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.
Katherine L. Thomas
Executive Director of the Board

DOCKET NUMBER 507-10-0109

IN THE MATTER OF PERMANENT	**§**	**BEFORE THE STATE OFFICE**
CERTIFICATE NO.169745	**§**	**OF**
ISSUED TO CRYSTAL J. CRITTENDEN	**§**	**ADMINISTRATIVE HEARINGS**

OPINION AND ORDER OF THE BOARD

TO: CRYSTAL J. CRITTENDEN
114 S. WRIGHT STREET
KERENS, TX 75144

KATHERINE L. SMITH
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting on April 22-23, 2010, the Board considered the following items: (1) The Proposal for Decision (PFD) regarding the above cited matter; (2) Staff's recommendations that the Board adopt the PFD regarding the license of Crystal J. Crittenden to practice nursing in Texas 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. Further, 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 169745, previously issued to CRYSTAL J. CRITTENDEN, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 169745, previously issued to CRYSTAL J. CRITTENDEN, 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 vocational nursing in the State of Texas.

Entered this 23rd day of April, 2010.

TEXAS BOARD OF NURSING

KATHERINE A. THOMAS, MN, RN

EXECUTIVE DIRECTOR FOR THE BOARD

Attachment: Proposal for Decision; Docket No. 507-10-0109 (December 28, 2009).

BOARD OF NURSING STATE OF TEXAS

SOAH DOCKET NO. 507-10-0109

IN THE MATTER OF PERMANENT	§	BEFORE THE STATE OFFICE
	§	
CERTIFICATE NO. 169745	§	OF
	§	
ISSUED TO CRYSTAL J. CRITTENDEN	§	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 Crystal J. Crittenden. Staff alleges that Ms. Crittenden is subject to discipline under several provisions of the Nursing Practice Act[1] and the Board's rules.[2]

The hearing on the merits was held on November 17, 2009. Ms. Crittenden failed to appear. Staff moved for default. In support of its motion, Staff offered proof that proper notice of the hearing had been provided, and Staff further offered testimony in support of its recommended sanction.[3] The Administrative Law Judge (ALJ) grants Staff's motion for default. Accordingly, Staff's allegations are deemed admitted as true.[4] The ALJ recommends that Respondent's license be revoked.

I. FINDINGS OF FACT

1. Crystal J. Crittenden holds permanent nurse license number 169745 issued by the Texas Board of Nursing (Board).

2. On May 5, 2009, the staff of the Board (Staff) sent formal charges to Ms. Crittenden by certified mail to her official address on record with the Board. The U.S. Postal Service form

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[1] TEX. OCC. CODE ANN. ch. 301(the Nursing Practice Act).

[2] 22 TEX. ADMIN. CODE part 11.

[3] Ms. Denise Benbow, RN, a nursing practice consultant with the Board, testified that revocation is the appropriate remedy in this case based upon (1) the Board's Penalty Matrix; (2) the Board's Disciplinary Sanctions for Fraud, Theft, and Deception; Disciplinary Sanctions for Lying and Deception; and Eligibility and Disciplinary Sanctions for Nurses with Substance Abuse, Misuse, Substance Dependency, or Other Substance Use Disorder; and (3) the Board's Criminal Guidelines. Staff's Exs. 6-10.

[4] 1 TEX. ADMIN. CODE § 155.501.

3811, Domestic Return Receipt, signed by Ms. Crittenden, indicated that she received the charges on May 9, 2009.

3. On September 8, 2009, Staff sent its Notice of Hearing of the November 17, 2009, hearing to Ms. Crittenden by certified mail to her official address on record with the Board.

4. The U.S. Postal Service "Track & Confirm" website indicated that the notice was forwarded and delivered by September 19, 2009.

5. 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.

6. The Notice of Hearing 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 formal charges being admitted as true and the proposed recommendation of Staff shall be granted by default."

7. The hearing on the merits was convened at 9:00 a.m. on November 17, 2009, at the State Office of Administrative Hearings, William P. Clements Office Building, 300 West 15th Street, Austin, Texas.

8. Staff appeared at the hearing through its Assistant General Counsel, R. Kyle Hensley. Ms. Crittenden did not appear, was not represented at the hearing, and did not provide an explanation for her failure to appear.

9. Staff made a motion for default and offered evidence demonstrating jurisdiction, proper notice, and the appropriateness of the remedy sought by Staff.

10. Staff's motion for default was granted.

11. The allegations in Staff's Notice of Hearing are deemed true.

12. On or about April 26, 2008, while employed as a licensed vocational nurse with SMC Health Resources in Fairfield, Texas, and assigned at East Texas Medical Center in Fairfield, Ms. Crittenden obtained Hydrocodone from the Brookshire Brother's Pharmacy in Fairfield under her husband's name, Charles Crittenden, through the use of a fraudulent oral or telephonically communicated prescription, using the name "Lana" and the name and Drug Enforcement Agency number assigned to James Kerbacher, M.D.

13. Ms. Crittenden's conduct as described in Finding of Fact No. 12 was likely to deceive the pharmacy.

14. On or about April 28, 2008, while employed as a Licensed Vocational Nurse with SMC Health Resources in Fairfield, Texas, Ms. Crittenden engaged in the intemperate use of Benzodiazepines in that she produced a specimen for a drug/alcohol screen that resulted in a positive for Alprazolam Metabolite.

15. The use of Benzodiazepines by a Licensed Vocational Nurse, while subject to call or duty, 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.

16. On or about January 9, 2009, Ms. Crittenden pled guilty to fraud (a 3rd degree felony committed on April 26, 2008) in the 87th District Court in Freestone County, Texas, in Cause No. 08-102-CR. Ms. Crittenden's adjudication was deferred and she was placed on community supervision for three years and was ordered to pay a fine and court costs.

II. 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 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 ch. 2003.

3. Proper and timely notice of the hearing was provided. TEX. GOV'T CODE ch. 2001; 22 TEX. ADMIN. CODE § 213.10.

4. Because of Ms. Crittenden's failure to appear at the hearing despite being provided proper notice, default is appropriate and the allegations in Staff's Notice of Hearing are deemed admitted. 1 TEX. ADMIN. CODE § 155.501.

5. Ms. Crittenden's possession of Hydrocodone through the use of a falsified, unauthorized, and fraudulent oral or telephonically communicated prescription as described in Finding of Fact No. 12 is prohibited by Chapter 481 of the Texas Health and Safety Code and constitutes grounds for disciplinary action in accordance with TEX. OCC. CODE § 301.452(b)(10), and is a violation of 22 TEX. ADMIN. CODE § 217.12(1)(A), (6)(A) & (H) & (10)(E).

6. Mr. Crittenden's conduct as described in Finding of Fact No. 14 is prohibited by Chapter 481 of the Texas Health and Safety Code and constitutes grounds for disciplinary action in accordance with TEX. OCC. CODE § 301.452(b)(9) & (10), and is a violation of 22 TEX. ADMIN. CODE § 217.12(1)(A) & (10)(A) & (D).

7. Ms. Crittenden's conduct as described in Finding of Fact No. 16 constitutes grounds for disciplinary action in accordance with TEX. OCC. CODE § 301.452(b)(3) & (10) and is a violation of 22 TEX. ADMIN. CODE § 217.12(13).

8. The Board is authorized to revoke Ms. Crittenden's license. TEX. OCC. CODE § 301.453.

III. RECOMMENDATION

The Board should revoke Ms. Crittenden's license to practice nursing in Texas.

SIGNED December _____, 2009.

KATHERINE L. SMITH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

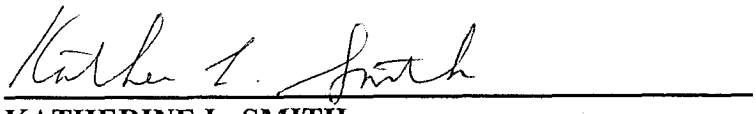
7. Ms. Crittenden's conduct as described in Finding of Fact No. 16 constitutes grounds for disciplinary action in accordance with TEX. OCC. CODE § 301.452(b)(3) & (10) and is a violation of 22 TEX. ADMIN. CODE § 217.12(13).

8. The Board is authorized to revoke Ms. Crittenden's license. TEX. OCC. CODE § 301.453.

III. RECOMMENDATION

The Board should revoke Ms. Crittenden's license to practice nursing in Texas.

SIGNED December 28, 2009.



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