

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 595138
ISSUED TO
MARK ANDREW HINKLE

§
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§
§

BEFORE THE ELIGIBILITY
AND DISCIPLINARY
COMMITTEE
OF THE TEXAS
BOARD OF NURSING



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 A. Thomas
Executive Director of the Board

ORDER OF THE BOARD

TO: Mark Andrew Hinkle
266 Pond Field Rd
Westpoint, TN 38486

During open meeting held in Austin, Texas, on Tuesday, June 14, 2011, the 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 of the Texas Board of Nursing 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 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 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 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 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 Certificate Number 595138, previously issued to MARK ANDREW HINKLE, to practice professional 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 nurse licensure compact privileges, if any, to practice professional nursing in the State of Texas.

Entered this 14th day of June, 2011.

TEXAS BOARD OF NURSING

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

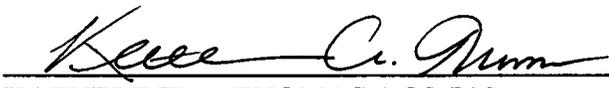
Attachment: Formal Charge filed April 29, 2011.

Re: Permanent Certificate Number 595138
Issued to MARK ANDREW HINKLE
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of June, 2011, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

Mark Andrew Hinkle
266 Pond Field Rd
Westpoint, TN 38486

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



Texas Board of Nursing

333 Guadalupe Street, Ste. 3-460, Austin, Texas 78701
Phone: (512) 305-7400 Fax: (512) 305-7401 www.bon.state.tx.us

Katherine A. Thomas, MN, RN
Executive Director

May 2, 2011

Certified Mail No.
Return Receipt Requested

91 7108 2133 3934 2121 8998

Mark Andrew Hinkle
266 Pond Field Rd.
Westpoint, TN 38486

Dear Mr. Hinkle:

Enclosed are Formal Charges which have been filed against you alleging one or more violations of Section 301.452(b) of the Nursing Practice Act, Texas Occupations Code. Within three weeks of the date of this letter, you must file a written answer to each charge admitting or denying each allegation. If you intend to deny only part of an allegation, you must specify so much of it as is true and deny only the remainder. Your answer shall also include any other matter, whether of law or fact, upon which you intend to rely for your defense. Please send your written answer to the attention of Kevin G. Freemyer, Investigator. You may obtain legal counsel at your own expense.

FAILURE TO FILE A WRITTEN ANSWER TO THE FORMAL CHARGES, EITHER PERSONALLY OR BY LEGAL REPRESENTATIVE, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF WILL BE GRANTED BY DEFAULT.

Please be advised that should you fail to file a written answer, the case will proceed on a default basis and it will be staff's recommendation that a default order be entered revoking your license(s) and/or nurse licensure compact privilege(s) to practice nursing in the State of Texas.

The results of any default order or formal disposition (Board Order) are public information. Results of informal and formal dispositions will appear in the Board's newsletter under the heading of "Disciplinary Action."

Should you desire to discuss this matter, you may contact Kevin G. Freemyer, Investigator, Enforcement Division, at the above address, or at (512) 305-8314.

Sincerely,

Katherine A. Thomas, MN, RN
Executive Director

KAT/kgf

Enclosure: Formal Charges

09/99-DA

Members of the Board

Linda Rounds, PhD, FNP, RN
Galveston, President

Deborah Bell, CLU, ChFC Abilene	Kristin Benton, MSN, RN Austin	Patricia Clapp, BA Dallas	Tamara Cowen, MN, RN Hartington	Sheri Cresby, JD, SPHR Dallas	Marilyn Davis, BSN, RN, MFA Sugar Land
Blanca Rosa Garcia, PhD, RN Corpus Christi	Richard Gibbs, LVN Mesquite	Kathy Leader-Hora, LVN Granbury	Josefina Lujan, PhD, RN El Paso	Beverly Jean Natal, LVN Bryan	Mary Jane Saigado, MEd Eagle Pass

In the Matter of Permanent License § BEFORE THE TEXAS
Number 595138, Issued to §
MARK ANDREW HINKLE, Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MARK ANDREW HINKLE, is a Registered Nurse holding License Number 595138, which is in MSR invalid 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 June 2, 2010, Respondent's license to practice professional nursing in the State of Tennessee was REVOKED by the Tennessee Board of Nursing, Nashville, Tennessee.

