DOCKET NUMBER 507-10-2966

IN THE MATTER OF	§	**BEFORE THE STATE OFFIC**
PERMANENT CERTIFICATE	§	
NUMBER 172325	§	**OF**
ISSUED TO	§	
EMORY HILL FORWARD	§	**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: EMORY HILL FORWARD
215 INDIAN TRAIL
CEDAR HILL, TX 75104

WILLIAM G. NEWCHURCH
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 Emory Hill Forward 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 172325, previously issued to EMORY HILL FORWARD, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate 172325, previously issued to EMORY HILL FORWARD, 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.

IT IS FURTHER ORDERED that RESPONDENT shall be assessed one-thousand, two hundred dollars ($1,200) in administrative costs, and RESPONDENT shall be required to remit full payment of these costs to the Board prior to the Board's consideration of future licensure reinstatement, if any.

Entered this 22nd day of October, 2010.

TEXAS BOARD OF NURSING

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

Attachment: Proposal for Decision; Docket No. 507-10-2966 (August 3, 2010).

State Office of Administrative Hearings

Cathleen Parsley
Chief Administrative Law Judge

August 3, 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. 507-10-2966; In the Matter of Permanent License Number 172325, Issued to Emory Hill Forward, Respondent

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,

William G. Newchurch
Administrative Law Judge

WGMSb
Enclosures
XC: R. Kyle Hensley, 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 hearing CD and Certified Evidentiary Record) – **VIA INTER-AGENCY**
Emory Hill Forward, 215 Indian Trail, Cedar Hill, TX 75104 – **VIA REGULAR MAIL**

SOAH DOCKET NO. 507-10-2966

IN THE MATTER OF PERMANENT LICENSE NUMBER 172325, ISSUED TO EMORY HILL FORWARD, RESPONDENT	§ § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

I. DISCUSSION

The staff (Staff) of the Texas Board of Nursing (Board) brought this action against Emory Hill Forward (Respondent) seeking to revoke his license as a vocational nurse. Staff alleged that Mr. Forward violated a prior Board order by: (1) failing to successfully complete courses in nursing jurisprudence, documentation, and ethics within one year of entry of that Order and (2) failing on several dates to cause his employer to submit periodic reports as to Respondent's capability to practice vocational nursing. For these violations, the Staff seeks revocation of the Respondent's license. The Staff also asks that the Board order the Respondent to pay the Staff's administrative costs for this case.

Mr. Forward failed to appear for the hearing, seek a continuance, or offer any reason that might have excused his failure to appear. The Administrative Law Judge (ALJ) grants a default to Staff and recommends that the Board adopt the following findings of fact and conclusions of law and revoke Mr. Forward's license.

II. FINDINGS OF FACT

1. Emory Hill Forward is licensed as a vocational nurse and holds License No. 172325 issued by the Texas Board of Nursing (Board).

2. On August 8, 2006, the Board issued an Agreed Order to the Respondent, which included the following stipulations:

> (2) Respondent shall, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence. . . .

(3) Respondent shall, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. . . .
(4) Respondent shall, within one (1) year of entry of this Order, successfully complete a course in nursing ethics. . . .
(9) Respondent shall cause each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to Respondent's capability to practice vocational nursing. . . .

3. As of August 9, 2007, the Respondent had failed to comply with Stipulations (2), (3), and (4) of the August 8, 2006, Agreed Order.

4. On or about May 1, 2007, August 1, 2007, November 1, 2007, and February 1, 2008, while employed with Grace Presbyterian Village, Dallas, Texas, Respondent failed to comply with Stipulation (9) of the August 8, 2006, Agreed Order.

5. Mr. Forward's official address on file with the Board is 215 Indian Trail, Cedar Hill, Texas 75104.

6. On April 2, 2008, the Board's staff (Staff) mailed a Notice of Violation to the Respondent at his official address by United States Post Office certified mail. The notice alleged that each of the above failures to comply with the August 8, 2006, Agreed Order was a violation of the Nursing Practices Act and the Board's rules and indicated that the Respondent had 30 days to respond to the notice.

7. On November 4, 2008, Staff mailed Formal Charges to the Respondent at his official address by United States Post Office certified mail. The charges indicated that each of the above failures to comply with the August 8, 2006, Agreed Order was a violation of 22 TEX. ADMIN. CODE §217.12(11)(B) and constituted grounds for disciplinary action in accordance with Section 301.452(b)(1) and (10) of the Texas Occupations Code. The Staff proposed that the Respondent's license be revoked.

8. On March 3, 2010, the Staff mailed its Notice of Hearing to Mr. Forward at his official address by United States Post Office certified mail. The notice:

(a) Included a copy of the Formal Charges;
(b) indicated that a State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ) would hold a contested case hearing on the charges on June 10, 2010, at the William P. Clements Office Building, Fourth Floor, 300 West 15th Street, Austin, Texas;
(c) Indicated that the Staff proposed that the Respondent's license be revoked; and
(d) Indicated that the Staff had incurred administrative costs of at least $1,200 for this case that it would ask the Board to impose on the Respondent.

9. 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.

10. The notice of hearing contained the following language in capital letters in at least 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."

11. The notice of hearing was returned to the Staff, unclaimed by the U. S. Postal Service.

12. The hearing convened on June 10, 2010, before ALJ William G. Newchurch at the hearing facilities of the SOAH in Austin, Texas. R. Kyle Hensley, Assistant General Counsel, appeared for Staff.

13. Neither Mr. Forward nor anyone acting on his behalf appeared at the hearing, sought a continuance, or offered any reason that might have excused his failure to appear.

14. At the hearing, the Staff made an oral motion for default, which the ALJ granted.

III. CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. TEX. OCC. CODE ch. 301.

2. The State Office of Administrative Hearings has jurisdiction over the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law. TEX. GOV'T CODE ch. 2003.

3. Notice of the formal charges and of the hearing on the merits was provided to Mr. Forward as required. TEX. GOV'T CODE §§ 2001.051 and 2001.052.

4. Because of Mr. Forward's failure to appear at the hearing despite being provided proper notice, default is appropriate and the allegations in this case are deemed admitted. 1 TEX. ADMIN. CODE § 155.501.

5. Each of the failures to comply with the August 8, 2006, Agreed Order was a violation of 22 TEX. ADMIN. CODE §217.12(11)(B) and constituted grounds for disciplinary action in accordance with Section 301.452(b)(1) and (10) of the Texas Occupations Code.

6. Mr. Forward's license to practice as a vocational nurse should be revoked.

7. The Board may assess the administrative costs of conducting a hearing to determine the violation against a person who is found to have violated chapter 301 of the Texas Occupations Code. TEX. OCC. CODE 301.461.

8. Mr. Forward should be assessed $1,200 for the Staff's administrative costs of this case.

SIGNED August 3, 2010.

WILLIAM G. NEWCHURCH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

RECEIVED
AUG 4 2010
By