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| IN THE MATTER OF | § | BEFORE THE ELIGIBILITY |
| | § | |
| PERMANENT CERTIFICATE | § | AND DISCIPLINARY |
| | § | |
| NUMBER 184288 | § | COMMITTEE |
| | § | |
| ISSUED TO | § | OF THE TEXAS |
| | § | |
| MARY HELEN GUZMAN | § | 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: Mary Helen Guzman
216 Mack Hollimon
Kerrville, Texas 78028

During open meeting held in Austin, Texas, on August 17, 2010, 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 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 § 213.2(j)). All parties have a right to judicial review of this Order.

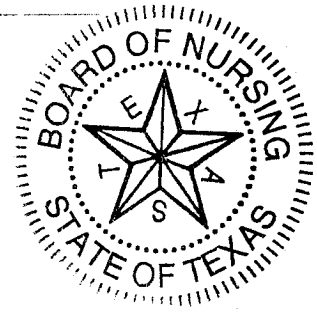
All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 184288, previously issued to MARY HELEN GUZMAN, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 184288, previously issued to MARY HELEN GUZMAN, 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 nurse licensure compact privileges, if any, to practice vocational nursing in the State of Texas.

Entered this **17th** day of **August**, **2010.**




TEXAS BOARD OF NURSING

BY: _____

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

Re: Permanent Certificate Number 184288
Issued to MARY HELEN GUZMAN
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of August, 20 10, 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):

Mary Helen Guzman
216 Mack Hollimon
Kerrville, Texas 78028

BY: Katherine A. Thomas

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

| | | |
|---|---|---|
| **In the Matter of Permanent License** | § | **BEFORE THE TEXAS** |
| **Number 184288, Issued to** | § | |
| **MARY HELEN GUZMAN, Respondent** | § | |
| **aka: MARY HELEN HERRERA** | § | **BOARD OF NURSING** |

## FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MARY HELEN GUZMAN, aka MARY HELEN HERRERA, is a Vocational Nurse holding license number 184288, 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 June 5, 2007, Respondent plead guilty to the offense of "Theft Stolen Property >=$20<$500 by Check" a Class B Misdemeanor, in the County Court at Law, Kerr County, Texas, cause number CR070584. Respondent was issued an Order Deferring Adjudication of Guilt and placed on two (2) months of community supervision, plus she was assessed a fine and court costs.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(3)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

## CHARGE II.

On or about October 31, 2007, Respondent submitted an on-line license renewal to the office of the Board and she answered "No" to the question which reads, in pertinent part:

> "Have you within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:
> A. been convicted of a misdemeanor?
> B. been convicted of a felony?
> C. plead nolo contendere, no contest, or guilty?
> D. received deferred adjudication? . . .
> E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty? . . ."

Respondent failed to disclose that on June 5, 2007, she plead guilty to the offense of "Theft Stolen Property >=$20<$500 by Check" a Class B Misdemeanor, in the County Court at Law, Kerr County, Texas, cause number CR070584, and that she was issued an Order Deferring Adjudication of Guilt.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(2)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE§217.12(6)(H)&(I).

## CHARGE III.

On or about April 2009, while employed with Windcrest Nursing & Rehabilitation Center, Fredericksburg, Texas, Respondent misappropriated sixty (60) Hydrocodone tabs belonging to Patient Medical Record Number 2009128, or failed to take precautions to prevent the misappropriations. Respondent's conduct was likely to defraud the patient of the cost of the medication.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(6)(G),(8)&(10)(E).

## CHARGE IV.

On or about April 2009, while employed with Windcrest Nursing & Rehabilitation Center, Fredericksburg, Texas, Respondent engaged in the intemperate use of Opiates, Propoxyphene, Oxycodone, Benzodiazepines and Methadone in that she submitted a specimen for a drug screen which resulted positive for Opiates, Propoxyphene, Oxycodone, Benzodiazepines and Methadone. Possession of Opiates, Propoxyphene, Oxycodone, Benzodiazepines and Methadone, without a valid prescription, is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Opiates, Propoxyphene, Oxycodone, Benzodiazepines and Methadone by a Vocational Nurse, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(4),(5),(10)(A),(D)&(11)(B).

## CHARGE V.

On or about October 22, 2009, Respondent was convicted of the offense of "Fraud Possession of Controlled Substance/Prescription Schedule III/IV" a Third Degree Felony, in the 216th District Court, Kerr County, Texas, cause number A09370. Respondent was sentenced to five (5) years probation and assessed a find in the amount of one thousand dollars ($1000), plus court costs.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(3)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

## CHARGE VI.

On or about October 22, 2009, Respondent was convicted of the offense of "Fraud Possession of Controlled Substance/Prescription Schedule I/II" a Second Degree Felony, in the 216th District Court, Kerr County, Texas, cause number A09454. Respondent was sentenced to five (5) years probation with seventy-five (75) hours of community service.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(3)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

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 Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33 and TEX. OCC. CODE Ch. 53. 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.

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, for Lying and Falsification, and for Fraud, Theft & Deception, which can be found at the Board's website, www.bon.state.tx.us.

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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 10th day of May, 2010.

TEXAS BOARD OF NURSING

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Board Certified - Administrative Law
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