



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.  
*Patricia R. Plummer*  
Executive Director of the Board

**DOCKET NUMBER 507-20-3091**

**IN THE MATTER OF § BEFORE THE STATE OFFICE  
PERMANENT CERTIFICATE § OF  
NUMBER 845278, §  
ISSUED TO §  
FLORENCE ZELLA HOLLINGSHEAD § ADMINISTRATIVE HEARINGS**

**OPINION AND ORDER OF THE BOARD**

**TO: FLORENCE ZELLA HOLLINGSHEAD  
14238 MINDY PARK LN.  
HOUSTON, TX 77069**

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

At the regularly scheduled public meeting on October 22-23, 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 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), an 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 ALJ found that the Respondent's conduct warrants a second tier, sanction level I sanction<sup>1</sup>, and the Board agrees. The Board further agrees that enforcing a suspension of the Respondent's license until she completes the enrollment process in the Texas Peer Assistance Program for Nurses (TPAPN) is an appropriate sanction in this case. Once enrolled, the Respondent would be required to complete the requirements of the program.

The ALJ found that the Respondent's failure to enroll in TPAPN as required by the Board's prior order poses a risk to the public and patients and calls Respondent's current fitness to practice into question<sup>2</sup>. The Board also recognizes that the ALJ identified mitigating factors to include the Respondent's desire to comply with the Board's prior order and her current inability to pay for the evaluation and treatment required by the program<sup>3</sup>.

Therefore, after carefully reviewing and considering the aggravating and mitigating factors identified by the ALJ in this case, the Board has determined, pursuant to the Board's Disciplinary Matrix and the Board's rules, including 22 Tex. Admin. Code §213.33(e)(13), that an enforced suspension of the Respondent's license until she completes the enrollment process in the TPAPN program, is an appropriate sanction in this case.

IT IS THEREFORE ORDERED that Registered Nurse License Number 845278, previously issued to FLORENCE ZELLA HOLLINGSHEAD, to practice nursing in the State of Texas is hereby **SUSPENDED** and said suspension is **ENFORCED** until RESPONDENT:

- A. Applies to, is accepted into, and completes enrollment in the Texas Peer Assistance Program for Nurses (TPAPN), including payment of a non-refundable participation fee to TPAPN in the amount of five hundred dollars (\$500.00), if licensed as a registered nurse, or in the amount of three hundred fifty dollars (\$350.00), if licensed as a vocational nurse;
- B. Is cleared to safely practice as a nurse based on a fitness evaluation, as may be required by TPAPN; and
- C. Waives confidentiality and provides a copy of the fully executed TPAPN participation agreement to the Board.

IT IS FURTHER ORDERED, upon verification of successful completion of the above requirements, the Suspension will be **STAYED**, and RESPONDENT

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<sup>1</sup> See pages 4-5 of the PFD.

<sup>2</sup> See page 5 of the PFD.

<sup>3</sup> See *id.*

will be placed on **PROBATION** for such time as is required for RESPONDENT to successfully complete the TPAPN **AND** until RESPONDENT fulfills the additional requirements of this Order.

- D. RESPONDENT SHALL pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.
- E. RESPONDENT SHALL **comply with all requirements of the TPAPN participation agreement** during its term and SHALL keep all applicable licenses to practice nursing in the State of Texas in current status.
- F. RESPONDENT SHALL CAUSE the TPAPN to **notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.**
- G. This Order SHALL apply to any and all future licenses issued to RESPONDENT to practice nursing in the State of Texas.
- H. This Order SHALL be applicable to RESPONDENT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- I. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" as applicable and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state using a Texas compact license.

## **I. COMPLIANCE WITH LAW**

While under the terms of this Order, RESPONDENT shall comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Order.

## **II. REMEDIAL EDUCATION COURSE(S)**

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) **within one (1) year of the suspension being stayed, unless otherwise specifically indicated:**

**A Board-approved course in Texas nursing jurisprudence and ethics** that shall be a minimum of six (6) hours in length. The course's content

shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft, and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. Home study and video programs will not be approved.

In order to receive credit for completion of this/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at [www.bon.texas.gov/compliance](http://www.bon.texas.gov/compliance).*

### III. EFFECT OF NONCOMPLIANCE

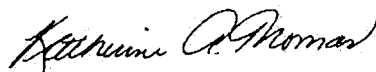
SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of RESPONDENT'S license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

### IV. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) and/or privilege(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, RESPONDENT may be eligible for nurse licensure compact privileges, if any.

Entered this 22<sup>nd</sup> day of October, 2020.

