DOCKET NUMBER 507-10-3549

IN THE MATTER OF	§	BEFORE THE STATE OFFICI
PERMANENT CERTIFICATE	§	
NUMBER 207804	§	OF
ISSUED TO	§	
THELMA CHRISTINE KEMP	§	ADMINISTRATIVE HEARING

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.
Executive Director of the Board

OPINION AND ORDER OF THE BOARD

TO: THELMA CHRISTINE KEMP
200 BRENDA
CONVERSE, TX 78109

MICHAEL J. BORKLAND
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting on October 21-22, 2010, 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 Thelma Christine Kemp 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.

IT IS, THEREFORE, ORDERED THAT Permanent Certificate Number 207804, previously issued to THELMA CHRISTINE KEMP, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate 207804, previously issued to THELMA CHRISTINE KEMP, 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 22nd day of October, 2010.

TEXAS BOARD OF NURSING

Katherine A. Thomas

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

Attachment: Proposal for Decision; Docket No. 507-10-3549 (July 23, 2010).

State Office of Administrative Hearings

Cathleen Parsley
Chief Administrative Law Judge

July 23, 2010

Katherine A. Thomas, M.N., R.N.
Executive Director
Texas Board of Nursing
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701

VIA INTER-AGENCY

RE: Docket No. 507-10-3549; In the Matter of Permanent Certificate Number 207804 Issued to Thelma Christine Kemp

Dear Ms. Thomas:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

Michael J. Borkland
Administrative Law Judge

MJB/pp
Enclosures
XC: Robert Kyle Hensley, Assistant General Counsel, TBN, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 – **VIA INTER-AGENCY**
Dina Flores, Legal Assistant TBN, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 – (with 1 CD(s); Certified Evidentiary Record) – **VIA INTER-AGENCY**
Thelma Christine Kemp, 200 Brenda, Converse, TX 78109 -**VIA REGULAR MAIL**

SOAH DOCKET NO. 507-10-3549

IN THE MATTER OF	§	**BEFORE THE STATE OFFICE**
	§	
PERMANENT CERTIFICATE	§	
	§	**OF**
NUMBER 207804 ISSUED TO	§	
	§	
THELMA CHRISTINE KEMP	§	**ADMINISTRATIVE HEARINGS**

PROPOSAL FOR DECISION

Staff of the Texas Board of Nursing (Staff/Board) seeks to discipline Thelma Christine Kemp (Respondent) for violating provisions of the Nursing Practice Act, TEX. OCC. CODE ch. 301, and the Board's rules. Despite being sent proper notice, Respondent did not appear nor was she represented at the hearing. Based on Respondent's failure to appear, Staff's allegations were accepted as true, establishing the violations. The Administrative Law Judge (ALJ) agrees with Staff's recommendation that Respondent's license should be revoked.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The hearing convened July 7, 2010, before ALJ Michael J. Borkland in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff was represented by Robert Kyle Hensley, Assistant General Counsel, who moved for default based on Respondent's failure to appear.

Staff offered competent evidence establishing jurisdiction and that appropriate notice of the hearing was provided to Respondent. Those matters are set out in the Findings of Fact and Conclusions of Law.

II. RECOMMENDATION

Based upon the following Findings of Fact and Conclusions of Law and in accordance with 1 TEX. ADMIN. CODE § 155.501, the ALJ granted Staff's motion for default, deems Staff's allegations to be true, and recommends that Respondent's license be revoked.

III. FINDINGS OF FACT

1. Thelma Christine Kemp (Respondent) is a Vocational Nurse licensed by the State of Texas, holding license number 207804.

2. Staff of the Texas Board of Nursing (Staff/Board) issued its Formal Charges against Respondent on March 9, 2009.

3. On April 6, 2010, Staff mailed its Notice of Hearing and the charges to Respondent by certified mail, return receipt requested, at 200 Brenda, Converse, Texas 78109, Respondent's address of record on file with the Board. According to United States Postal Service Track & Confirm results, the notice was forwarded to Respondent at an address in San Antonio, Texas, and received on April 9, 2010, at 4:02 p.m.

4. 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 particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.

5. The notice of hearing contained the following language in capital letters in 12-point boldface type: "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 formal charges being admitted as true and the proposed recommendation of staff shall be granted by default."

6. Respondent did not appear and was not represented at the hearing.

7. Staff moved for a default, which was granted.

8. On July 15, 2007, while employed with Silver Tree Nursing and Rehabilitation, Schertz, Texas, Respondent left her nursing assignment without notifying the appropriate supervisor and before adequate replacement arrived. Respondent failed to report on her assigned patients and her conduct failed to promote a safe environment in that it deprived her assigned patients of continuity of care and placed the facility at risk of inadequate nursing care in the event of a significant change in a patient's condition.

9. On July 18, 2007, while employed with Silver Tree Nursing and Rehabilitation, Schertz, Texas, Respondent falsified the medical records of Patient VT to show administration of Norco in Patient VT's Medical Administration Record, when she had not signed out the Norco and had not actually administered the medication. Respondent's conduct was deceiving to subsequent caregivers who would rely on an inaccurate medical record to provide ongoing medical care.

10. On July 19, 2007, while employed with Silver Tree Nursing and Rehabilitation, Schertz, Texas, Respondent signed out Norco on the Narcotic Log for Patient VT, but failed to completely and accurately document the administration of the medication in the patient's Medication Administration Records. Respondent's conduct was likely to injure the patient in that subsequent caregivers would rely on the documentation to further medicate the patient, which could have resulted in an overdose.

11. On July 19, 2007, while employed with Silver Tree Nursing and Rehabilitation, Schertz, Texas, Respondent signed out Norco on the Narcotic Log for Patient VT, but failed to follow the policy and procedure for the wastage of unused portions of the medication. Respondent's conduct was likely to deceive the hospital pharmacy and place it in violation of the Controlled Substances Act.

12. On July 19, 2007, while employed with Silver Tree Nursing and Rehabilitation, Schertz, Texas, Respondent withdrew and/or administered Norco to Patient VT in excess frequency and/or dosage of the physician's order. Respondent's conduct was likely to injure the patient in that the administration of Norco in excess frequency and/or dosage of the physician's order could have resulted in the patient suffering from adverse reactions.

13. On July 19, 2007, while employed with Silver Tree Nursing and Rehabilitation, Schertz, Texas, Respondent misappropriated Norco belonging to the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

IV. CONCLUSIONS OF LAW

1. The Texas Board of Nursing (Board) has jurisdiction over this matter pursuant to the Nursing Practice Act (Act), TEX. OCC. CODE chs. 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, pursuant to TEX. GOV'T CODE ch. 2003.

3. A nurse licensed by the Board is required to keep the Board apprised of her current address and shall notify the Board in writing within 10 days of a change of address, pursuant to 22 TEX. ADMIN. CODE § 217.7.

4. Proper and timely notice was provided to Respondent pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ch. 2001.

5. The Board is authorized to revoke a person's license for violations of the Act, pursuant to TEX. OCC. CODE ANN. §§ 301.452 and 301.453.

6. The allegations stated in Findings of Fact Nos. 8 - 13 are deemed admitted, pursuant to 1 TEX. ADMIN. CODE § 155.501.

7. Based on Finding of Fact No. 8, Respondent violated TEX. OCC. CODE ANN. §§ 301.452(b)(10) and (13), and 22 TEX. ADMIN. CODE § 217.11(1)(B), (I), and (P), and § 217.12(1)(B), (4), and (12).

8. Based on Finding of Fact No. 9, Respondent violated TEX. OCC. CODE ANN. §§ 301.452(b)(10) and (13), and 22 TEX. ADMIN. CODE § 217.11(1)(B), (C), and (D), and § 217.12(1)(A), (1)(B) and (C), (6)(A) and (H).

9. Based on Finding of Fact No. 10, Respondent violated TEX. OCC. CODE ANN. §§ 301.452(b)(10) and (13), and 22 TEX. ADMIN. CODE § 217.11(1)(A), (B), and (D), and § 217.12(1)(A) and (B), and (4).

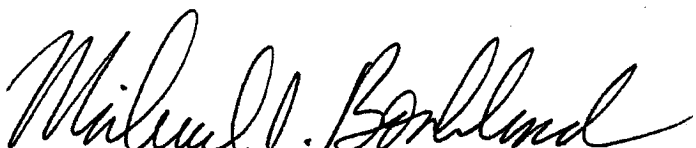
10. Based on Finding of Fact No. 11, Respondent violated TEX. OCC. CODE ANN. §§ 301.452(b)(10) and (13), and 22 TEX. ADMIN. CODE § 217.11(1)(A) and (B), and § 217.12(1)(A) and (B), (4), (10)(C), and (11)(B).

11. Based on Finding of Fact No. 12, Respondent violated TEX. OCC. CODE ANN. §§ 301.452(b)(10) and (13), and 22 TEX. ADMIN. CODE § 217.11(1)(B) and (C), and § 217.12(1)(A) and (4).

12. Based on Finding of Fact No. 13, Respondent violated TEX. OCC. CODE ANN. § 301.452(b)(10) and, 22 TEX. ADMIN. CODE § 217.12(1)(A) and (B), (6)(G), and (8).

13. Based on the foregoing Findings of Fact and Conclusions of Law, the Board should revoke Permanent License No. 207804 issued to Respondent.

SIGNED July 23, 2010.



MICHAEL J. BORKLAND
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS