



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.  
*William C. Thomas*  
Executive Director of the Board

**DOCKET NUMBER 507-19-5317**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>PERMANENT CERTIFICATE</b>		
<b>NUMBER 872119,</b>	<b>§</b>	<b>OF</b>
<b>ISSUED TO</b>		
<b>MARIA BEATRICE SALAS</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**OPINION AND ORDER OF THE BOARD**

TO: MARIA BEATRICE SALAS  
C/O LOUIS LEICHTER  
LOUIS LEICHTER LAW FIRM  
1602 E. 7<sup>TH</sup> ST.  
AUSTIN, TX 78702

PRATIBHA J. SHENOY  
ADMINISTRATIVE LAW JUDGE  
300 WEST 15TH STREET  
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting on October 24-25, 2019, the Texas Board of Nursing (Board) considered the following items: the Proposal for Decision (PFD) regarding the above cited matter; Staff's recommendation to the Board regarding the PFD and order; and Respondent's recommendation to the Board regarding the PFD and order, if any.

The Board finds that after proper and timely notice was given, the above styled case was heard by an Administrative Law Judge (ALJ) who made and filed a PFD containing the ALJ's findings of facts and conclusions of law. The PFD was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein. No exceptions were filed by any party.

The Board, after review and due consideration of the PFD; Staff's recommendations; and the recommendations made by the Respondent, if any, adopts all of the findings of fact and conclusions of law of the ALJ contained in the PFD. All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

**Recommendation for Sanction**

Pursuant to Tex. Occ. Code. §301.459 (a-1), the Administrative Law Judge may make a recommendation regarding an appropriate action or sanction. The Board, however, has the sole authority and discretion to determine the appropriate action or sanction. The Board agrees with the ALJ that revocation is statutorily mandated in this case pursuant to Tex. Occ. Code §301.4535(a)(6) & (b).


IT IS, THEREFORE, ORDERED THAT Registered Nurse License Number 872119, previously issued to MARIA BEATRICE SALAS, 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 §301.4535(c), Respondent is not eligible to petition for reinstatement of licensure until at least five (5) years have elapsed from the date the RESPONDENT completes and is dismissed from community supervision or parole. Further, upon petitioning for reinstatement, RESPONDENT must satisfy all then existing requirements for relicensure.

Entered this 24<sup>th</sup> day of October, 2019.

TEXAS BOARD OF NURSING

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

Attachment: Proposal for Decision; Docket No. 507-19-5317 (August 19, 2019)



# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

August 19, 2019

Katherine A. Thomas, M.N., R.N.  
Executive Director  
Texas Board of Nursing  
333 Guadalupe, Tower III, Suite 460  
Austin, TX 78701

**VIA INTERAGENCY**

**RE: Docket No. 507-19-5317; Maria Beatrice Salas v. Texas Board of Nursing**

Dear Ms. Thomas:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507, a SOAH rule which may be found at [www.soah.texas.gov](http://www.soah.texas.gov).

Sincerely,

Pratibha J. Shenoy  
Administrative Law Judge

PS/tt  
Enclosures

xc: JoAnna Starr, Texas Board of Nursing, 333 Guadalupe, Tower III, Suite 460, Austin, TX 78701 – **VIA INTERAGENCY**  
Elizabeth Tschudi, Legal Assistant Supervisor, Texas Board of Nursing, 333 Guadalupe, Tower III, Suite 460, Austin, TX 78701 – **VIA INTERAGENCY**  
Louis Leichter, Leichter Law Firm, 1602 E. 7<sup>th</sup> St., Austin, TX 78702 – **VIA REGULAR MAIL**

SOAH DOCKET NO. 507-19-5317

TEXAS BOARD OF NURSING, Petitioner	§	BEFORE THE STATE OFFICE
	§	
	§	
v.	§	OF
	§	
MARIA BEATRICE SALAS, RN, Respondent	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION  
BY SUMMARY DISPOSITION

The staff (Staff) of the Texas Board of Nursing (Board) seeks to revoke the registered nursing license of Maria Beatrice Salas (Respondent) because she pleaded nolo contendere to a charge of Aggravated Assault/Serious Bodily Injury, a felony. Staff filed a Motion for Summary Disposition (MSD) requesting a proposal for decision in its favor as a matter of law. Respondent filed a response, and Staff filed a reply to Respondent's response. After considering these pleadings, the summary disposition evidence, and the applicable law, the Administrative Law Judge (ALJ) concludes that Staff's MSD should be granted and that Respondent's license is subject to mandatory revocation. Therefore, the ALJ recommends that the Board revoke Respondent's nursing license. The hearing set for September 5, 2019, is **CANCELED**.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

On June 5, 2019, Staff referred this case to the State Office of Administrative Hearings (SOAH) for a contested case hearing. On June 10, 2019, Staff filed and served its Notice of Hearing, along with the Formal Charges, on Respondent. On June 17, 2019, Staff filed and served Respondent with Staff's MSD and supporting evidence. Respondent filed a response to the MSD on July 2, 2019, to which Staff filed a reply the following day.

Staff's evidence established jurisdiction and proper notice to Respondent. Those matters are set out in the Findings of Fact and Conclusions of Law without further discussion.

