

DOCKET NUMBER 507-10-5789

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 146837
ISSUED TO
TERESA D. MCKINNEY

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BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARING

OPINION AND ORDER OF THE BOARD

TO: TERESA D. MCKINNEY
502 STONEWALL
ROTAN, TX 79546

TRAVIS VICKERY
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting on January 27-28, 2011, the Texas Board of Nursing (Board) considered the following items: (1) The Proposal for Decision (PFD) regarding the above cited matter; (2) Staff's recommendation that the Board adopt the PFD regarding the vocational nursing license of Teresa D. McKinney without changes; and (3) 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 any party.

The Board, after review and due consideration of the PFD, Staff's recommendations, and Respondent's presentation during the open meeting, if any, adopts all of the findings of fact and conclusions of law of the ALJ contained in the PFD as if fully set out and separately stated herein. All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.



Patricia R. Roman
Executive Director of the Board

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.

IT IS, THEREFORE, ORDERED THAT Permanent Certificate Number 146837, previously issued to TERESA D. MCKINNEY, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 146837, previously issued to TERESA D. MCKINNEY, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

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

Entered this 20th day of January, 2011.

TEXAS BOARD OF NURSING

A handwritten signature in cursive script, appearing to read "Katherine A. Thomas", is written over a horizontal line.

KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR FOR THE BOARD

Attachment: Proposal for Decision; Docket No. 507-10-5789 (October 19, 2010).

SOAH DOCKET NO. 507-10-5789

IN THE MATTER OF PERMANENT § BEFORE THE STATE OFFICE
CERTIFICATE NO. 146837 § OF
ISSUED TO TERESA D. MCKINNEY § ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Board of Nursing (Board) brought this action seeking revocation of the nurse's license of Teresa D. McKinney (Respondent). Staff alleges that Respondent is subject to discipline under several provisions of the Nursing Practice Act¹ and the Board's rules.² The Administrative Law Judge (ALJ) recommends that Respondent's license be revoked.

The hearing on the merits was held on October 12, 2010, before ALJ Travis Vickery at the State Office of Administrative Hearings, William P. Clements State Office Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Lance R. Brenton, Assistant General Counsel, represented Staff. Although Respondent did not appear, she sent a letter to Staff stating that she did not intend to appear for the hearing. The letter did not request a continuance of the hearing. Based on the representations of Staff and the correspondence from Respondent, the ALJ concluded the Respondent was not requesting a continuance.³ Staff moved for default. In support of its motion, Staff offered evidence that proper notice of the hearing had been provided and also in support of its allegations and recommended sanction.⁴ The ALJ grants Staff's motion for default. Accordingly, Staff's allegations are deemed admitted as true.⁵

¹ TEX. OCC. CODE ANN. ch. 301.

² 22 TEX. ADMIN. CODE chs. 211-227.

³ Staff Ex. 5(a) through (e).

⁴ Staff Ex. 1 through 10 were admitted.

⁵ 1 TEX. ADMIN. CODE § 155.501.

I. FINDINGS OF FACT

1. Teresa D. McKinney (Respondent) holds permanent nurse license number 146837 issued by the Texas Board of Nursing (Board).
2. On June 7, 2010, Board staff (Staff) sent Respondent its First Amended Formal Charges via certified mail to her address on file with the Board: 808 30th Street, Snyder, Texas 79549. The Respondent signed the return receipt on June 21, 2010.
3. On August 20, 2010, Staff sent Respondent its notice of hearing on the First Amended Formal Charges by certified mail to her address at 502 Stonewall, Rotan, Texas 79546. The Respondent signed the return receipt on August 30, 2010.
4. The hearing notice 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 particular sections of the statutes and rules involved; and a short plain statement of the matters asserted.
5. The hearing notice stated, in at least 12-point bold-faced font, that "Failure to Appear at the hearing in person or by legal representative, regardless of whether an appearance has been entered, will result in the allegations contained in the first amended formal charges being admitted as true and the proposed recommendation of Staff shall be granted by default."
6. The hearing on the merits was convened October 12, 2010, at the State Office of Administrative Hearings, William P. Clements State Office Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Board staff was represented by Lance R. Brenton, Assistant General Counsel. Respondent did not appear at the hearing either in person or through counsel.
7. Staff offered evidence demonstrating jurisdiction, proper notice, and the appropriateness of the revocation of Respondent's license, and moved for default.
8. Staff's motion for default was granted.
9. The factual allegations in the hearing notice are deemed admitted as true.
10. On April 22, 2007, through April 23, 2007, while employed as an agency nurse with Texas Nurse Connection Ltd., Sweetwater, Texas, and assigned to work at Nolan Nursing and Rehab LP, in Sweetwater, Texas, Respondent failed to administer and/or failed to document the administration of Xanax 0.25 mg, Bumex 2 mg, Lanoxin 0.125 mg, and Med pass 125 ml to Patient 34500090 at 20:00 hours.

11. On April 22, 2007, through April 23, 2007, while employed as an agency nurse with Texas Nurse Connection Ltd., Sweetwater, Texas, and assigned to work at Nolan Nursing and Rehab LP, in Sweetwater, Texas, Respondent failed to perform the narcotic count before leaving the facility, as required.
12. On or about June 17, 2009, while employed as a Staff Nurse with Slaton Care Center, Slaton, Texas, Respondent obtained a second dose of Hydrocodone for Resident 531 at 24:00 hours without administering and/or documenting the administration of that dose of Hydrocodone, and after it had already been obtained by another nurse for the same resident.
13. On or about June 20, 2009, while employed as a Staff Nurse with Slaton Care Center, Slaton, Texas, Respondent failed to administer and/or document administration of medications and treatments in the medical records of residents as follows:

Time	Resident	Medication/Treatment	Medication Administration Record
16:00	309	Blood sugar check	Not documented
17:00	529	Xanax	Not documented
17:00	309	Novulin-N 5 units	Not documented
20:00	543	Simvastatin	Not documented
20:00	543	Clonazepam	Not documented but signed out on controlled substance record
20:00	543	Xanax	Not documented but signed out on controlled substance record
20:00	529	Ambien	Not documented
20:00	529	Aricept	Not documented

II. CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. TEX. OCC. CODE ANN. ch. 301.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this matter, including the authority to issue a proposal for decision with findings of fact and conclusions of law. TEX. GOV'T CODE ANN. ch. 2003.
3. Proper and timely notice of the hearing was provided. TEX. GOV'T CODE ANN. ch. 2001; 22 TEX. ADMIN. CODE § 213.10; and 1 TEX. ADMIN. CODE § 155.401.
4. Because of Respondent's failure to appear at the hearing despite being provided proper notice, default is appropriate and the factual allegations in Staff's Notice of Hearing are deemed admitted. 1 TEX. ADMIN. CODE § 155.501.

5. Based on the above Findings of Fact, Respondent is subject to disciplinary action by the Board under TEX. OCC. CODE ANN. § 301.452(b)(10) and (13), because:

Respondent's conduct described in Finding of Fact No. 10 was likely to injure patients in that failure to administer medication as ordered by the physician could have resulted in non-efficacious treatment, and subsequent care givers would rely on her documentation to further medicate the patient, which could result in an overdose;

Respondent's conduct described in Finding of Fact No. 11 was likely to result in the loss or misappropriation of narcotics and to deceive the pharmacy and place them in violation of Chapter 481 of the Texas Health and Safety Code;

Respondent's conduct described in Finding of Fact No. 12 violated Chapter 481 of the Texas Health and Safety Code and was likely to defraud the facility and the patient of the cost of the medication; and

Respondent's conduct described in Finding of Fact No. 13 resulted in incomplete medical records and was likely to injure residents in that subsequent care givers would not have accurate information on which to base their care decisions.

6. Based on the above Findings of Fact, Respondent violated 22 TEX. ADMIN. CODE § 217.11(1)(A), (1)(B), (1)(C) and (1)(D), and 22 TEX. ADMIN. CODE § 217.12(1)(A), (1)(B), (4), 6(G), and (11)(B).
7. The Board is authorized to revoke Respondent's license. TEX. OCC. CODE ANN. § 301.453.
8. Revocation of Respondent's nursing license is an appropriate sanction under the Board's Disciplinary Matrix. 22 TEX. ADMIN. CODE § 213.33.

III. RECOMMENDATION

The Board should revoke Respondent's license to practice nursing.

SIGNED October 19, 2010.



TRAVIS VICKERY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS