

IN THE MATTER OF	§	BEFORE THE ELIGIBILITY
	§	
PERMANENT CERTIFICATE	§	AND DISCIPLINARY
	§	
NUMBER 651953	§	COMMITTEE OF THE BOARD
	§	
ISSUED TO	§	OF NURSE EXAMINERS OF THE
	§	
MELISSA A. BARNES	§	STATE OF TEXAS

ORDER OF THE BOARD

TO: Melissa A. Barnes
522 Scenic Valley
Kerrville, Texas 78028

During open meeting held in Austin, Texas, on November 8, 2005, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case. This case was heard, and based on the failure of the Respondent to file a written response to the Formal Charges as required by 22 TEX. ADMIN. CODE, §213.16.

The Committee of the Board of Nurse Examiners 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 Texas Occupations Code, for retention of Respondent's license to practice professional 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 of the violations alleged in the Formal Charges were given to Respondent in this matter, Respondent has failed to file an answer in accordance with 22 TEX. ADMIN. CODE, §213.16.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code, §2001.056 and 22 Texas Administrative Code, §213.16.

The Eligibility and Disciplinary 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 to set aside the default order (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 Certificate Number 651953, previously issued to MELISSA A. BARNES, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 651953, previously issued to MELISSA A. BARNES, upon receipt of this Order, be immediately delivered to the office of the Board of Nurse Examiners for the State of Texas.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privilege, if any, to practice professional nursing in the State of Texas.

Entered this 8th day of November, 2005.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

BY:



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

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of November, 2005, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via first class mail, and addressed to the following person(s):

Melissa A. Barnes
522 Scenic Valley
Kerrville, Texas 78028

BY: Katherine A. Thomas
KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of Registered Nurse License	§	BEFORE THE BOARD
Number 651953, Issued to	§	OF NURSE EXAMINERS
MELISSA A. BARNES, Respondent	§	FOR THE STATE OF TEXAS

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MELISSA A. BARNES, is a Registered Nurse holding license number 651953, which is in delinquent 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 15, 2004, Respondent was indicted for the felony offense of "Obtain Drugs by Forgery," in the 198th District Court of McCulloch County, Texas, Cause No. 4955, in that on or about June 8, 2004, Respondent did then and there, through use of a fraudulent telephonically communicated prescription, knowingly obtain a controlled substance, namely, Hydrocodone, by telephonically calling in a prescription to City Drug, Brady, McCulloch County, Texas. Respondent's conduct was likely to deceive the pharmacy and possession of Hydrocodone through use of an unauthorized, fraudulent telephonically communicated prescription is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

The above action constitutes a violation of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)&(21).

CHARGE II.

On or about July 15, 2004, Respondent was indicted for the offense of "Obtain/Attempt to Obtain Drugs by Forgery," in the 198th District Court of McCulloch County, Texas, Cause No. 4947, in that on or about July 1, 2004, Respondent did then and there through use of a fraudulent telephonically communicated prescription, knowingly attempted to possess or obtain a controlled substance, namely, Hydrocodone, by telephonically calling in a prescription to City Drug, Brady, McCulloch County, Texas. Respondent's conduct was likely to deceive the pharmacy and possession of Hydrocodone through use of an unauthorized, fraudulent telephonically communicated prescription is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

The above action constitutes a violation of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)&(21).

CHARGE III.

On or about July 15, 2004, Respondent was indicted for the offense of "Possession of a Controlled Substance, to-wit Hydrocodone 1-4G," in the 198th District Court of McCulloch County, Texas, Cause No. 4946, in that on or about July 1, 2004, Respondent intentionally and knowingly possessed a controlled substance, namely Hydrocodone, in an amount of more than one gram but less than four grams, including adulterants and dilutants. Possession of Hydrocodone without a valid prescription is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

The above action constitutes a violation of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1).

CHARGE IV.

On or about July 2, 2004, Respondent was arrested by the Kerr County, Texas, Sheriff's Office for "Fraudulent Possession of a Controlled Substance/Prescription," a Second Degree Felony. On or about December 8, 2004, Respondent plead guilty to the offense of "Prescription Fraud," a Second Degree Felony, in the 216th Judicial District Court of Kerr County, Texas, Cause No. A04-204. Respondent's adjudication of guilt was deferred and she was placed on probation for a period of five (5) years, assessed a fine in the amount of five hundred dollars (\$500.00), and court costs in the amount of two hundred ninety-three dollars (\$293.00).

The above action constitutes a violation of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(13).

CHARGE V.

On or about May 16, 2005, Respondent was arrested by the San Angelo Police Department, San Angelo, Texas, for "Fraudulent Possession of a Controlled Substance/Prescription," a Third Degree Felony. On or about July 7, 2005, Respondent was indicted for the offense of "Fraudulent Possession of a Controlled Substance/Prescription," a Third Degree Felony, in the 51st District Court of Tom Green County, Texas, Cause No. A-05-0733-S, in that on or about May 16, 2005, Respondent did then and there knowingly attempt to possess or obtain a controlled substance, namely: a material, compound, mixture or preparation containing not more than 15 milligrams of Dihydrocodeinone per dosage unit with one or more active non-narcotic ingredients in recognized therapeutic amounts, by misrepresentation, fraud, forgery, deception or subterfuge. Possessing or obtaining a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

The above action constitutes a violation of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(13).

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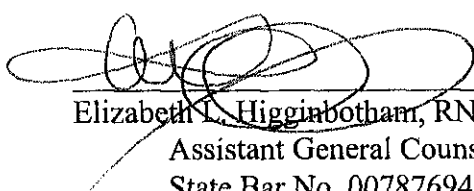
NOTICE IS GIVEN that staff will present evidence in support of any recommended disposition of this matter pursuant to the factors stated in the Board's rules regarding penalty/sanction factors, 22 TEX. ADMIN. CODE, Sections 213.27 through 213.33. Additionally, staff will seek to impose on Respondent administrative costs in an amount of at least one thousand two hundred dollars (\$1200.00) pursuant to § 301.461 Texas Occupations Code.

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.bne.state.tx.us.

Filed this 14th day of September, 2005.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

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