



DOCKET NUMBER 507-10-1563

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 691258
ISSUED TO
MARYBETH VAUGHAN

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BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARING

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.
William P. Thomas
Executive Director of the Board

OPINION AND ORDER OF THE BOARD

TO: MARYBETH VAUGHAN
P.O. BOX 790
ACCOMACK, VA 23301

THOMAS H. WALSTON
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting on July 22-23, 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 registered nursing license of Marybeth Vaughan 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 691258, previously issued to MARYBETH VAUGHAN, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 691258, previously issued to MARYBETH VAUGHAN, 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 23rd day of July, 2010.

TEXAS BOARD OF NURSING

Katherine A. Thomas

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

Attachment: Proposal for Decision; Docket No. 507-10-1563 (March 30, 2010).

license contained various requirements that Respondent had to satisfy, but Respondent failed to complete these. The requirements included, among other things, random drug testing, informing employers of the prior disciplinary action and the requirements of the reinstatement order, providing progress reports from employers, and the like. Ms. Hester also described the factors the Board must consider when imposing sanctions, as set out in 22 TEX. ADMIN. CODE § 213.33. In her opinion, revocation of Respondent's license is justified due to Respondent's violations of the prior order, potential harm to the public, a prior history of discipline, and lack of effort.

II. RECOMMENDATION

Based upon the following Findings of Fact and Conclusions of Law, the ALJ recommends that the Board revoke Respondent's registered nursing license.

III. FINDINGS OF FACT

1. Marybeth Vaughan (Respondent) is licensed as a registered nurse and holds License No. 691258 issued by the Texas Board of Nursing (Staff/Board).
2. On July 10, 2007, Staff notified Respondent that it was initiating an investigation of charges against Respondent.
3. On March 3, 2008, Staff notified Respondent that Formal Charges had been filed against her.
4. On July 15 and October 6, 2008, Staff notified Respondent that First Amended Formal Charges had been filed against her.
5. On February 1, 2010, Staff notified Respondent that Second Amended Formal charges had been filed against her.
6. On December 3, 2009, Staff mailed its Notice of Hearing to Respondent at P.O. Box 790, Accomack, Virginia 23301 by United States Post Office certified mail. On February 4, 2010, Staff mailed its First Amended Notice of Hearing to Respondent by certified mail to the same address. Receipt of the certified mailing of the First Amended Notice of Hearing was signed on behalf of Respondent on February 12, 2010.
7. 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.

8. The notice of hearing contained the following language in capital letters in at least 12-point boldface type: "FAILURE TO APPEAR AT THE SCHEDULED HEARING IN PERSON OR BY LEGAL REPRESENTATIVE, REGARDLESS OF WHETHER AN APPEARANCE HAS BEEN ENTERED, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE SECOND AMENDED FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF SHALL BE GRANTED BY DEFAULT."
9. The hearing convened on March 25, 2010, before ALJ Thomas H. Walston, at the hearing facilities of the State Office of Administrative Hearings (SOAH) in Austin, Texas. Jena Abel, Assistant General Counsel, appeared for Staff. Neither Respondent nor anyone acting on her behalf appeared at the hearing.
10. Because Respondent did not appear and was not represented at the hearing, Staff's oral motion for default was granted and the factual allegations set forth in the Second Amended Formal Charges were deemed admitted.
11. On or about February 3, 2007, Respondent failed to comply with the Reinstatement Agreed Order issued to her on January 19, 2006, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Three of the Reinstatement Order which states, in pertinent part: "(3) PETITIONER SHALL, within one (1) year of relicensure, successfully complete a course in nursing jurisprudence"
12. On or about February 3, 2007, Respondent failed to comply with the Reinstatement Agreed Order issued to her on January 19, 2006, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Four of the Reinstatement Order which states, in pertinent part: "(4) PETITIONER SHALL, within one (1) year of relicensure, successfully complete a course in nursing ethics"
13. On or about June 26, 2007, while employed with The Clairmont, Tyler, Texas, Respondent failed to comply with the Reinstatement Agreed Order issued to her on January 19, 2006, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Five of the Reinstatement Order which states, in pertinent part: "(5) PETITIONER SHALL notify all future employers in professional nursing of this Order of the Board and the stipulations on PETITIONER'S license. PETITIONER SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment."
14. On or about July 1, 2007, while employed by The Clairmont, Tyler, Texas, Respondent failed to comply with the Reinstatement Agreed Order issued to her on January 19, 2006, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Six of the Reinstatement Order which states, in pertinent part:

“(6) PETITIONER SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the PETITIONER by the Board, to the Board’s office within five (5) days of employment as a professional nurse.”

15. On or about July 2007 through March 2008, while employed by The Clairmont, Tyler, Texas, Respondent failed to comply with the Reinstatement Agreed Order issued to her on January 19, 2006, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Fourteen of the Reinstatement Order which states, in pertinent part: “(14) PETITIONER SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol”
16. On or about July 2007 through March 2008, while employed by The Clairmont, Tyler, Texas, Respondent failed to comply with the Reinstatement Agreed Order issued to her on January 19, 2006, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Fifteen of the Reinstatement Order which states, in pertinent part: “(15) PETITIONER SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and PETITIONER SHALL provide acceptable evidence of attendance”
17. On or about September 31, 2007, December 31, 2007, and March 31, 2008, while employed by The Clairmont, Tyler, Texas, Respondent failed to comply with the Reinstatement Agreed Order issued to her on January 19, 2006, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Twelve of the Reinstatement Order which states, in pertinent part: “(12) PETITIONER SHALL CAUSE each employer to submit, on forms provided to Petitioner by the Board, periodic reports as to PETITIONER’S capability to practice professional nursing”

IV. CONCLUSIONS OF LAW

1. The Texas Board of Nursing (Board) has jurisdiction over this matter pursuant to TEX. OCC. CODE ANN. (Code) § 301.453.
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, pursuant to TEX. GOV’T CODE ANN. ch. 2003.
3. Notice of the formal charges and of the hearing on the merits was provided to Respondent as required by Code § 301.454 and by the Administrative Procedure Act, TEX. GOV’T CODE ANN. §§ 2001.051 and 2001.052.
4. The Board had the burden of proving the case by a preponderance of the evidence.
5. Based on Findings of Fact Nos. 11 through 17, Respondent is subject to discipline under

Code § 301.452(b)(1) and (10) and 22 TEX. ADMIN. CODE § 217.12(11)(B).

6. Based upon Findings of Fact Nos. 11 through 17 and Conclusion of Law No. 5, the Board should revoke Respondent's registered nurse license.

SIGNED March 30, 2010.



**THOMAS H. WALSTON
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**