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| IN THE MATTER OF | § | BEFORE THE ELIGIBILITY |
| | § | |
| PERMANENT CERTIFICATE | § | AND DISCIPLINARY |
| | § | |
| NUMBER 80663 | § | COMMITTEE |
| | § | |
| ISSUED TO | § | OF THE TEXAS |
| | § | |
| Kathi Lynn Posey | § | 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.

Executive Director of the Board

**ORDER OF THE BOARD**

TO: Kathi Lynn Posey
8331 Greenham
San Antonio, Texas 78239

During open meeting held in Austin, Texas, on 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 vocational 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.

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NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 80663, previously issued to Kathi Lynn Posey, to practice vocational 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 vocational nursing in the State of Texas.

Entered this 14th day of June, 2011.

TEXAS BOARD OF NURSING

BY: Katherine A. Thomas

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

Attachment: Formal Charge filed April 11, 2011.

Re: Permanent Certificate Number 80663
Issued to Kathi Lynn Posey
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 16th 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):

Kathi Lynn Posey
8331 Greenham
San Antonio, Texas 78239

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

| | | |
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| **In the Matter of Permanent License** | § | **BEFORE THE TEXAS** |
| **Number 80663, Issued to** | § | |
| **KATHI LYNN POSEY, Respondent** | § | **BOARD OF NURSING** |

## FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, KATHI LYNN POSEY, is a Vocational Nurse holding license number 80663, 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 January 15, 2002, Respondent was arrested by the San Antonio Police Department, San Antonio, Texas, for OBTAIN DRUGS BY FRAUD-SCH III/IV (a 3rd Degree Felony offense).

On or about February 10, 2003, Respondent entered a plea of No Contest to OBTAINING DRUGS BY FRAUD (a 3rd Degree felony offense committed on January 15, 2002), in the 227th District Court of Bexar County, Texas, under Cause No. 2002CR3335. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of two (2) years. On or about April 12, 2005, Respondent was unsatisfactorily discharged from probation due to Respondent entering the SAFPF program through Wilson County CSCD on November 1, 2004.

The above action constitutes grounds for disciplinary action in accordance with Section 302.402(a)(10)(effective September 1, 2001), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §239.11(28), (effective December 1, 2002).

### CHARGE II.

On or about January 30, 2003, Respondent was arrested by the Wilson County Sheriff's Office, Floresville, Texas, for FRAUD DEL CS/PRESCRIPTION SCH II (a 3rd Degree Felony offense).

On or about June 28, 2004, Respondent entered a plea of Guilty and was convicted of FRAUD (a 2nd Degree felony offense committed on October 4, 2002), in the 218th Judicial District Court of Wilson County, Texas, under Cause No. 0301032CRW. As a result of the conviction, Respondent was sentenced to confinement for a period of ten (10) years; however, the imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of ten (10) years. Additionally, Respondent was ordered to pay a fine and court costs.

On or about November 5, 2004, Respondent's community supervision was amended and Respondent was ordered to participate in the Wilson County SAFPF program. Respondent was released from SAFPF on April 27, 2005.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(3)&(10)(effective September 1, 2003), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE§239.11(28)&(29)(A), (effective September 1, 2003).

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 ($1200.00).

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.

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NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Guidelines for Criminal Conduct and on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, and for Fraud, Theft & Deception, which 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.

Filed this 11th day of April, 2011.

TEXAS BOARD OF NURSING

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D/2010.12.28