



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 P. Johnson
Executive Director of the Board

DOCKET NUMBER 507-18-0635

**IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 613336,
ISSUED TO
BRIAN KEITH PECKINPAUGH**

§
§
§
§
§

**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

OPINION AND ORDER

**TO: BRIAN KEITH PECKINPAUGH
607 FM 3224
PALESTINE, TX 75803**

**HUNTER BURKHALTER
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. 1, *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 December 18, 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 his behalf. During the hearing on December 18, 2017, Staff introduced evidence into the record demonstrating that Respondent had been sent a First Amended Notice of Hearing by first class certified mail return receipt requested to his last known address of record maintained by the Board in accordance with 22 Tex. Admin. Code §213.10(a). The ALJ found that Staff's notice was adequate and issued Order No. 1, *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. 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 professional nursing in the State of Texas. The Committee further finds that the First Amended 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 First Amended 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 First Amended 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 First Amended 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 613336, previously issued to BRIAN KEITH PECKINPAUGH, 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: First Amended Formal Charges

In the Matter of	§	BEFORE THE TEXAS
Permanent Registered Nurse	§	
License Number 613336	§	
Issued to BRIAN KEITH PECKINPAUGH,	§	
Respondent	§	BOARD OF NURSING

FIRST AMENDED FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, BRIAN KEITH PECKINPAUGH, is a Registered Nurse holding License Number 613336, 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 April 28, 2017, Respondent entered a plea Guilty to INJURY TO A CHILD, a 3rd Degree felony offense, committed on November 18, 2015, in the 3rd Judicial District Court of Anderson County, Texas, under Cause No. 87CR-16-32558. As a result of the plea, the proceedings against Respondent were deferred, without entering an adjudication of guilt, and Respondent was placed on probation for a period of ten (10) years and ordered to pay restitution in the amount of fifty dollars (\$50.00), along with a fine and court costs.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(3)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13). Moreover, the above offense mandates revocation of Respondent's license(s) to practice nursing in accordance with Section 301.4535 of the 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 and TEX. OCC. CODE Ch. 53. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

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

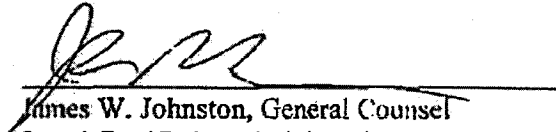
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely

on adopted Disciplinary Guidelines for Criminal Conduct, which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, www.bon.texas.gov.

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

Filed this 8 day of June, 2017.

TEXAS BOARD OF NURSING



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

Jena Abel, Assistant General Counsel
State Bar No. 24036103

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

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

Jessica Lance, Assistant General Counsel
State Bar No. 24091434

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

Jacqueline A. Strashun, Assistant General Counsel
State Bar No. 19358600

John Vanderford, Assistant General Counsel
State Bar No. 24086670

333 Guadalupe, Tower III, Suite 460

Austin, Texas 78701

P: (512) 305-8657

F: (512) 305-8101 or (512)305-7401