

**DOCKET NUMBER 507-25-08094**

<b>IN THE MATTER OF</b>	<b>§ BEFORE THE STATE OFFICE</b>
<b>PERMANENT LICENSED VOCATIONAL</b>	<b>§</b>
<b>NURSE LICENSE NUMBER 161426,</b>	<b>§ OF</b>
<b>ISSUED TO</b>	<b>§</b>
<b>SHANE LEE MARTINEZ, RESPONDENT</b>	<b>§ ADMINISTRATIVE HEARINGS</b>

**OPINION AND ORDER OF THE BOARD**

**TO: SHANE LEE MARTINEZ  
 901 NORTH COLUMBIA ST  
 PLAINVIEW, TX 79072**

**ROBERT PEMBERTON  
 ADMINISTRATIVE LAW JUDGE  
 PO BOX 13025  
 AUSTIN, TX 78711-3025**

At the regularly scheduled public meeting on April 24, 2025, 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(b).

**IT IS, THEREFORE, ORDERED THAT Licensed Vocational Nurse License Number 161426, previously issued to SHANE LEE MARTINEZ, to practice nursing in the**

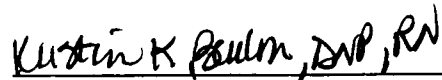
State of Texas be, and the same is hereby, REVOKED.

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. However, under Occupations Code §108.054(2), Respondent is ineligible to reapply for licensure until the expiration of the period for which he is required to register as a sex offender. Further, upon petitioning for reinstatement, RESPONDENT must satisfy all then existing requirements for relicensure.

Entered this 24th day of April, 2025.

TEXAS BOARD OF NURSING

  
\_\_\_\_\_  
KRISTIN K. BENTON, DNP, RN  
EXECUTIVE DIRECTOR FOR THE BOARD

Attachment: Proposal for Decision; Docket No. 507-25-08094 (February 26, 2025)

ACCEPTED  
507-25-08094  
2/26/2025 9:04:35 am  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Kevin Garza, CLERK

FILED  
507-25-08094  
2/26/2025 9:01 AM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Kevin Garza, CLERK

# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

February 26, 2025

Eugene Clayborn  
Attorney for Texas Board of Nursing

**VIA EFILE TEXAS**

Shane Lee Martinez  
901 North Columbia St.  
Plainview, TX 79072

**VIA EFILE TEXAS**  
**and VIA REGULAR MAIL**

**RE: Docket Number 507-25-08094.TBN; Texas Board of Nursing  
No. LVN 161426; *Texas Board of Nursing v. Shane Lee Martinez***

Dear Parties:

Please find attached a Proposal for Decision in this case.

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

CC: Service List

**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS BOARD OF NURSING,  
PETITIONER  
v.  
SHANE LEE MARTINEZ,  
RESPONDENT**

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**PROPOSAL FOR DECISION ON SUMMARY DISPOSITION**

In this contested-case proceeding before the State Office of Administrative Hearings (SOAH), the staff (Staff) of the Texas Board of Nursing (Board) seeks to revoke Respondent's vocational-nurse license based on asserted criminal history for which the Board would be required by law to revoke that license. By Order issued on January 6, 2025, this Administrative Law Judge (ALJ) granted Staff's motion for summary disposition, concluding that Staff had established, as a matter of law, that Respondent's criminal history entails sex-offender registration and, thus, triggers mandatory revocation under either or both of two statutes. Although the ALJ

subsequently afforded Respondent an additional opportunity to file any controverting evidence that would raise a material disputed fact issue as to whether he is in fact required to register as a sex offender, if it existed,<sup>1</sup> he did not file any by the prescribed deadline. Accordingly, the ALJ now proceeds to issue this Proposal for Decision (PFD) incorporating the summary-disposition order.

