHER ORDERED that should this Order not be accepted by the Board, it is agreed that presentation to and consideration of this Order and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.


IT IS FURTHER ORDERED that this Order shall become final after anticompetitive review and a determination by the Oklahoma Attorney General, 74 O.S. §18b(A)(5), that the Order is in compliance with the Board's authority and mission to protect the public health, safety and welfare, and Respondent's receipt of the fully executed Order.

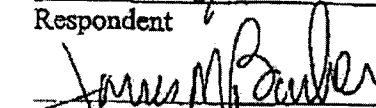
IT IS FURTHER ORDERED that this Order shall not be effective until the Respondent has accepted service of the fully executed Order.

IT IS FURTHER ORDERED that upon successful completion of all of the terms and conditions of this Order, no further Order of the Board shall be deemed necessary.

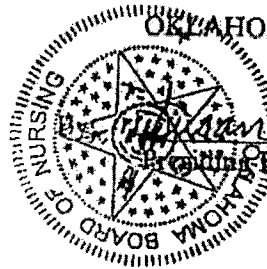
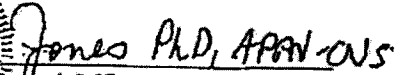
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IT IS FURTHER ORDERED that this Order constitutes disciplinary action by the Board and may be used in any subsequent hearings by the Board. In the event other misconduct is reported to the Board, this Order may be used as evidence against Respondent to establish a pattern of behavior and for the purpose of proving additional acts of misconduct.


Respondent


Attorney for Respondent OBA# 19301

Approved and ordered this 24th day of May, 2016.

OKLAHOMA BOARD OF NURSING


President Board Officer

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