## II. SUMMARY DISPOSITION EVIDENCE

Staff presented uncontested summary disposition evidence (Staff Exhibits 1 and 2) establishing the following relevant facts:

- Respondent is licensed by the Board as a registered nurse, holding license number 872119.<sup>1</sup>
- On December 18, 2018, in Case No. F-1800510-T, *State v. Maria Beatrice Salas*, in the 283rd Judicial District Court, Dallas County, Texas, Respondent entered a plea of nolo contendere to the offense of Aggravated Assault/Serious Bodily Injury, a second-degree felony. The court found that the evidence substantiated Respondent's guilt but deferred adjudication of the case and placed Respondent on community supervision for three years and ordered her to pay \$299.00 in court costs and restitution of \$6,359.59.<sup>2</sup>

## III. APPLICABLE LAW

Summary disposition of a contested case may be granted, in full or in part, without the necessity of a hearing on the merits if the pleadings, the motion for summary disposition, and the summary disposition evidence show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision in its favor as a matter of law on all or some of the issues expressly set out in the motion.<sup>3</sup>

In seeking disciplinary action against Respondent, Staff relies on Texas Occupations Code § 301.4535. Subsection (a) of this section provides that the Board is required to suspend a nurse's license if the nurse has been initially convicted of a listed offense, including aggravated assault under § 22.02 of the Texas Penal Code.<sup>4</sup> Subsection (b) goes on to state that, following a final

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<sup>1</sup> Staff Ex. 1.

<sup>2</sup> Staff Ex. 2.

<sup>3</sup> 1 Tex. Admin. Code § 155.505(a).

<sup>4</sup> Tex. Occ. Code § 301.4535(a)(6).

conviction or plea of guilty or nolo contendere to such an offense, the Board “as appropriate, may not issue a license to an applicant, shall refuse to renew a license, or shall revoke a license.”<sup>5</sup>

#### IV. ANALYSIS AND RECOMMENDATION

The uncontroverted summary disposition evidence shows that Respondent pleaded nolo contendere to Aggravated Assault/Serious Bodily Injury.<sup>6</sup> Aggravated assault is an offense under Texas Penal Code § 22.02. Therefore, as a matter of law, Respondent’s license is subject to mandatory revocation under Texas Occupations Code § 301.4535(b).

Respondent argues that the “as appropriate” language in Texas Occupations Code § 301.4535(b) means that the Board has discretion whether to revoke the license of a nurse who pleads guilty or nolo contendere to a crime listed in subsection (a), and that the Board must perform an analysis of the factors in Texas Occupations Code chapter 53 to determine how to exercise that discretion. The ALJ disagrees. The most logical reading of § 301.4535(b) is that the “as appropriate” language refers to which action by the Board is mandated as among the three scenarios listed: non-issuance in the case of an initial application; non-renewal in the case of a renewal application; or revocation in the case of a licensed nurse with no application pending. In this case, the statute provides that the Board “shall revoke” Respondent’s license, as there is no initial or renewal application at issue.

The discretionary disciplinary authority of chapter 53 does not come into play because the Board is mandated by its own statute to revoke Respondent’s license under these circumstances. Accordingly, no evidentiary hearing is necessary to consider aggravating or mitigating factors relative to sanctions in this case.

For these reasons, Staff’s MSD is **GRANTED**, and the ALJ recommends that the Board revoke Respondent’s registered nurse license.

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<sup>5</sup> Tex. Occ. Code § 301.4535(b).

<sup>6</sup> Staff Ex. 2.

### V. FINDINGS OF FACT

1. Maria Beatrice Salas (Respondent) is licensed by the Texas Board of Nursing (Board) as a registered nurse, holding license number 872119.
2. On December 18, 2018, in Case No. F-1800510-T, *State v. Maria Beatrice Salas*, in the 283rd Judicial District Court, Dallas County, Texas, Respondent entered a plea of nolo contendere to the offense of Aggravated Assault/Serious Bodily Injury, a second-degree felony. The court found that the evidence substantiated Respondent's guilt but deferred adjudication of the case and placed Respondent on community supervision for three years and ordered her to pay \$299.00 in court costs and restitution of \$6,359.59.
3. On June 5, 2019, the Board's staff (Staff) referred this case to the State Office of Administrative Hearings (SOAH) for a contested case hearing.
4. On June 10, 2019, Staff filed and served its Notice of Hearing on Respondent. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
5. On June 17, 2019, Staff filed and served Respondent with Staff's Motion for Summary Disposition and supporting evidence.
6. Respondent filed a response to Staff's motion on July 2, 2019, to which Staff filed a reply the following day.

### VI. CONCLUSIONS OF LAW

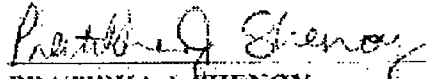
1. The Board has jurisdiction over this matter. Tex. Occ. Code ch. 301.
2. SOAH has jurisdiction over the hearing in this proceeding, including the authority to issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Occ. Code § 301.454.
3. Respondent received timely and adequate notice of the allegations against her. Tex. Gov't Code §§ 2001.051-.052.
4. Summary disposition shall be granted on all or part of a contested case if the pleadings, the motion for summary disposition, and the summary disposition evidence show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision in its favor as a matter of law on all or some of the issues expressly set out in the motion. 1 Tex. Admin. Code § 155.505(a).

5. Aggravated assault is an offense under Texas Penal Code § 22.02.
6. Respondent's registered nursing license is subject to mandatory revocation. Tex. Occ. Code § 301.4535(a)(6), (b).

## VII. RECOMMENDATION

Based on the above findings of fact and conclusions of law, the ALJ recommends that the Board revoke Respondent's registered nursing license.

SIGNED August 19, 2019.

  
PRATIBHA J. SHENOY  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS