



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.
Heather A. Johnson
Executive Director of the Board

DOCKET NUMBER 507-18-1122

**IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 824951,
ISSUED TO
DANIEL ELLIS FORESTER**

**§
§
§
§
§**

**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

OPINION AND ORDER

**TO: DANIEL ELLIS FORESTER
4449 RINGGOLD LN.
PLANO, TX 75093**

**CATHERINE C. EGAN
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701**

At the regularly scheduled public meeting of the Eligibility and Disciplinary Committee of the Texas Board of Nursing (Committee) on May 8, 2018, the Committee, pursuant to 22 Tex. Admin. Code §213.23, considered the following items: (1) Order No. 2, *Conditional Order of Default Dismissal and Remand*, issued by the ALJ in the above cited matter; (2) Staff's recommendation to the Committee that the Respondent's registered nursing license be revoked by default; and (3) Respondent's recommendation to the Committee regarding the above cited matter, if any.

On January 25, 2018, the ALJ convened a hearing on the merits in this matter. Staff of the Board was present for the hearing. However, the Respondent was not present at the hearing, and no one appeared on his behalf. During the hearing on January 25, 2018, Staff introduced evidence into the record demonstrating that Respondent had been sent a Notice of Final Hearing by first class certified mail return receipt requested to his last known address of record maintained by the Board in accordance with 22 Tex. Admin. Code §213.10(a). The ALJ found that Staff's notice was adequate and issued Order No. 2, *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 and §2001.058(d-1).

The Committee, after review and due consideration of Order No. 2, 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 professional nursing in the State of Texas. The Committee further finds that the Formal Charges were properly initiated and filed in accordance with the Occupations Code §301.458. The Committee further finds that proper and timely notice regarding the violations alleged in the Formal Charges was given to Respondent in accordance with the requirements of the Government Code §2001.051 and

§2001.052 and 1 Tex. Admin. Code §155.501. The Committee further finds that the Respondent failed to appear in accordance with 22 Tex. Admin. Code Chapter 213 and 1 Tex. Admin. Code §155.501. As a result of the Respondent's failure to appear, the Committee has determined that the factual allegations listed in the Formal Charges are to be deemed admitted by default and the Committee is authorized to enter a default order against the Respondent pursuant to the Government Code §2001.056 and §2001.058(d-1) and 22 Tex. Admin. Code §213.22. Further, the Committee has determined that it is entitled to revoke the Respondent's registered nursing license pursuant to 22 Tex. Admin. Code §213.23 and §213.33(m).

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

IT IS, THEREFORE, ORDERED THAT Permanent Certificate Number 824951, previously issued to DANIEL ELLIS FORESTER, 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 8th day of May, 2018.

TEXAS BOARD OF NURSING



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

Attachment: Formal Charges

In the Matter of	§	BEFORE THE TEXAS
Permanent Registered Nurse	§	
License Number 824951	§	
Issued to DANIEL ELLIS FORESTER,	§	
Respondent	§	BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, DANIEL ELLIS FORESTER, is a Registered Nurse holding License Number 824951, 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 July 24, 2017 and September 7, 2017, Respondent failed to comply with the Confidential Agreed Order for Peer Assistance Program issued on June 9, 2017, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply Stipulation I of the Order, which reads, in pertinent part:

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

- A. Within forty-five (45) days following the date of entry of this Order, RESPONDENT SHALL apply to TPAPN;
- B. Within ninety (90) days following the date of entry of this Order, RESPONDENT SHALL sign and execute the TPAPN participation agreement and complete the enrollment process, which SHALL include payment of a non-refundable participation fee payable to TPAPN in the amount of five hundred dollars (\$500.00).

A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated June 9, 2017, is attached and incorporated, by reference, as part of this Charge.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

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.

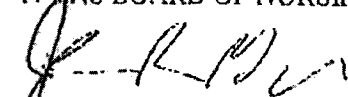
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, 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 attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order dated June 9, 2017.

Filed this 28th day of November, 2017.

Texas Board of Nursing



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

Jana Abel, Deputy General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
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Attachments: Order of the Board dated June 9, 2017.

D(2017.11.09)

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § CONFIDENTIAL
Registered Nurse License Number 824951 § AGREED ORDER FOR
issued to DANIEL ELLIS FORESTER § PEER ASSISTANCE PROGRAM

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of DANIEL ELLIS FORESTER, Registered Nurse License Number 824951, 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)(10)&(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 May 24, 2017.

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 Navarro College, Corsicana, Texas, on July 25, 2012. Respondent was licensed to practice professional nursing in the State of Texas on August 16, 2012.
5. Respondent's nursing employment history includes:

8/2012-9/2012	Unknown	
10/2012 - 9/2014	Registered Nurse	Baylor Scott & White Medical Center- Hillcrest Waco, Texas

Respondent's nursing employment history continued:

**9/2014 - 6/2015 Registered Nurse Medical Center of Plano
Plano, Texas**

7/2015 - Present Unknown

6. **At the time of the initial incident, Respondent was employed as a Registered Nurse with Baylor Scott & White Medical Center - Hillcrest, Waco, Texas, and had been in that position for one (1) year and eight (8) months.**
7. **On or about June 20, 2014, while employed as a Registered Nurse with Baylor Scott and White Medical Center - Hillcrest, Waco, Texas, Respondent failed to verify the dosage of a medication prior to administering the medication to a patient, resulting in the patient receiving 125mg of medication instead of 12.5mg as ordered by the physician. Respondent's conduct exposed the patient to a risk of harm of adverse side effects from an overdose of the medication.**
8. **On or about June 25, 2015, while employed as a Registered Nurse with the Medical Center of Plano, Plano, Texas, Respondent removed hydromorphone from the medication dispensing system for patients, but failed to follow the facility's policy and procedures for wastage of the unused portions of medications. Subsequently, Respondent misappropriated six (6) partially filled vials of hydromorphone, which totaled approximately three (3) milliliters, by placing them in his sock while on duty. Facility management found and removed the vials of hydromorphone and escorted Respondent out of the facility. 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. Additionally, Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.**
9. **In response to the incident in Finding of Fact Number Seven (7), Respondent states that the medication error was caused by a visually-obscured decimal point in the original handwritten order.**
10. **Formal Charges were filed on October 13, 2016.**
11. **Formal Charges were mailed to Respondent on October 18, 2016.**
12. **Respondent's conduct as described in the preceding Finding(s) of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.**
13. **Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use disorder.**

14. 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 substance use disorder.
15. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

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) and 22 TEX. ADMIN. CODE §217.12(1)(A), (1)(B), (4), (6)(G), (8), (10)(C), (10)(E) & (11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10) & (13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 824951, heretofore issued to DANIEL ELLIS FORESTER.
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.
6. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

TERMS OF ORDER

I. PEER ASSISTANCE PROGRAM REQUIREMENTS

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

- A. Within forty-five (45) days following the date of entry of this Order, RESPONDENT SHALL apply to TPAPN;
- B. Within ninety (90) days following the date of entry of this Order, RESPONDENT SHALL sign and execute the TPAPN participation

agreement and complete the enrollment process, which SHALL include payment of a non-refundable participation fee payable to TPAPN in the amount of five hundred dollars (\$500.00);

- C. Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing;
- D. RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep all applicable license(s) to practice nursing in the State of Texas current; and
- E. RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

II. COMPLIANCE WITH LAW AND APPLICABILITY

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.

- 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. As a result of this Order, Respondent's license will be designated "single state" and 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.

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 entry of this Order:

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.

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. CONFIDENTIALITY REQUIREMENTS

While RESPONDENT remains in compliance with the terms of this Order, this Order shall remain confidential in accordance with the authority outlined in Section 301.466(d), Texas Occupations Code. However, should Respondent fail to successfully complete the terms of this Order or should Respondent commit a subsequent violation of the Nursing Practice Act or Board Rules, this Order shall be treated as prior disciplinary action and will become public information.

V. EFFECT OF NONCOMPLIANCE

SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in 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.

VI. 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.

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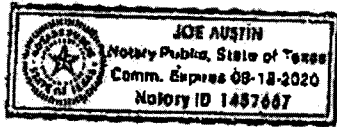
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the entry of this Order and all conditions of said Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, and 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 revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

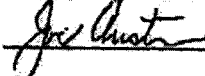
Signed this 7th day of June, 2017.


DANIEL ELLIS FORESTER, Respondent

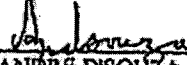
Sworn to and subscribed before me this 7 day of June, 2017.

SEAL:




Notary Public in and for the State of Texas

Approved as to form and substance.


ANDRE D'SOUZA, Attorney for Respondent

Signed this 09 day of JUNE, 2017.

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Confidential Agreed Order for Peer Assistance Program that was signed on the 7th day of June, 2017, by DANIEL ELLIS FORESTER, Registered Nurse License Number 824951, and said Order is final.

Effective this 9th day of June, 2017 .



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