A copy of the Tennessee Board of Nursing Consent Order, dated June 2, 2010, 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.

CHARGE II.

On or about January 26, 2011, Respondent's license to practice professional nursing in the State of Arizona was REVOKED by the Arizona State Board of Nursing, Phoenix, Arizona.

A copy of the Arizona State Board of Nursing Findings of Fact, Conclusions of Law and Order, dated January 26, 2011, 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 revocation of Respondent's license 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. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1,200.00).

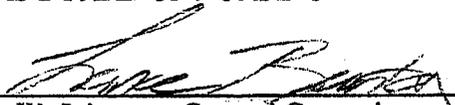
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.state.tx.us/disciplinaryaction/discp-matrix.html.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Orders which are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Tennessee Board of Nursing Consent Order, dated June 2, 2010, and Arizona State Board of Nursing Agreed Order, dated January 26, 2011.

Filed this 29th day of April, 2011.

TEXAS BOARD OF NURSING


James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Abel, Assistant General Counsel
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel
State Bar No. 24066924

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel
State Bar No. 24052269

John F. Legris, Assistant General Counsel
State Bar No. 00785533

TEXAS BOARD OF NURSING
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6824
F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Tennessee Board of Nursing, dated June 2, 2010
Order of the Arizona State Board of Nursing, dated January 26, 2011

D/2010.12.28

BEFORE THE TENNESSEE BOARD OF NURSING

In The Matter of:

MARK A. HINKLE
R.N. License Number 137476
Westpoint, Tennessee 38486

Case No. 2008010771

Respondent

CONSENT ORDER

The State of Tennessee, by and through the Office of General Counsel and the Respondent, Mark A. Hinkle, R.N., hereby stipulate and agree, subject to approval by the Tennessee Board of Nursing (Board), to the following:

I. Authority and Jurisdiction

The Board regulates and supervises nurses licensed to practice pursuant to the Tennessee Nursing Practice Act (Practice Act), Tennessee Code Annotated Section (TENN. CODE ANN. §) 63-7-101, *et seq.*, including the discipline of licensees, as well as those who are required to be licensed, who violate the Practice Act and the Rules promulgated by the Board, Official Compilation of Rules and Regulations of the State of Tennessee (TENN. COMP. R. & REGS.), 1000-1-.01, *et seq.* The Board enforces the Practice Act to promote and protect the health, safety and welfare of the public; accordingly, it is the policy of the Board to require strict compliance with the law and to apply the law to preserve the quality of nursing care provided in Tennessee.

II. Stipulations of Fact

1. Respondent has been at all times pertinent hereto licensed by the Board as a registered nurse in the State of Tennessee, having been granted license number 137476 by the Board on June 9, 2002, which currently has an expiration date of March 31, 2011.
2. Respondent's registered nurse license bears a multistate privilege to practice nursing in states which have entered into the Interstate Nurse Licensure Compact.

3. On February 19, 2010, Respondent pleaded nolo contendere to voluntary manslaughter, a Class C felony. Respondent was sentenced to 9 years, with a plea agreement to serve 1 year, and after his release, to be placed on 10 years probation. Respondent is to report for incarceration on March 22, 2010.

III. Stipulated Grounds for Discipline

4. The Stipulations of Fact are sufficient to establish that Respondent has violated the following statutes or rules which are part of the Act, TENN. CODE ANN. § 63-7-101, *et seq.* and TENN. COMP. R. & REGS., 1000-1-.01, *et seq.*, for which disciplinary action by the Board is authorized.

5. The facts stipulated in paragraph three (3) constitute a violation of TENN. CODE ANN. § 63-7-115(a)(1):

(B) Is guilty of a crime.

IV. Stipulated Disposition

6. For the purpose of avoiding further administrative action with respect to this cause, Respondent agrees to have his license to practice nursing in the State of Tennessee and the multistate privilege to practice in any other party state **REVOKED**.

V. Representations of Respondent

7. Respondent understands and admits the allegations, charges, and stipulations in this Order.

8. Respondent understands the rights found in the Practice Act and the Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101 thru 4-5-404, including the right to a hearing on the Notice of Charges to contest the charges and allegations, the right to appear personally and by legal counsel, the right to confront and to cross-examine witnesses who would testify against Respondent, the right to testify and to present evidence on Respondent's own behalf, as well as to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, as well as the right to appeal for judicial review. Respondent voluntarily waives these rights in order to avoid further administrative action.

9. Respondent agrees that presentation of this Order to the Board and the Board's consideration of it and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members become prejudiced requiring their disqualification from hearing this matter should this Order not be ratified. All matters, admissions, and statements disclosed during the attempted ratification process shall not be used against the Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

10. Respondent also agrees that the Board may issue this Order without further process. If the Board rejects this Order for any reason, it will be of no force or effect for either party.

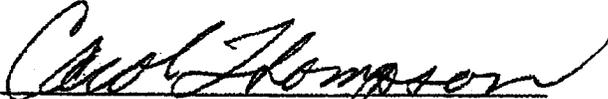
VI. Notice

11. This **REVOCATION** is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (HIPD).

VII. Approval by the Board

12. Upon the agreement of the parties and the record as a whole, this **CONSENT ORDER** was approved as a **FINAL ORDER** by a majority of a quorum of the Tennessee Board of Nursing at a public meeting of the Board and signed this 2nd day of June, 2010.

ACCORDINGLY, IT IS ORDERED that the agreements of the parties will, and hereby do, become the Final Order of the Board.


Chairperson/Acting Chairperson
Tennessee Board of Nursing

APPROVED FOR ENTRY:

Mark A. Hinkle
Mark A. Hinkle, R.N.
License Number 137476
Respondent

5-3-2010
Date

Lucille F. Bond
Lucille F. Bond (BPR # 19977)
Assistant General Counsel
Tennessee Department of Health
Office of General Counsel
220 Athens Way, Suite 210
Nashville, Tennessee 37243
(615) 741-1611

6/7/10
Date

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Mark A. Hinkle, ~~266 Pondfield Road, Westpoint, Tennessee 38486~~ ^{by and through Counsel, Daniel Freeman, 327 Gaines St, Lawrenceburg, TN 38444}, by delivering same in

the United States regular mail and United States certified mail, number 7009282000362061817,

return receipt requested, with sufficient postage thereon to reach its destination.

This 7th day of June, 2010.

Lucille F. Bond
Lucille F. Bond
Assistant General Counsel

1 ARIZONA STATE BOARD OF NURSING
2 4747 North 7th Street, Ste 200
3 Phoenix, Arizona 85014-3655
4 602-771-7800

5 IN THE MATTER OF THE PRIVILEGE TO
6 PRACTICE NURSING UNDER THE NURSE
7 LICENSURE COMPACT IN THE STATE OF
8 ARIZONA

9 ISSUED TO:

10 MARK ANDREW HINKLE,
11 RESPONDENT

12 NURSE LICENSE NO. 135943
13 STATE OF MISSOURI

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER NO. 1007006**

14 On January 26, 2011, the Arizona State Board of Nursing ("Board") considered the State's
15 Motion to Deem Allegations Admitted and Recommended Discipline and Respondent's Response to
16 the Motion, if any, at the Arizona Board of Nursing, 4747 North 7th Street, Suite 200, Phoenix Arizona
17 85014-3655. Elizabeth A. Campbell, Assistant Attorney General, appeared on behalf of the State.

18 Respondent was not present and was not represented by counsel.

19 On January 26, 2011, the Board granted the State's Motion to Deem Allegations Admitted.
20 Based upon A.R.S. § 32-1663(F) and Notice of Charges No. 1007006 filed in this matter, the Board
21 adopts the following Findings of Fact, Conclusions of Law, and **REVOKES** Respondent's privilege to
22 practice nursing under the nurse licensure compact.
23

24 **FINDINGS OF FACT**

25 1. MARK ANDREW HINKLE ("Respondent") holds registered nurse licensure with
26 multistate licensure privileges ("Privilege"), under the Nurse Licensure Compact ("Compact"), issued
27 by Missouri, a Compact State.
28
29

1 2. The Board has authority pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664, 32-
2 1668 and 32-1669, to impose disciplinary sanctions against the holders of nursing licenses for
3 violations of the Nurse Practice Act, A.R.S. §§ 32-1601 to -1669.
4

5 3. On or about July 9, 2010, the Board received information that Respondent's Tennessee
6 Registered Nurse License and Privilege to Practice ("PTP") was revoked on June 2, 2010, by the
7 Tennessee Board of Nursing ("Tennessee Board"), for a criminal conviction. Based upon this
8 information, the Board initiated an investigation.
9

10 4. On June 2, 2010, the Tennessee Board issue a Consent Order and accepted Respondent's
11 Stipulated Revocation of his Tennessee R.N. license number 137476 and his Tennessee PTP in any
12 other Nurse Licensure Compact state. According to the Consent Order, on February 19, 2010,
13 Respondent pleaded nolo contendere, in the 22nd Judicial District, in the Criminal Circuit Court of
14 Lawrence County, Lawrenceburg, TN, to Voluntary Manslaughter, a Class C Felony.
15

16 5. On or about October 19, 2010, Board staff received a copy of a February 27, 2009,
17 Grand Jury Indictment, "The State of Tennessee vs. Mark Andrew Hinkle" Criminal Docket No. 27
18 759, in the 22nd Judicial District, in the Criminal Circuit Court of Lawrence County, Lawrenceburg,
19 TN, which reads in part that, on December 2, 2007, Respondent "...did unlawfully and knowingly kill
20 Samantha Dawn Hunt, in violation of Tennessee Code Annotated Section 39-13-210..." and that he
21 was charged with Second Degree Murder.
22

23 6. On or about October 19, 2010, Board staff received a copy of the "Judgment" dated
24 February 19, 2010, issued by the 22nd Judicial District, in the Criminal Circuit Court of Lawrence
25 County, Lawrenceburg, TN. Respondent was convicted of Voluntary Manslaughter, a Class C Felony.
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1 involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by
2 a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission);

3 (d) (Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the
4 public); (f) (Having a license, certificate, permit or registration to practice a health care profession
5 denied, suspended, conditioned, limited or revoked in another jurisdiction and not reinstated by that
6 jurisdiction); (h) (Committing an act that deceives, defrauds or harms the public) and (j) (Violating
7 this chapter or a rule that is adopted by the board pursuant to this chapter) (effective October 14,
8 2009), specifically:

- 9
10
11 - A.A.C. R4-19-403 (2) (Intentionally or negligently causing physical or emotional injury)
12 (effective February 2, 2009); and
- 13 - A.A.C. R4-19-403 (19) (Providing or administering any controlled substance or
14 prescription-only drug for other than accepted therapeutic or research purposes) (effective
15 February 2, 2009).

16
17 4. The conduct and circumstances alleged in the Findings of Fact constitute violations of
18 A.R.S. § 32-3208(A) (A health professional who has been charged with a misdemeanor involving
19 conduct that may affect patient safety or a felony after receiving or renewing a license or certificate
20 must notify the health professional's regulatory board in writing within ten working days after the
21 charge is filed); and (D) (A health professional who does not comply with the notification requirements
22 of this section commits an act of unprofessional conduct. The health professional's regulatory board
23 may impose a civil penalty of not more than one thousand dollars in addition to other disciplinary
24 action it takes) (effective September 18, 2003).

