



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 507-18-1120

**IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 929304,
ISSUED TO
RAMON CRUZ**

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**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

OPINION AND ORDER OF THE BOARD

**TO: RAMON CRUZ
6417 WILSHIRE DR.
TAMPA, FL 33615**

**CATHERINE C. EGAN
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. 2, *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 registered nursing license by default; and (3) Respondent's recommendation to the Board 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.

The Board, 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 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 registered 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 929304, previously issued to RAMON CRUZ, 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
Permanent Registered Nurse
License Number 929304
Issued to RAMON CRUZ,
Respondent

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BEFORE THE TEXAS

BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, RAMON CRUZ, is a Registered Nurse holding License Number 929304, 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 August 28, 2017, Respondent's Florida Registered Nurse license was issued an Order of Emergency Restriction of License, indefinitely, by the State of Florida Department of Health to take effect on August 29, 2017. A copy of the Final Order dated August 28, 2017, 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.

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 Sanction Policies for Sexual Misconduct, which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, www.bon.texas.gov.

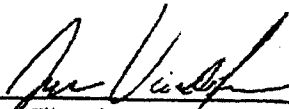
NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, located at 22 TEX. ADMIN. CODE §213.33(b), which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, www.bon.texas.gov.

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: Certified copy of the Florida Department of Health Final Order, dated August 28, 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

Jena Abel, Deputy General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 24036103

John R. Griffith, Assistant General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 24079751

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

Attachments: Certified copy of the Florida Department of Health Final Order, dated August 28, 2017.

D(2017.09.18)

FILED DATE **AUG 29 2017**

Department of Health

By:

Carol Sanders
Deputy Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF HEALTH

IN RE: The Emergency Restriction of the License of
Ramon Cruz, R.N.
License Number: RN 9440196
Case Number: 2017-11676

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Celeste Philip, M.D., M.P.H., State Surgeon General, ORDERS the Emergency Restriction of the license of Ramon Cruz, R.N., (Mr. Cruz) to practice as a registered nurse in the State of Florida. Mr. Cruz holds license number RN 9440196. His address of record is 6417 Wilshire Dr., Tampa, Florida 33615. The following Findings of Fact and Conclusions of Law support the Emergency Restriction of Mr. Cruz's license to practice as a registered nurse in the State of Florida.

FINDINGS OF FACT

1. The Department of Health (Department) is the state agency charged with regulating the practice of nursing, pursuant to Chapters 20, 456 and 464, Florida Statutes (2017). Section 456.073(8), Florida Statutes (2017), authorizes the State Surgeon General to summarily restrict Mr. Cruz's license to practice as a registered nurse in the state of Florida, in accordance with Section 120.60(6), Florida Statutes (2017).

2. At all times material to this Order, Mr. Cruz was licensed to practice nursing in the state of Florida pursuant to Chapter 464, Florida Statutes (2017).
3. At all times material to this Order, Mr. Cruz was employed as a registered nurse at Northside Hospital and Heart Institute (Northside), located in St. Petersburg, Florida.
4. On or about and between June 28, 2017 and July 1, 2017, Patient J.R., a 45 year old male, received treatment at Northside.
5. On or about June 28, 2017, Mr. Cruz served as a nurse for Patient J.R., and Mr. Cruz gave Patient J.R. a sponge bath.
6. Following the sponge bath, Mr. Cruz and Patient J.R. exchanged phone numbers.
7. On or about June 29, 2017, Mr. Cruz sent a text message to Patient J.R. saying that he enjoyed taking care of Patient J.R.
8. Mr. Cruz also complimented Patient J.R.'s "very chiseled [sic] body."
9. On or about June 30, 2017, Mr. Cruz again attended to Patient J.R.'s care as his assigned nurse.
10. When Patient J.R. refused a sponge bath, Mr. Cruz offered to apply some lotion to Patient J.R.'s legs and feet as an alternative to bathing.

11. Patient J.R. consented, and Mr. Cruz began to apply the lotion.
12. As Mr. Cruz applied lotion to Patient J.R.'s legs, Mr. Cruz put his hands on Patient J.R.'s penis and began to masturbate Patient J.R.
13. Patient J.R. told Mr. Cruz to stop, and Mr. Cruz did stop.
14. The following morning, on or about July 1, 2017, Patient J.R. reported the incident to another nurse.
15. At approximately 10:25 am on July 1, 2017, Mr. Cruz sent a text message to Patient J.R. saying, "wish u [sic] a fast recovery."
16. When Patient J.R. sent a reply text to Mr. Cruz that he did not appreciate Mr. Cruz's actions from the previous day, Mr. Cruz apologized and asked Patient J.R. to forgive him because, "I really would like to see you when u [sic] get out of the hospital if that is ok with you."
17. Patient J.R. told Mr. Cruz that he never wanted to see Mr. Cruz again and that Patient J.R. already reported Mr. Cruz's behavior to hospital staff.
18. Mr. Cruz again apologized.
19. Northside terminated Mr. Cruz's employment on or about July 6, 2017.

20. The nurse-patient relationship is founded on mutual trust. Given the vulnerable nature of their patients, and due to the potential for abuse that is inherent under these circumstances, nurses must possess good moral character and judgment in order to safely care for their patients.

21. Mr. Cruz violated the nurse-patient relationship by using his position as a nurse to masturbate Patient J.R. without request or consent. Mr. Cruz's conduct indicates that Mr. Cruz lacks the good moral character and judgment necessary to practice nursing.

22. Mr. Cruz's lack of good moral character and judgment and his disregard for the laws and regulations governing registered nurses in this state represent a significant likelihood that Mr. Cruz will cause harm to male clients in the future. This probability constitutes an immediate, serious danger to the health, safety, or welfare of the citizens of the State of Florida. Nothing short of the immediate restriction of Mr. Cruz's license to practice as a registered nurse in the State of Florida will protect the public from the dangers created by Mr. Cruz's continued practice of nursing on male patients.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

1. The State Surgeon General has jurisdiction over this matter pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2017), and Chapter 464, Florida Statutes (2017).

2. Section 464.018(1)(o), Florida Statutes (2017), subjects a registered nurse to discipline, including restriction, for violating any provision of Chapters 464 or 456, Florida Statutes (2017), or any rules adopted pursuant thereto.

3. Section 456.063(1), Florida Statutes (2017), prohibits sexual misconduct in the practice of a health care professional, and defines sexual misconduct, in pertinent part, as a:

"violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient or client, or an immediate family member, guardian, or representative of the patient or client in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession."

4. Mr. Cruz violated Section 464.018(1)(o), Florida Statutes (2017), by violating Section 456.0463(1), Florida Statutes (2017), by engaging or attempting to engage in sexual activity and committing sexual misconduct in one or more of the following ways:

a. Touching Patient J.R.'s penis; and/or

In Re: The Emergency Restriction of the License of
Ramon Cruz, R.N.
License Number: RN 9440196
Case Number: 2017-11676

b. Masturbating Patient J.R.

5. Section 120.60(6), Florida Statutes (2017), authorizes the State Surgeon General to restrict a registered nurse's license upon a finding that the registered nurse presents an immediate, serious danger to the public health, safety, or welfare.

6. Mr. Cruz's continued unrestricted ability to practice as a registered nurse with male patients constitutes an immediate, serious danger to the health, safety, or welfare of the public and this summary procedure is fair under the circumstances to adequately protect the public.

WHEREFORE, in accordance with Section 120.60(6), Florida Statutes (2017), it is **ORDERED THAT:**

1. The license of Ramon Cruz, R.N., license number RN 9440196, is hereby immediately restricted to prohibit him from practice as a registered nurse with male patients.

2. A proceeding seeking formal discipline of the license of Ramon Cruz, R.N., to practice as a registered nurse in the State of Florida will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes (2017).

In Re: The Emergency Restriction of the License of
Ramon Cruz, R.N.
License Number: RN 9440196
Case Number: 2017-11676

DONE and ORDERED this 28 day of August, 2017.



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Celeste Philip, M.D., M.P.H.
Surgeon General and Secretary

PREPARED BY:
Mary A. Iglehart, Esq.
Florida Bar No. 93590
Assistant General Counsel
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
(P) (850) 558-9856
(F) (850) 245-4662
(E) Mary.Iglehart@flhealth.gov