TEXAS BOARD OF NURSING



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

ACCEPTED  
507-20-3091  
6/11/2020 1:36 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Donnie Roland, CLERK



FILED  
507-20-3091  
6/11/2020 1:27 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Donnie Roland, CLERK

# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

June 11, 2020

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

**VIA EFILE TEXAS**

**RE: Docket No. 507-20-3091; Texas Board of Nursing v. Florence Hollingshead**

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,

Joanne Summerhays  
Administrative Law Judge

JS/tt  
Enclosures

xc: Helen Kelley, Assistant General Counsel, Texas Board of Nursing, 333 Guadalupe, Tower III, Suite 460, Austin, TX 78701 – **VIA EFILE TEXAS**  
Jena Abel, Deputy General Counsel, Texas Board of Nursing, 333 Guadalupe, Tower III, Suite 460, Austin, TX 78701 (with (1) CD of Hearing on the Merits) – **VIA EFILE TEXAS & INTERAGENCY MAIL**  
Florence Hollingshead, 14238 Mindy Park Lane, Houston, TX 77069 – **VIA REGULAR MAIL**

P.O. Box 13025 Austin, Texas 78711-3025 | 300 W. 15<sup>th</sup> Street Austin, Texas 78701  
Phone: 512-475-4993  
[www.soah.texas.gov](http://www.soah.texas.gov)

**SOAH DOCKET NO. 507-20-3091**

**TEXAS BOARD OF NURSING,  
Petitioner**

**v.**

**FLORENCE ZELLA HOLLINGSHEAD,  
RN LICENSE NO. 845278  
Respondent**

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**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**PROPOSAL FOR DECISION**

The staff (Staff) of the Texas Board of Nursing (Board) seeks to suspend the Registered Nurse (RN) credential held by Florence Zella Hollingshead (Respondent) because she has failed to comply with some of the terms of an Agreed Order with the Board. The Administrative Law Judge (ALJ) concludes that Staff met its burden to prove the allegations by a preponderance of the evidence and recommends that the Board suspend Respondent's license until she has enrolled in the Texas Peer Assistance Program for Nurses (TPAPN).

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

On March 17, 2020, the Board issued an order temporarily suspending Respondent's nursing license. On March 20, 2020, the Board sent Respondent notice of an April 2, 2020 hearing to determine whether probable cause existed to continue the temporary suspension pending a hearing on the merits. On April 2, 2020, a telephonic hearing was held on the temporary suspension, and on April 3, 2020, an order was issued upholding the suspension.

The hearing on the merits convened telephonically on May 13, 2020, before ALJ Joanne Summerhays. Assistant General Counsel Helen Kelley represented Staff, and Respondent appeared and represented herself. The hearing concluded and the record closed that same day.

Matters of notice and jurisdiction were undisputed and are therefore set out in the Findings of Fact and Conclusions of Law without further discussion.

## II. BACKGROUND AND APPLICABLE LAW

On September 26, 2019, Respondent entered into a Confidential Eligibility Agreed Order for Peer Assistance Program (Agreed Order) with the Board.<sup>1</sup> The Agreed Order stipulated that on or about August 13, 2017, while employed as a Registered Nurse with Tomball Regional Medical Center in Tomball, Texas, Respondent engaged in the intemperate use of Benzodiazepine, Methamphetamine, and Alcohol (Ethanol). It further stipulated she was found sleeping while on duty and submitted to a medical drug screen that resulted positive for Benzodiazepine, Methamphetamine, and Alcohol (Ethanol). Among other terms, the Agreed Order required that Respondent enroll in TPAPN. In this disciplinary action, Staff contends that Respondent failed to comply with this requirement, and seeks to suspend Respondent's nursing license until she has completed this requirement. Staff must prove its allegations by a preponderance of the evidence.<sup>2</sup>

Pursuant to the Nursing Practice Act,<sup>3</sup> the Board is authorized to discipline a nurse for, among other things, violation of a Board order<sup>4</sup> or for engaging in unprofessional conduct.<sup>5</sup> In its rules, the Board has defined unprofessional conduct to include a violation of a Board order.<sup>6</sup> Disciplinary sanctions can range from remedial education to revocation of a nurse's license, and may include assessment of a fine.<sup>7</sup>

The Board's rules include a disciplinary matrix (Matrix) that is intended to match the severity of the sanction imposed to the nature of the violation at issue, taking into account mitigating and aggravating factors.<sup>8</sup> The Matrix classifies offenses by tier and sanction level, and must be consulted by the ALJ and the Board in determining the appropriate sanction. The

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<sup>1</sup> Staff Ex. 3 at 12-19. Though confidential when signed, the Agreed Order stipulated that, in any subsequent disciplinary action to enforce the order, the Agreed Order would become public information.

<sup>2</sup> 1 Tex. Admin. Code § 155.427.

<sup>3</sup> Tex. Occ. Code ch. 301.

<sup>4</sup> Tex. Occ. Code § 301.452(b)(1).

<sup>5</sup> Tex. Occ. Code § 301.452(b)(10).

<sup>6</sup> 22 Tex. Admin. Code § 217.12(11)(B).

<sup>7</sup> Tex. Occ. Code § 301.453; 22 Tex. Admin. Code § 213.33(e).

<sup>8</sup> 22 Tex. Admin. Code § 213.33; *see also* Tex. Occ. Code § 301.4531 (requiring Board to adopt schedule of sanctions).

Disciplinary Matrix also lists certain aggravating and mitigating factors that must be considered.<sup>9</sup> Board Rule 213.33 includes another list of mitigating and aggravating factors that the Board and SOAH must consider in determining the appropriate disciplinary sanction, including evidence of potential harm to patients or the public and evidence of present fitness to practice.<sup>10</sup>

### III. EVIDENCE

At the hearing, Staff had seven exhibits admitted into evidence but did not present any witness testimony. Respondent testified on her own behalf but did not offer any documentary evidence.

#### A. Staff's Evidence

Staff's evidence includes Respondent's licensure record, which shows that she received her RN license on October 1, 2013.<sup>11</sup> Staff also submitted evidence of the Agreed Order requiring her to enroll with TPAPN.<sup>12</sup>

In addition, the record includes progress notes made by the TPAPN case managers assigned to Respondent. The progress notes document that Respondent was contacted repeatedly by telephone and by letter and encouraged to enroll, and she was instructed regarding what steps she needed to take to complete her enrollment. Progress notes made by Respondent's TPAPN case managers indicate that Respondent at first questioned whether she needed TPAPN, and then complained that she could not afford the cost. She was warned that failure to enroll would result in being dismissed from the program and that she would be reported to the Board for failing to comply with the Agreed Order. On January 23, 2020, TPAPN closed her case and informed the Board that she had failed to complete enrollment in the program as required.<sup>13</sup>

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<sup>9</sup> 22 Tex. Admin Code § 213.33(b).

<sup>10</sup> 22 Tex. Admin. Code § 213.33(c).

<sup>11</sup> Staff Ex. 1.

<sup>12</sup> Staff Ex. 7.

<sup>13</sup> Staff Ex. 4.



**B. Respondent's Testimony**

In her testimony at the hearing, Respondent admitted that she failed to enroll in the TPAPN program, but she explained that she wanted to enroll but was unable to afford the costs associated with enrollment. She explained enrollment in TPAPN required her to pay for a psychological evaluation and monitoring, as well as other costs, which she stated would entail expenses of over \$6,000. She also testified that she did not feel her conduct warranted enrollment in TPAPN, as required by the Agreed Order. She denied that she was impaired while on duty as stipulated in the Agreed Order. She explained that at the time she was found sleeping at her job, she was going through a divorce and had trouble sleeping. She went into work because she believed she would lose her job if she told them she could not come in because she was too tired.

**IV. ANALYSIS**

The evidence is undisputed that Respondent violated the Agreed Order by failing to meet some of the TPAPN requirements. For these violations of the Agreed Order, the Board is authorized to impose some disciplinary sanction.<sup>14</sup>

Respondent's denial of the circumstances which led to the Agreed Order is not relevant in this hearing. Because she agreed to the Order, and did not present any credible evidence that she did not understand what she was agreeing to, the stipulations regarding her conduct will be considered established as a matter of law. The only issues before the ALJ are whether the evidence proved that she failed to comply with the Agreed Order, and the appropriate sanction for noncompliance. Since Respondent's violation of the requirement of the Agreed Order is undisputed, the ALJ will consider whether the proposed sanction is appropriate. After considering the evidence, the ALJ finds suspension of Respondent's license until Respondent has enrolled in the TPAPN program to be appropriate.

The Matrix specifies that a failure to comply with a substantive requirement of a prior Board order is a Second Tier Offense. Substantive requirements include those stipulations in a

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<sup>14</sup> Tex. Occ. Code §301.452(b)(1), (10); 22 Tex. Admin. Code § 217.12(11)(B).