## **I. PERTINENT LAW**

Under Texas Occupations Code § 301.4535, the Board “shall revoke a license” “[o]n a final conviction or a plea of guilty or nolo contendere” for certain offenses that include “an offense for which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.”<sup>2</sup> Similarly, Texas Occupations Code § 108.053(a)(2) requires that the license of a nurse or other “health care professional” “is revoked if the health care professional is . . . required to register as a sex offender under Chapter 62, Code of Criminal Procedure.”<sup>3</sup>

SOAH’s rules require that “[s]ummary 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

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<sup>1</sup> Order Reopening Response Period (Jan. 30, 2025).

<sup>2</sup> Tex. Occ. Code § 301.4535(a)(15), (b).

<sup>3</sup> Tex. Occ. Code § 108.053(a)(2); *see id.* § 108.051((1)(D) (defining “health care professional” to include “a nurse . . . licensed under [Occupations Code] Chapter 301”).

The Board’s criminal-history guideline rule also classifies offenses requiring sex-offender registration to be among those “directly related to the practice of nursing,” thereby tying those offenses to the grounds for revoking a license under Texas Occupations Code § 53.021(a). 22 Tex. Admin. Code § 213.28(b)-(d) & Fig. 22 TAC § 213.28(c); *see* Tex. Occ. Code §§ 53.021(a)(1), .0211(b).

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>4</sup>

## **II. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY<sup>5</sup>**

Respondent is a licensed vocational nurse and, thereby, subject to the Board’s regulatory and disciplinary authority.<sup>6</sup> Staff filed its Formal Charges against Respondent on October 16, 2024, and referred the matter to SOAH on December 12, 2024. On the following day, the ALJ set the hearing for January 14, 2025, and Staff issued a Notice of Hearing on December 16, 2024.

Also on December 16, 2025, Staff filed its motion for summary disposition, with accompanying evidence. That evidence included certified copies of court papers reflecting that Respondent had pleaded guilty to each of three counts of the Class A misdemeanor offense of public lewdness (reflecting acts on three separate dates) and received, on each count, two years’ deferred-adjudication community supervision, running consecutively (*i.e.*, for a total of six years), with terms and conditions during each term that included required registration as a sex offender.<sup>7</sup> Respondent did not file any response in opposition to Staff’s summary-disposition motion by the applicable deadline of January 2, 2025.<sup>8</sup> Because Staff’s

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<sup>4</sup> 1 Tex. Admin. Code § 155.505(a).

<sup>5</sup> In addition to relying on the summary-disposition evidence, the ALJ takes official notice of the SOAH case file, including referral materials, other filings, and prior orders.

<sup>6</sup> Staff Motion for Summary Disposition (MSD) Exhibit (Ex.) 1; *see generally* Tex. Occ. Code ch. 301.

<sup>7</sup> Staff MSD Ex. 4.

<sup>8</sup> *See* 1 Tex. Admin. Code §§ 155.7(b), .505(b)(2).

uncontroverted summary-disposition evidence established, as a matter of law, that the Board was required to revoke Respondent's license under either or both Texas Occupations Code § 301.4535 or Texas Occupations Code § 108.053(a)(2), the ALJ granted Staff's motion and closed the record by order issued on January 6, 2025.

Subsequently, in response to motions filed by Respondent, the ALJ reopened the record to afford Respondent a second fifteen-day response period—until February 14, 2025—in which he could file, if it existed, any evidence that would controvert Staff's evidence that he had been required to register as a sex offender.<sup>9</sup> That deadline has passed without Respondent filing any controverting evidence.

### **III. ANALYSIS**

Staff's still-uncontroverted summary-disposition evidence establishes, as a matter of law, that the Board is required to revoke Respondent's license under either or both Texas Occupations Code § 301.4535 or Texas Occupations Code § 108.053(a)(2). Accordingly, the ALJ's January 6, 2025, order granting Staff's motion for summary disposition stands, and the ALJ recommends that the Board revoke Respondent's license based on the aforementioned mandatory grounds.