25
26
27 5. The conduct and circumstances alleged in the Factual Allegations constitute violations
28 under the Nurse Licensure Compact, A.R.S. §32-1668, Article II (H) ("Multistate licensure privilege"
29

1 means current, official authority from a remote state permitting the practice of nursing as either a
2 registered nurse or a licensed practical/vocational nurse in such party state. All party states have the
3 authority, in accordance with existing state due process law, to take actions against the nurse's privilege
4 such as: revocation, suspension, probation or any other action which affects a nurse's authorization to
5 practice) (effective November 6, 1998); and Article III (B) (Party states may, in accordance with state
6 due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state
7 and may take any other actions under their applicable state laws necessary to protect the health and
8 safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of
9 the coordinated licensure information system. The administrator of the coordinated licensure
10 information system shall promptly notify the home state of any such actions by remote states) (effective
11 November 6, 1998); and Article V (In addition to the general provisions described in Article III, the
12 following provisions apply: (C) (A remote state may take adverse action affecting the multistate
13 licensure privilege to practice within that party state. However, only the home state shall have the
14 power to impose adverse action against the license issued by the home state)) (effective November 6,
15 1998).

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20 **ORDER**

21 In view of the above Findings of Fact and Conclusions of Law, the Board issues the following
22 Order:

23 Pursuant to A.R.S. § 32-1664(N), the Board hereby **REVOKES** Mark Andrew Hinkle's
24 privilege to practice nursing under the nurse licensure compact.

25
26 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

27 Pursuant to A.R.S. § 41-1092.09, Respondent may file, in writing, a motion for rehearing
28 or review within 30 days after service of this decision with the Arizona State Board of Nursing.
29 The motion for rehearing or review shall be made to the attention of Vicky Driver, Arizona State

1 Board of Nursing, 4747 North 7th Street Ste 200, Phoenix AZ 85014-3655, and must set forth
2 legally sufficient reasons for granting a rehearing. A.A.C. R4-19-608.

3 For answers to questions regarding a rehearing, contact Vicky Driver at (602) 771-7852.

4 Pursuant to A.R.S. § 41-1092.09(B), if Respondent fails to file a motion for rehearing or review
5 within 30 days after service of this decision, Respondent shall be prohibited from seeking judicial
6 review of this decision.
7

8 This decision is effective upon expiration of the time for filing a request for rehearing or
9 review, or upon denial of such request, whichever is later, as mandated in A.A.C. R4-19-609.

10 Respondent may apply for reinstatement of said license pursuant to A.A.C. R4-19-404 after a
11 period of five years.
12

13 DATED this 26th day of January, 2011.

14 ARIZONA STATE BOARD OF NURSING

15 SEAL

16 *Joey Ridenour R.N. M.N. F.A.A.N.*
17 Joey Ridenour, R.N., M.N., F.A.A.N.
18 Executive Director

19 COPIES mailed this 3rd day of February, 2011, by Certified Mail No. 7009 0080 0000 0431 5496 and
20 First Class Mail to:

21 Mark Andrew Hinkle
22 266 Pondfield Rd
23 Westpoint TN 38486

24 COPIES mailed this 3rd day of February, 2011, by First Class Mail to:

25 Elizabeth A. Campbell
26 Assistant Attorney General
27 1275 W Washington
28 Phoenix AZ 85007

29 By: Vicky Driver

1 ARIZONA STATE BOARD OF NURSING
2 4747 North 7th Street, Ste 200
3 Phoenix, Arizona 85014-3655
4 602-771-7800

5 IN THE MATTER OF THE PRIVILEGE TO
6 PRACTICE NURSING UNDER THE NURSE
7 LICENSURE COMPACT IN THE STATE OF
8 ARIZONA
9 ISSUED TO:

10 MARK ANDREW HINKLE,
11 RESPONDENT

12 NURSE LICENSE NO. 135943
13 STATE OF MISSOURI

NOTICE OF BOARD CONSIDERATION
OF STATE'S MOTION TO DEEM
ALLEGATIONS ADMITTED AND
RECOMMENDED DISCIPLINE

CASE NO. 1007006

14 The Arizona State Board of Nursing gives notice that the Board will consider the State's Motion
15 to Deem Allegations Admitted and Recommended Discipline, and your Response to the Motion, if any,
16 on **January 26, 2011, to follow at 1:00 p.m.**, at the Arizona Board of Nursing Conference Room, 4747
17 North 7th Street, Suite 200, Phoenix Arizona 85014-3655. The Board may accept, reject or modify any
18 recommended discipline presented for consideration. You may appear before the Board in person or
19 through counsel at that time. For answers to questions regarding the Motion to Deem and
20 Recommended Discipline, contact Vicky Driver at (602) 771-7852.

21 DATED this 13th day of January, 2011.

ARIZONA STATE BOARD OF NURSING

22 SEAL

Joey Ridenour R.N. M.N. F.A.A.N.

23 Joey Ridenour, R.N., M.N., F.A.A.N.
24 Executive Director

25 COPIES mailed this 13th day of January, 2011, by Certified Mail No. 7009 0080 0000 0433 2318
26 and First Class Mail to:

27 Mark Andrew Hinkle
28 266 Pondfield Rd
29 Westpoint TN 38486

By: Vicky Driver

1 THOMAS C. HORNE
2 Attorney General
3 Firm Bar No. 14000

4 ELIZABETH A. CAMPBELL
5 Assistant Attorney General
6 State Bar No. 018311
7 1275 W Washington/LES
8 Phoenix AZ 85007
9 Telephone No. 602-542-7681
10 Attorneys for the State of Arizona

11 **ARIZONA STATE BOARD OF NURSING**
12 **4747 North 7th Street, Ste 200**
13 **Phoenix, Arizona 85014**

14 IN THE MATTER OF THE PRIVILEGE TO
15 PRACTICE NURSING UNDER THE NURSE
16 LICENSURE COMPACT IN THE STATE OF
17 ARIZONA
18 ISSUED TO:
19 **MARK ANDREW HINKLE,**
20 **RESPONDENT**

CASE NO. 1007006

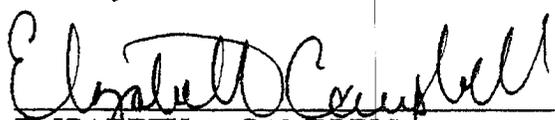
**MOTION TO DEEM
ALLEGATIONS ADMITTED
AND RECOMMENDED DISCIPLINE**

21 NURSE LICENSE NO. 135943
22 STATE OF MISSOURI

23 Pursuant to A.R.S. § 32-1663(F)(3), the State, by and through the undersigned Assistant
24 Attorney General, submits its Motion to Deem Allegations Admitted and its recommendation to the
25 Board that discipline be imposed upon Respondent's privilege to practice nursing under the nurse
26 licensure compact. The basis for this motion is set forth in the attached Memorandum of Points and
27 Authorities.

28 Respectfully submitted this 12th day of January, 2011

29 THOMAS C. HORNE
Attorney General


ELIZABETH A. CAMPBELL
Assistant Attorney General

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 Arizona Revised Statute § 32-1663(F)(3) provides that unless the licensee or certificate holder
3 submits a written request for a hearing within thirty days after service of the Notice of Charges by
4 certified mail, the Arizona State Board of Nursing ("Board") may consider the allegations admitted and
5 may take any disciplinary action allowed without conducting a hearing.
6

7 In the present case, the Board served the attached Notice of Charges, via certified mail number
8 7009 0080 0000 0434 2577 and first class mail on October 29, 2010 to 266 Pondfield Road, Westpoint,
9 Tennessee 38486, Respondent's address of record with the Board.
10

11 Respondent failed to request a hearing within 30 days after the attached Notice of Charges was
12 served as required by A.R.S. § 32-1663(F)(3). Therefore, the State respectfully requests that the Board
13 deem Respondent's admission to the allegations stated in the Notice of Charges.
14

15 Based upon the allegations in the attached Notice of Charges deemed as admitted, the State
16 recommends that the Board **REVOKE** Respondent's privilege to practice nursing under the nurse
17 licensure compact.