Board order that are “designed to remediate, certify, or monitor the competency issue” addressed by the prior order.<sup>15</sup> The Agreed Order’s requirement that Respondent enroll in TPAPN is such a substantive requirement. For this violation, Staff requested that Respondent be sanctioned with an enforced suspension of her license until she has enrolled in TPAPN. This sanction is consistent with the sanctions recommended in Sanction Level I for a Second Tier Offense, and the ALJ finds that this sanction is reasonable under the circumstances of this case. In particular, the ALJ considered the risk Respondent’s conduct posed to the public and patients and the evidence bringing into question Respondent’s fitness to practice, in conjunction with Respondent’s desire to comply and current inability to pay for evaluation and treatment. Therefore, the ALJ agrees with Staff that an enforced suspension until Respondent has enrolled in TPAPN as required by the Agreed Order is an appropriate sanction for Respondent’s violation of the Agreed Order.

#### V. FINDINGS OF FACT

1. On October 1, 2013, Florence Zella Hollingshead (Respondent) was licensed as a Registered Nurse (RN) by the Texas Board of Nursing (Board) under RN License No. 845278.
2. On September 26, 2019, Respondent entered into a Confidential Eligibility Agreed Order for Peer Assistance Program (Agreed Order) with the Board.
3. The Agreed Order stipulated that on or about August 13, 2017, while employed as an RN with Tomball Regional Medical Center, Tomball, Texas, Respondent engaged in the intemperate use of Benzodiazepine, Methamphetamine, and Alcohol (Ethanol). The Agreed Order stipulated that she was found sleeping while on duty and submitted to a medical drug screen that resulted positive for Benzodiazepine, Methamphetamine, and Alcohol (Ethanol).
4. To be eligible to continue to hold a Texas nursing license, the Agreed Order required Respondent to enroll in and follow the Texas Peer Assistance Program for Nurses (TPAPN).
5. Respondent did not complete enrollment in TPAPN.
6. TPAPN case managers attempted to contact Respondent multiple times to encourage her to enroll and warn her of the consequences if she did not complete enrollment.

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<sup>15</sup> 22 Tex. Admin. Code § 213.33(b).

7. Respondent took some steps to enroll in TPAPN but was unable to afford the costs of TPAPN.
8. On January 23, 2020, TPAPN dismissed Respondent from the program and referred her back to the Board
9. On January 29, 2020, Staff notified Respondent that the Board was investigating her failure to enroll and dismissal from TPAPN.
10. On March 17, 2020, the Board issued an Order temporarily suspending Respondent's license. Following a hearing, an Order finding probable cause to continue the temporary suspension was issued on April 3, 2020.
11. On April 30, 2020, Staff sent Respondent a Notice of Hearing. 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 incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
12. The hearing on the merits convened telephonically on May 13, 2020, before Administrative Law Judge Joanne Summerhays. Assistant General Counsel Helen Kelley represented Staff, and Respondent appeared and represented herself. The hearing concluded and the record closed that day.

## VI. CONCLUSIONS OF LAW

1. The Board has jurisdiction over the licensing and discipline of nurses. Tex. Occ. Code ch. 301.
2. SOAH has jurisdiction over contested cases referred by the Board, including the authority to issue a proposal for decision with findings of fact and conclusions of law. Tex. Occ. Code § 301.459; Tex. Gov't Code ch. 2003.
3. Respondent received adequate and proper notice of the hearing on the merits. Tex. Occ. Code § 301.454; Tex. Gov't Code §§ 2001.051-.052.
4. Staff had the burden of proof by a preponderance of the evidence. 1 Tex. Admin. Code § 155.427.
5. Respondent is subject to sanction because she violated an order issued by the Board. Tex. Occ. Code §301.452(b)(1), (10); 22 Tex. Admin. Code § 217.12(11)(B).

6. The Board may impose a disciplinary sanction, which can range from remedial education to revocation of a nurse's license, and which may include assessment of a fine. Tex. Occ. Code § 301.453; 22 Tex. Admin. Code § 213.33(e).
7. To determine the appropriate disciplinary sanction to be imposed in this case, the Board must consider the factors set forth in 22 Texas Administrative Code § 213.33 and the Board's Disciplinary Matrix. 22 Tex. Admin. Code § 213.33.

#### VII. RECOMMENDATION

Based on the above findings of fact and conclusions of law, the ALJ recommends that the Board suspend RN License No. 845278 issued to Respondent until she has enrolled with TPAPN.

**SIGNED June 11, 2020.**



**JOANNE SUMMERHAYS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**