



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.
Michelle P. Johnson
Executive Director of the Board

DOCKET NUMBER 507-18-2041

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 150610,
ISSUED TO
GWENITH NYNELL CULCLAGER

§
§
§
§
§

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

OPINION AND ORDER OF THE BOARD

TO: GWENITH NYNELL CULCLAGER
P.O. BOX 801
FORDYCE, AR 71742

BETH BIERMAN
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting on July 19-20, 2018, the Texas Board of Nursing (Board) considered the following items: (1) Order No. 1, *Order of Conditional Dismissal*, 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 April 16, 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 her behalf. During the hearing on April 16, 2018, 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, *Order of Conditional Dismissal*, granting Staff's Motion for Default and dismissing the case from the docket of SOAH and remanding it to the Board for informal disposition on a default basis in accordance with the Government Code §2001.056.

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 and conclusions of law contained in the Formal Charges, which have been deemed admitted, and 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 150610, previously issued to GWENITH NYNELL CULCLAGER, 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 19th day of July, 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 Vocational Nurse §
License Number 150610 §
Issued to GWENITH NYNELL CULCLAGER, §
Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, GWENITH NYNELL CULCLAGER, is a Vocational Nurse holding License Number 150610, which is in Tx Invalid 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 20, 2017, Respondent's license to practice practical nursing in the State of Arkansas was issued an Order of Probation by the Arkansas State Board of Nursing, Little Rock, Arkansas. A copy of the Stipulation, Settlement and Order dated July 20, 2017, is attached and incorporated by reference as part of this Order.

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

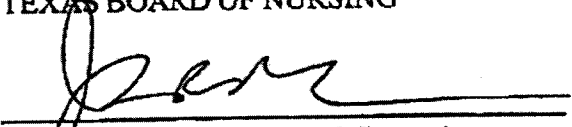
NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33.

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.

Filed this 27 day of October, 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, Deputy General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
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Jessica Lance, Assistant General Counsel
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John F. Legris, Assistant General Counsel
State Bar No. 00785533

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

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BEFORE THE ARKANSAS STATE BOARD OF NURSING

IN THE MATTER OF:

GWENITH NYNELL ALLEN CULCLAGER

LPN LICENSE NO. L030607

FINDINGS OF FACT
CONCLUSIONS OF LAW AND ORDER

A hearing on the captioned matter was held before the Arkansas State Board of Nursing (hereinafter referred to as "the Board"), on July 12, 2017 in the Board Room of the Arkansas State Board of Nursing, 1123 South University, Suite 800, Little Rock, Arkansas. The Board was represented by its General Counsel, William F. Knight. GWENITH NYNELL ALLEN CULCLAGER, Licensed Practical Nurse (hereinafter referred to as "Respondent"), failed to appear in person before the Board and was not represented by counsel. The Order and Notice of Hearing was mailed to Respondent on June 22, 2017. On the basis of testimony and other evidence presented, the Board made the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent is the holder of Arkansas LPN License No. L030607.
2. Respondent was terminated about November 9, 2015, by Children's Hospital, Little Rock, Arkansas, after a pre-employment drug screen was positive for the metabolite oxazepam. Respondent did not have a prescription to explain this finding.

CONCLUSIONS OF LAW

1. Pursuant to Ark. Code Ann. §17-87-309, the Board has subject matter and personal jurisdiction in this matter.
2. The Respondent is guilty of violating Ark. Code Ann. §17-87-309 (a)(6).

IN THE MATTER OF:

GWENITH NYNELL ALLEN CULCLAGER

LPN LICENSE NO. L030607

ORDER

IT IS THEREFORE ORDERED that the license issued to the Respondent be placed on probation for one (1) year with the following conditions:

1. Respondent shall immediately notify the Board in writing of any change, even a temporary one, in name or address.
2. Respondent shall submit to **observed**, random drug screens. The observed drug screens shall meet the criteria established by the Board and be conducted through a Board-approved drug screen monitoring program, laboratory, and collection site. Respondent shall contact a Board-approved drug screen-monitoring program within five (5) business days of receipt of this Order. Respondent shall not submit specimens at Respondent's place of employment or practice site. Respondent shall not collect any drug screen ordered by the Board of Nursing. Respondent shall contact the drug screening company **daily**. **If selected for testing, Respondent shall present for a drug screen the same day of the notification and shall have two (2) hours to submit a specimen.**
3. Respondent shall abstain at all times from the use of controlled or abuse potential substances, including alcohol and products that contain alcohol. Respondent shall not consume hemp, poppy seeds, or any product or by-product containing the same. Short-term treatment may be allowed for an acute illness or acute condition. Short-term treatment is a course of treatment that is limited in duration. Respondent shall notify board staff in writing immediately of any acute illness or condition treated with abuse potential substances. Respondent shall ensure

IN THE MATTER OF:

GWENITH NYNELL ALLEN CULCLAGER

LPN LICENSE NO. L030607

that the prescribing practitioner submits a written report to Board staff within ten (10) days of prescribing a controlled or abuse potential substance.

4. Respondent shall provide evidence of successful completion of a continuing education course approved by the Board staff in the following: *Substance Abuse*.

5. Respondent shall submit a personal report to accompany required data to the Board on a quarterly basis.

6. Respondent shall ensure that all required reports are submitted to the Board on a quarterly basis.

7. Respondent shall obey all federal, state, and local laws, and all rules governing the practice of nursing in this state.

8. Respondent shall be responsible for all costs involved in complying with the Board's Order

9. Failure to comply with the terms of the Board's Order could result in further disciplinary action by the Board.

10. Respondent shall not work outside the State of Arkansas in another compact licensure state without written permission of the Arkansas State Board of Nursing and the Board of Nursing in the compact licensure state where Respondent wishes to work.

11. Verification of termination of the probationary period shall be requested in a registered letter to the Board.

12. While on probation, if working as a nurse: Respondent shall notify each employer of the Board's Order and shall practice under an employer monitored nurse contract. The employer

IN THE MATTER OF:

GWENITH NYNELL ALLEN CULCLAGER

LPN LICENSE NO. L030607

shall submit to the Board a copy of the employer-monitored nurse contract and quarterly Performance Evaluation Reports.

13. Respondent shall work under direct supervision in any setting. Direct supervision requires another nurse to be working in the same setting as Respondent and readily available to provide assistance and intervention.

14. Respondent shall not be employed in critical care, hospice or home health settings.

IT IS FURTHER ORDERED that Respondent pay a civil penalty of \$750.00 plus any outstanding balance associated with previous disciplinary action pursuant to Arkansas Code Ann. §17-87-104(b)(1). The civil penalty is to be paid within fifteen (15) calendar days following the date for appeal.

Respondent may request judicial review of the decision rendered by the Board by filing a petition in the circuit court of any county in which Respondent resides or does business or in the Circuit Court of Pulaski County within thirty (30) days after service upon Respondent of the Board's final decision.

DATED this 20th day of July, 2017.

ARKANSAS STATE BOARD OF NURSING

BY:

Ramonda Housh, APRN

Ramonda Housh, MNSc, APRN, CNP, C-PNP
President



IN THE MATTER OF:

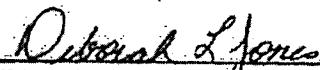
GWENITH NYNELL ALLEN CULCLAGER

LPN LICENSE NO. L030607

CERTIFICATE OF SERVICE

I, Deborah L. Jones, ASBN Assistant Director, do hereby certify that I have served a copy of the foregoing document by mailing a copy of same by certified; return receipt requested, U.S. Mail, postage prepaid, this 20th day of July, 2017, to the following:

Gwenith Nynell Allen Culclager
3217 W Walnut Hill LN, Apt 1037
Irving, TX 75038

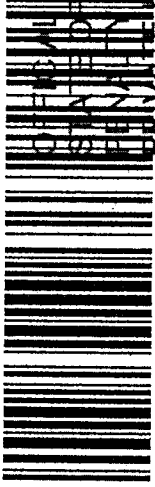


DEBORAH L. JONES, RN, MNsc

TEXAS BOARD OF NURSING
333 Guadalupe, Suite 3-460
Austin, TX 78701-3942

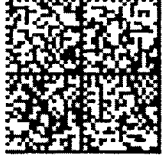
JJA

CERTIFIED MAIL



OFFICIAL BUSINESS
STATE OF TEXAS
PENALTY FOR
PRIVATE USE

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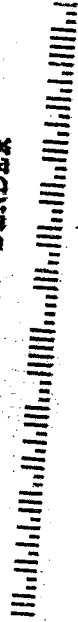
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Gwenith Culclager

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11/07/17

RETURN TO SENDER
UNABLE TO FORWARD
RETURN TO SENDER



Name
1st Notice
2nd Notice
Return

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