In further support of this recommendation, the ALJ makes the following findings of fact and conclusions of law.

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<sup>9</sup> Order Reopening Response Period (Jan. 30, 2025).

#### **IV. FINDINGS OF FACT**

1. Shane Lee Martinez (Respondent) is licensed as a vocational nurse by the Texas Board of Nursing (Board).
2. On March 28, 2024, in Cause No. CC-2024-CR-0684, in the County Court at Law No. 2 of Lubbock County, Texas, Respondent pleaded guilty to each of three counts of public lewdness, a Class A misdemeanor, allegedly committed on the respective dates of October 13, October 20, and November 10, 2022. The court deferred adjudication of Respondent's guilt and placed him, for each count, on two years' deferred-adjudication community supervision, with the three terms running consecutively, for a total of six years.
3. The terms and conditions of each of Respondent's community-supervision periods included required registration as a sex offender and prohibition against early release.
4. On December 16, 2024, the Board staff (Staff) filed and served Respondent with its Notice of Hearing. The Notice of Hearing 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 applicable rules and statutes; 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 December 16, 2024, Staff also filed its Motion for Summary Disposition, with supporting evidence, seeking revocation of Respondent's license.
6. Respondent did not file a timely response to Staff's motion.
7. By order issued on January 6, 2025, the Administrative Law Judge (ALJ) granted Staff's motion for summary disposition and closed the record.
8. By order issued on January 30, 2025, the ALJ reopened the record to afford Respondent an additional fifteen-day period in which to file, if it existed, evidence that he was not required to register as a sex offender. That deadline, February 14, 2025, expired without Respondent making any additional filing.

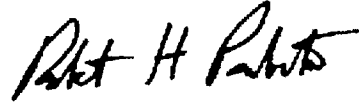


## V. CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. Tex. Occ. Code ch. 301.
2. The State Office of Administrative Hearings has jurisdiction over the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to Texas Government Code Chapter 2003.
3. Respondent received timely and adequate notice of the allegations against him. Tex. Gov't Code §§ 2001.051-.052.
4. A contested case shall be disposed of by summary disposition without an evidentiary hearing if the pleadings, the motion for summary disposition, and the summary-disposition evidence show 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. 1 Tex. Admin. Code § 155.505(a).
5. The Board “shall revoke a license” “[o]n a final conviction for or a plea of guilty or nolo contendere” for offenses that include “an offense for which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.” Tex. Occ. Code § 301.4535(a)(15), (b).
6. The Board is required to revoke the license of a nurse who is “required to register as a sex offender under Chapter 62, Code of Criminal Procedure.” *See* Tex. Occ. Code § 108.053(a)(2); *see also id.* § 108.108.51(1)(D) (defining “health care professional” to include nurses).
7. The pleadings, motion for summary disposition, and summary-disposition evidence show that there is no genuine issue of material fact and that Staff is entitled to a decision that, as a matter of law, the Board is required to revoke Respondent’s license under either or both Texas Occupations Code § 301.4535(b) and § 108.053(a)(2).

**Signed February 26, 2025**

ALJ Signature:

A handwritten signature in black ink, appearing to read "Robert H. Pemberton". The signature is written in a cursive, flowing style with some capitalization.

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Robert Pemberton

Presiding Administrative Law Judge

### **Automated Certificate of eService**

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Status as of 2/26/2025 9:05 AM CST

Associated Case Party: Texas Board of Nursing

Name	BarNumber	Email	TimestampSubmitted	Status
mary nastasi		mary.nastasi@bon.texas.gov	2/26/2025 9:01:00 AM	SENT
Eugene Clayborn		eugene.clayborn@bon.texas.gov	2/26/2025 9:01:00 AM	SENT

Associated Case Party: ShaneLeeMartinez

Name	BarNumber	Email	TimestampSubmitted	Status
Shane LeeMartinez		shamarti@gmail.com	2/26/2025 9:01:00 AM	SENT