18 Respectfully submitted this 12th day of January, 2011.

19
20 THOMAS C. HORNE
Attorney General

21 
22 ELIZABETH A. CAMPBELL
23 Assistant Attorney General
24

25 ORIGINAL filed this 13th day of January, 2011, with

26
27 Arizona State Board of Nursing
28 4747 N 7th St Ste 200
29 Phoenix AZ 85014-3655

1 COPIES mailed this 13th day of January, 2011, by Certified Mail No. 7009 0080 0000 0433 2318
2 and First Class Mail to:

3 Mark Andrew Hinkle
4 266 Pondfield Rd
5 Westpoint TN 38486
6

7 By: Vicky Driver
8
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ARIZONA STATE BOARD OF NURSING
4747 North 7th Street, Suite 200
Phoenix, Arizona 85014-3655
602-771-7800

IN THE MATTER OF THE PRIVILEGE TO
PRACTICE NURSING UNDER THE NURSE
LICENSURE COMPACT IN THE STATE OF
ARIZONA

ISSUED TO:
MARK ANDREW HINKLE
RESPONDENT -
NURSE LICENSE NO. 135943

STATE OF: MISSOURI

NOTICE OF CHARGES

CASE NO. 1007006

The Arizona State Board of Nursing ("Board") has sufficient evidence of the conduct described in the factual allegations that, if not rebutted or explained, justifies disciplinary action pursuant to A.R.S. §§ 32-1601 to -1669.

FACTUAL ALLEGATIONS

1. MARK ANDREW HINKLE, ("Respondent") holds registered nurse licensure with multistate licensure privileges ("Privilege"), under the Nurse Licensure Compact ("Compact"), issued by Missouri, a Compact State.
2. The Board has authority pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664, 32-1668 and 32-1669, to impose disciplinary sanctions against the holders of nursing licenses for violations of the Nurse Practice Act, A.R.S. §§ 32-1601 to -1669.
3. On or about July 9, 2010, the Board received information that Respondent's Tennessee Registered Nurse License and Privilege to Practice ("PTP") was revoked on June 2, 2010, by the Tennessee Board of Nursing ("Tennessee Board"), for a criminal conviction. Based upon this information, the Board initiated an investigation.

4. On June 2, 2010, the Tennessee Board issue a Consent Order and accepted Respondent's Stipulated Revocation of his Tennessee R.N. license number 137476 and his Tennessee PTP in any other Nurse Licensure Compact state. According to the Consent Order, on February 19, 2010, Respondent pleaded nolo contendere, in the 22nd Judicial District, in the Criminal Circuit Court of Lawrence County, Lawrenceburg, TN, to Voluntary Manslaughter, a Class C Felony.

5. On or about October 19, 2010, Board staff received a copy of a February 27, 2009, Grand Jury Indictment, "The State of Tennessee vs. Mark Andrew Hinkle" Criminal Docket No. 27 759, in the 22nd Judicial District, in the Criminal Circuit Court of Lawrence County, Lawrenceburg, TN, which reads in part that, on December 2, 2007, Respondent "...did unlawfully and knowingly kill Samantha Dawn Hunt, in violation of Tennessee Code Annotated Section 39-13-210..." and that he was charged with Second Degree Murder.

6. On or about October 19, 2010, Board staff received a copy of the "Judgment" dated February 19, 2010, issued by the 22nd Judicial District, in the Criminal Circuit Court of Lawrence County, Lawrenceburg, TN. Respondent was convicted of Voluntary Manslaughter, a Class C Felony.

7. Pursuant to a plea agreement with the Lawrence County District Attorney's Office, Respondent was ordered incarcerated for one year beginning on March 22, 2010 and then will serve 10 years probation.

ALLEGED VIOLATIONS

Pursuant to A.R.S. § 32-1606(B) (17), the Board shall revoke the license of a person, revoke the multi-state licensure privilege of a person pursuant to section 32-1669 or not issue a license to an applicant who has one or more felony convictions, and who has not received an absolute discharge for the sentence(s) for all felony convictions five or more years prior to the date of filing an application pursuant to this chapter.

The conduct and circumstances alleged in the Factual Allegations constitute violations of A.R.S. § 32-1663(E), as defined in A.R.S. § 32-1601(16) (b) (Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission); (d) (Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public); and (h) (Committing an act that deceives, defrauds or harms the public); and (j) (Violating a rule that is adopted by the board pursuant to this chapter) (effective May 9, 2002), specifically:

- A.A.C. R4-19-403(B) (2) (Intentionally or negligently causing physical or emotional injury) (effective November 12, 2005); and
- A.A.C. R4-19-403(B) (19) (Providing or administering any controlled substance or prescription-only drug for other than accepted therapeutic or research purposes) (effective November 12, 2005).

The conduct and circumstances alleged in the Factual Allegations constitute violations of A.R.S. § 32-1663(D), as defined in A.R.S. § 32-1601 (18) (b) (Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission); (d) (Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public); (f) (Having a license, certificate, permit or registration to practice a health care profession denied, suspended, conditioned, limited or revoked in another jurisdiction and not reinstated by that jurisdiction); (h) (Committing an act that deceives, defrauds or harms the public) and (j) (Violating this chapter or a rule that is adopted by the board pursuant to this chapter) (effective October 14, 2009), specifically:

- A.A.C. R4-19-403 (2) (Intentionally or negligently causing physical or emotional injury)

(effective February 2, 2009); and

- A.A.C. R4-19-403 (19) (Providing or administering any controlled substance or prescription-only drug for other than accepted therapeutic or research purposes) (effective February 2, 2009).

The conduct and circumstances alleged in the Factual Allegations constitute violations of A.R.S. § 32-3208(A) (A health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after receiving or renewing a license or certificate must notify the health professional's regulatory board in writing within ten working days after the charge is filed); and (D) (A health professional who does not comply with the notification requirements of this section commits an act of unprofessional conduct. The health professional's regulatory board may impose a civil penalty of not more than one thousand dollars in addition to other disciplinary action it takes) (effective September 18, 2003).

The conduct and circumstances alleged in the Factual Allegations constitute violations under the Nurse Licensure Compact, A.R.S. §32-1668, Article II (H) ("Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as: revocation, suspension, probation or any other action which affects a nurse's authorization to practice) (effective November 6, 1998); and Article III (B) (Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information

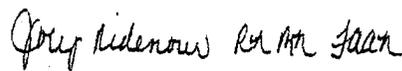
system shall promptly notify the home state of any such actions by remote states) (effective November 6, 1998); and Article V (In addition to the general provisions described in Article III, the following provisions apply: (C) (A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state)) (effective November 6, 1998).

WHEREFORE, the Arizona State Board of Nursing alleges that grounds exist that, if proven, would constitute a basis to impose disciplinary sanctions pursuant to A.R.S. §§ 32-1606, 32-1663, 32-1664, 32-1668 and 32-1669.

Pursuant to A.R.S. § 32-1663(F), Respondent may file with the Board a written request for hearing within 30 days after service of this Notice of Charges to Vicky Driver, at Arizona State Board of Nursing, 4747 North 7th Street, Suite 200, Phoenix, AZ 85014-3653. **THE BOARD MAY CONSIDER RESPONDENT'S FAILURE TO REQUEST A HEARING WITHIN THIS TIME AS RESPONDENT'S ADMISSION BY DEFAULT TO THE ALLEGATIONS STATED IN THE NOTICE OF CHARGES.** The Board may then take action provided by A.R.S. § 32-1663 (E) and defined in A.R.S. § 32-1601 (8) without conducting a hearing. For answers to questions regarding the Notice of Charges, contact Vicky Driver at (602) 771-7852.

Dated this 29th day of OCTOBER, 2010.

SEAL



Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director

JR/mer

COPIES mailed this 29th day of OCTOBER, 2010, by Certified Mail No. 7009 0080 0000 0434 2577
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MARK ANDREW HINKLE
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By: Mary E. Rappoport, RN, MN
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