

**In the Matter of
Permanent Vocational Nurse
License Number 228288
Issued to SAMUEL ALEXANDER
KACZMAREK,
Respondent**

**§ BEFORE THE TEXAS
§
§ BOARD OF NURSING
§
§ ELIGIBILITY AND

DISCIPLINARY COMMITTEE**

ORDER OF THE BOARD

TO: Samuel Kaczmarek
409 Jefferson St
Ravenna, OH 44266

During open meeting held in Austin, Texas, on June 8, 2021, the Texas Board of Nursing Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's license(s) to practice nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by

reference for all purposes and the 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 [22 TEX. ADMIN. CODE § 213.16(j)]. 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.

NOW, THEREFORE, IT IS ORDERED that Permanent Vocational Nurse License Number 228288, previously issued to SAMUEL ALEXANDER KACZMAREK to practice nursing in the State of Texas be, and the same is/are hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

Entered this 8th day of June, 2021

TEXAS BOARD OF NURSING

BY: 

KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Attachment: Formal Charges filed January 6, 2021

d17r(2021.04.26)

Re: Permanent Vocational Nurse License Number 228288
Issued to SAMUEL ALEXANDER KACZMAREK
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 11 day of June, 2021, a true and correct copy of the foregoing DEFAULT ORDER was served and addressed to the following person(s), as follows:

Via USPS Certified Mail, Return Receipt Requested,

Copy Via USPS First Class Mail

Samuel Kaczmarek
409 Jefferson St
Ravenna, OH 44266

Copy Via USPS First Class Mail

add any CC addresses

BY:



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

**In the Matter of
Permanent Vocational Nurse
License Number 228288
Issued to SAMUEL ALEXANDER
KACZMAREK,
Respondent**

§
§ **BEFORE THE TEXAS**
§
§
§ **BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, SAMUEL ALEXANDER KACZMAREK, is a Vocational Nurse holding license number 228288 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 July 23, 2020, Respondent's license to practice nursing as a Licensed Practical Nurse in the State of Ohio was suspended by the Ohio Board of Nursing, Columbus, Ohio. A copy of the suspension order dated July 23, 2020, 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) and/or privilege(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 6th day of January, 2021.

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
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D(2020.12.30)



Ohio Board of Nursing

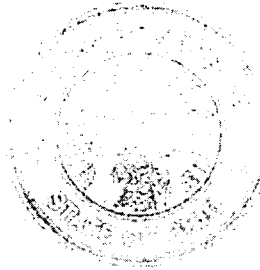
www.nursing.ohio.gov

17 S. High Street, Suite 660 • Columbus, Ohio 43215-3466 • 614-466-3947

I certify that the attached records are a true copy of Ohio Board of Nursing records.

Betsy J. Houchen

Betsy Houchen, R.N., M.S., J.D.
Executive Director





Ohio Board of Nursing

www.nursing.ohio.gov

17 S. High Street, Suite 660 • Columbus, Ohio 43215-3466 • 614-466-3947

July 23, 2020

NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

Samuel A. Kaczmarek, L.P.N.
812 Huber Street
Akron, Ohio 44306

And

409 Jefferson Street
Ravenna, Ohio 44266

Dear Mr. Kaczmarek:

In accordance with Sections 2929.42 and/or 3719.12 of the Ohio Revised Code (ORC), the Ohio Board of Nursing (Board) has been notified that, on or about January 7, 2020, in Portage County Court of Common Pleas Case Number 2019 CR 1128, you pled guilty to one count of Receiving Stolen Property, to wit: Trazadone Hydrochloride (a dangerous drug), a felony of the fourth degree, in violation of Section 2913.51, ORC. On or about April 20, 2020, you were found eligible for Intervention in Lieu of Conviction.

Section 3719.121(C), ORC, states in pertinent part as follows:

On receiving notification pursuant to Section 2929.42 or 3719.12 of the Revised Code, the board under which a person has been issued a license, certificate or evidence of registration immediately shall suspend the license, certificate, or registration of that person on a plea of guilty to, a finding by a jury or court of the person's guilt of, or conviction of a felony drug abuse offense; a finding by a court of the person's eligibility for intervention in lieu of conviction; a plea of guilty to, or a finding by a jury or court of the person's guilt of, or the person's conviction of an offense in another jurisdiction that is essentially the same as a felony drug abuse offense; or a finding by a court of the person's eligibility for treatment or intervention in lieu of conviction in another jurisdiction.

Receiving Stolen Property, to wit: Trazadone Hydrochloride (a dangerous drug), a felony of the fourth degree, in violation of Section 2913.51, ORC, constitutes a "felony drug abuse offense" as defined in Section 2925.01, ORC.

WHEREFORE, PURSUANT TO SECTION 3719.121(C), ORC, YOU ARE HEREBY NOTIFIED THAT YOUR LICENSE TO PRACTICE NURSING AS A LICENSED PRACTICAL NURSE, PN-170244 IS HEREBY SUSPENDED. Continued practice after

receipt of this notice of suspension shall be considered engaging in the practice of nursing without a current, valid license, which is a violation of Section 4723.03(D), ORC.

You are further notified that in accordance with Chapter 119, Ohio Revised Code (ORC), the Board proposes under authority of Section 4723.28 ORC, to deny or permanently deny reactivation, revoke, permanently revoke, suspend or place restrictions on your license to practice nursing as a licensed practical nurse; reprimand or otherwise discipline you; or impose a fine of not more than five hundred dollars (\$500.00) per violation for the following reasons:

1. On or about January 7, 2020, in Portage County Court of Common Pleas Case Number 2019 CR 1128, you pled guilty to one count of Receiving Stolen Property, to wit: Trazadone Hydrochloride (a dangerous drug), a felony of the fourth degree, in violation of Section 2913.51, ORC. On or about April 20, 2020 you were found eligible for Intervention in Lieu of Conviction.

The acts underlying this offense occurred on or about November 22, 2019, and involve you receiving, retaining or disposing of Trazadone Hydrochloride, knowing or having reasonable cause to believe the Trazadone Hydrochloride had been obtained through the commission of a theft offense.

Section 4723.28(B)(4), ORC, authorizes the Board to discipline a licensee for conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, any felony or of any crime involving gross immorality or moral turpitude.

2. On or about November 22, 2019, during a traffic stop and in response to questioning by a deputy of the Portage County Sheriff's Department, you stated that you had a prescription bottle of Trazadone belonging to your patient [Patient #1] in your bag. You stated that you stole the medication because you needed it to help you sleep. Legacy Visiting Health Services terminated your employment on or about November 26, 2019 for misappropriation. *See attached Patient Key to remain confidential and not subject to public disclosure.*

Section 4723.28(B)(13), ORC, authorizes the Board to discipline a licensee for misappropriating or attempting to misappropriate money or anything of value in the course of practice.

3. On November 30, 2018, you submitted a New License Application to practice as a licensed practical nurse in the State of Ohio. On your application, you answered "no" to the question:

Have you ever been convicted of, found guilty of, pled guilty to, ...any of the following crimes. This includes crimes that have been expunged IF there is a direct and substantial relationship to nursing practice? A misdemeanor in Ohio, another state, commonwealth, territory, province, or

country? This does not include traffic violations unless they are DUI/OVI or Physical Control While Under the Influence.

Despite this, on or about February 16, 2006, in Barberton Municipal Court Case Number 0600440, you pled to, and were found guilty of, Misrepresenting Identity to law enforcement, a third degree misdemeanor, in violation of Section 606.28 of the Barberton City Ordinances.

Section 4723.28(A), ORC, authorizes the Board to impose one or more of the following sanctions if it finds that a person committed deception in applying for or securing any nursing license or dialysis technician certificate issued by the board: deny, revoke, suspend, or place restrictions on any nursing license or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license or dialysis technician certificate; or impose a fine of not more than five hundred dollars per violation.

Accordingly, the Board is authorized to impose one or more of the sanctions as cited in Section 4723.28, ORC.

In accordance with Chapter 119, ORC, you are hereby informed that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the Board office within thirty (30) days of the time of mailing of this notice. As required by Section 3719.121(C), ORC, the suspension ordered herein shall remain in effect until this hearing is held. *As a result of the State of Emergency declared by Governor Mike DeWine on March 9, 2020 (Executive Order 2020-01D), hearing requests made prior to the end of the declared state of emergency or July 30, 2020 (whichever is sooner) will be considered timely filed.*

You are hereby further informed that, if you timely request a hearing, you are entitled to appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the Board, or you may present your position, arguments, or contentions in writing. At the hearing you may also present evidence and examine witnesses appearing for and against you.

Should you choose to request a hearing, please mail or deliver the request, in addition to any other correspondence regarding this matter, to: **Hearing Requests/Compliance Unit, Ohio Board of Nursing, 17 South High Street, Suite 660, Columbus, OH 43215-3466**, or to the email address, **hearing@nursing.ohio.gov**.

If the Board fails to receive a request for a hearing within thirty (30) days of the time of mailing of this notice, the Board may, in your absence and upon consideration of the factual and legal allegations set forth in this Notice of Immediate Suspension and Opportunity for Hearing, deny or permanently deny reactivation, revoke, permanently revoke, suspend, or place restrictions on your license to practice nursing as a licensed practical nurse; reprimand or otherwise discipline you; or impose a fine of not more than five hundred dollars (\$500.00) per violation.

Sincerely,

Samuel A. Kaczmarek, L.P.N.
Page 4

Patricia A. Sharpnack DNP, RN

Patricia A. Sharpnack, D.N.P., R.N.
Supervising Member

Certified Mail Receipt No. 7019 2280 0000 6621 5023
2nd Address Certified Mail Receipt No. 7019 2280 0000 6621 5030

cc: James T. Wakley, Principal Assistant Attorney General