



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.  
*Stephanie P. Morrison*  
Executive Director of the Board

**DOCKET NUMBER 507-20-0993**

**IN THE MATTER OF § BEFORE THE STATE OFFICE**  
**PERMANENT CERTIFICATE § OF**  
**NUMBER 320282, §**  
**ISSUED TO**  
**LEONARD ESPINOZA REYES § ADMINISTRATIVE HEARINGS**

**OPINION AND ORDER OF THE BOARD**

TO: LEONARD ESPINOZA REYES  
2236 LAUREL ST.  
AMARILLO, TX 79109

JOANNE SUMMERHAYS  
ADMINISTRATIVE LAW JUDGE  
300 WEST 15TH STREET  
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting on January 23-24, 2020, 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 either 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 320282 previously issued to LEONARD ESPINOZA REYES, 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.

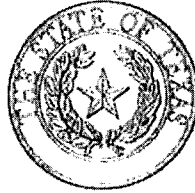
FURTHER, pursuant to the Occupations Code §301.4535(c), Respondent is not eligible to petition for reinstatement of licensure until at least five (5) years have elapsed from the date the RESPONDENT completes and is dismissed from community supervision or parole. Further, upon petitioning for reinstatement, RESPONDENT must satisfy all then existing requirements for relicensure.

Entered this 23<sup>rd</sup> day of January, 2020.

TEXAS BOARD OF NURSING

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

Attachment: Proposal for Decision; Docket No. 507-20-0993 (December 4, 2019)



# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

December 4, 2019

Kathcrine 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. 507-20-0993; Texas Board of Nursing v. Leonard Espinoza Reyes**

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,

A handwritten signature in cursive script that reads "Joanne Summerhays".

Joanne Summerhays  
Administrative Law Judge

JS/tt  
Enclosures

cc: Jena Abel, Deputy General Counsel, Texas Board of Nursing, 333 Guadalupe, Tower III, Ste. 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  
Leonard Reyes, 2236 Laurel St., Amarillo, TX 79109 - VIA REGULAR MAIL

SOAH DOCKET NO. 507-20-0993

TEXAS BOARD OF NURSING, Petitioner	§	BEFORE THE STATE OFFICE
	§	
v.	§	OF
	§	
LEONARD ESPINOZA REYES, LVN, Respondent	§	ADMINISTRATIVE HEARINGS
	§	

**PROPOSAL FOR DECISION  
BY SUMMARY DISPOSITION**

The staff (Staff) of the Texas Board of Nursing (Board) seeks to revoke the licensed vocational nursing license of Leonard Espinoza Reyes (Respondent) because he pleaded guilty to “Aggravated Assault Date/Family/House SBI w/Weapon,” a first degree felony. Staff filed a Motion for Summary Disposition (Staff’s MSD) requesting a proposal for decision in its favor as a matter of law. Respondent did not file a response. After considering the 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 the Board revoke Respondent’s nursing license. The hearing set for December 19, 2019, is CANCELED.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

On November 4, 2019, Staff referred this case to the State Office of Administrative Hearings for a contested case hearing. Also on November 4, 2019, Staff filed and served Respondent with Staff’s MSD and supporting evidence. Respondent did not file a reply.

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 A and B) establishing the following relevant facts:

- Respondent is licensed by the Board as a licensed vocational nurse, holding license number 320282 issued by the Board on June 10, 2014.<sup>1</sup>
- On or about March 29, 2019, in Case No. 77441-A-CR, *State v. Leonard Espinoza Reyes*, in the 47th District Court, Potter County, Texas, Respondent entered a plea of guilty to the first degree felony offense of "Aggravated Assault Date/Family/Household SBI w/ Weapon," a violation of Texas Penal Code § 22.02. The court found that the evidence substantiated Respondent's guilt but deferred adjudication of the case, placed Respondent on community supervision for eight years, and ordered him to pay a fine of \$1,000 and court costs of \$289.<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 (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 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>

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

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

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

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

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

#### IV. ARGUMENTS, ANALYSIS, AND RECOMMENDATION

The uncontroverted summary disposition evidence shows that Respondent pleaded guilty to the first degree felony offense of "Aggravated Assault Date/Family/Household SBI w/ Weapon."<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 Code § 301.4535(b).

The discretionary disciplinary authority of Code 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, revocation is required and 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 licensed vocational nurse license.

#### V. FINDINGS OF FACT

1. Leonard Espinoza Reyes (Respondent) is licensed by the Texas Board of Nursing (Board) as a licensed vocational nurse, holding license number 320282 issued by the Board on June 10, 2014.
2. On or about March 29, 2019, in Case No. 77441-A-CR, *State v. Leonard Espinoza Reyes*, in the 47th District Court, Potter County, Texas, Respondent entered a plea of guilty to the first degree felony offense of "Aggravated Assault Date/Family/Household SBI w/ Weapon," a violation of Texas Penal Code § 22.02. The court found that the evidence substantiated Respondent's guilt but deferred adjudication of the case, placed Respondent on community supervision for eight years, and ordered him to pay a fine of \$1,000 and court costs of \$289.
3. On November 4, 2019, the Board's staff (Staff) referred this case to the State Office of Administrative Hearings (SOAH) for a contested case hearing.
4. On November 4, 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

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

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 November 4, 2019, Staff filed and served Respondent with Staff's Motion for Summary Disposition and supporting evidence.
6. Respondent did not file a response to Staff's motion.

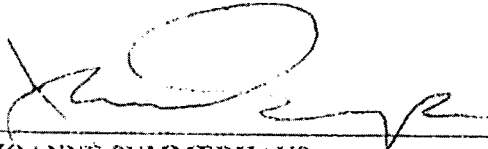
#### VI. CONCLUSIONS OF LAW

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 him. 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 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 nursing license.

SIGNED December 4, 2019.

  
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JOANNE SUMMERHAYS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS