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

BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse License Number 620992 issued to ALLEN LANE FRUGE	§ § §	AGREED ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board accepted the voluntary surrender of Registered Nurse License Number 620992, issued to ALLEN LANE FRUGE, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c) of the Texas Occupations Code.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.

2. Respondent waived informal proceedings, notice and final hearing, and agreed to the entry of this Order.

3. Respondent is currently licensed to practice professional nursing in the State of Texas.

4. Respondent received a Baccalaureate Degree in Nursing from Lamar University, Beaumont, Texas, on May 1, 1995. Respondent was licensed to practice professional nursing in the State of Texas on July 25, 1995.

5. Respondent's employment history is unknown.

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as a Staff Nurse with Tomball Regional Medical Center, Tomball, Texas, and had been in this position for an unknown period of time.

7. On November 29, 2009, while employed with Tomball Regional Medical Center, Tomball, Texas, Respondent kissed Patient TK when Patient TK was under his care in the emergency room of Tomball Regional Medical Center. On March 16, 2010, Respondent admitted the facts above to the Director of the Emergency Department, Tomball Regional Medical Center. Respondent's conduct was a violation of the nurse/client boundaries and caused emotional harm to Patient TK.

8. On or about December 31, 2009, while employed with Tomball Regional Medical Center, in Tomball, Texas, Respondent engaged in sexual intercourse, including oral sex, with Patient TK when her husband was admitted as a patient in the emergency room. Patient TK began bleeding as a result of the sexual contact. On March 16, 2010, Respondent admitted the facts above to Investigator Gary Hammond, Badge Number 0754, Tomball Police Department and the Chief Nursing Office of Tomball Regional Medical Center. Respondent's conduct was a violation of the nurse/client boundaries and caused emotional and physical harm to Patient TK.

9. On or about March 24, 2010, Respondent was arrested by the Tomball Police Department pursuant to a warrant issued by the 182nd Harris County District Court for SEXUAL ASSAULT. The duly organized Grand Jury of Harris County, Texas, subsequently indicted Respondent and presented that Respondent, on or about November 29, 2009, did then and there unlawfully, intentionally, and knowingly cause the penetration of the female sexual organ of Patient TK by placing his sexual organ in the female organ of Patient TK, without the consent of Patient TK; namely, the Respondent compelled Patient TK to submit and participate by the use of physical force and violence. Respondent engaged in dishonorable conduct which caused emotional and physical harm to the public.

9. Charges were filed and mailed to Respondent on April 7, 2010. First Amended Formal Charges were filed on April 14, 2010, and mailed to Respondent on April 15, 2010. Second Amended Formal Charges were filed and mailed to Respondent on September 20, 2010.

10. The Texas Board of Nursing has incurred administrative costs in this matter in an amount exceeding $5,908.00.[1]

11. Respondent, by his signature to this Order, expresses his desire to voluntarily surrender his license to practice nursing in the State of Texas.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.

2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violation of Section 301.452(b)(10) & (13), TEXAS OCCUPATIONS CODE, and 22 TEX. ADMIN. CODE §§217.11(1)(J) and 217.12(1)(A) & (B), (4) & (6)(C), (D) & (E) & (13).

4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Registered License Number 620992, heretofore

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[1]*See* Affidavit of Estimated Administrative Costs.

issued to ALLEN LANE FRUGE, including revocation of Respondent's license to practice nursing in the State of Texas.

5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.

6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.

7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Registered Nurse License Number 620992, heretofore issued to ALLEN LANE FRUGE, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL immediately deliver the wallet-sized license, heretofore issued to ALLEN LANE FRUGE, to the office of the Texas Board of Nursing.

2. RESPONDENT SHALL NOT practice professional nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying as himself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.

3. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order;

4. RESPONDENT SHALL NOT petition for reinstatement of licensure until RESPONDENT has paid in full the actual administrative costs incurred by the Texas Board of Nursing in this matter. Proof of these costs will be provided to RESPONDENT pursuant to an affidavit of costs in an amount greater than or equal to $5,908.00 but less than $8,000; and

5. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. This Order constitutes a settlement agreement under Rule 408 of the Texas Rules of Evidence. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 19th day of October, 2010.

ALLEN LANE FRUGE, Respondent

Sworn to and subscribed before me this 19th day of October, 2010.

KALA S. KILGORE
NOTARY PUBLIC
STATE OF TEXAS
COMM. EXPIRES 02-09-2011

Notary Public in and for the State of Texas

Approved as to form and substance.

Louis Leichter, Attorney for Respondent

Signed this 20 day of Oct, 2010.

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Registered Nurse License Number 620992, previously issued to ALLEN LANE FRUGE.

Effective this 21ST day of October, 2010.

Katherine A. Thomas, MN, RN
Executive Director on behalf
of said Board

In the Matter of Permanent License Number 620992, Issued to ALLEN LANE FRUGE, Respondent	**§ § §**	**BEFORE THE TEXAS BOARD OF NURSING**

ORDER OF TEMPORARY SUSPENSION

TO: Allen Lane Fruge
c/o Nancy Roper Willson, Attorney
408 West Eighth St., suite 206
Dallas, TX 75208

Allen Lane Fruge
c/o Jeremy Finch, Attorney
223 Simonton St.
Conroe, TX 77301

A public meeting was held on April 14, 2010, of the Texas Board of Nursing (BON), at 333 Guadalupe, Room 2-225, Austin, Texas, in which the Temporary Suspension of Permanent License Number 620992, issued to ALLEN LANE FRUGE was considered pursuant to Tex. Occ. Code Ann. § 301.455. Staff of the Texas Board of Nursing appeared and presented information and evidence concerning the conduct of ALLEN LANE FRUGE and whether his continued practice as a professional nurse would constitute a continuing and imminent threat to the public welfare.

After review and due consideration of the evidence and information presented and the questions, the Board finds that the following charges are substantiated:

CHARGE I.

On November 29, 2009, while employed with Tomball Regional Medical Center, Tomball, Texas, Respondent sexually exploited Patient TK by kissing her when Patient TK was under his care in the emergency room of Tomball Regional Medical Center. On March 16, 2010, Respondent admitted the facts above to the Chief Nursing Office of Tomball Regional Medical Center. Respondent's conduct was a gross violation of the nurse/client boundaries and caused emotional and physical harm to Patient TK.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10) & (13), Texas Occupations Code, and is a violation of and 22 TEX. ADMIN. CODE §§217.11(1)(J) and 217.12(1)(A) & (B), (4) & (6)(C), (D) & (E).

CHARGE II.

On or about December 31, 2009, while employed with Tomball Regional Medical Center, Tomball, Texas, Respondent engaged in sexual intercourse, including oral sex, with Patient TK when her husband was admitted as a patient in the emergency room. Patient TK began bleeding as a result of the sexual contact. On March 16, 2010, Respondent admitted the facts above to Investigator Gary Hammond, Badge Number 0754, Tomball Police Department and the Chief Nursing Office of Tomball Regional Medical Center. Respondent's conduct was a gross violation of the nurse/client boundaries and caused emotional and physical harm to Patient TK.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10) & (13), Texas Occupations Code, and is a violation of and 22 TEX. ADMIN. CODE §§217.11(1)(J) and 217.12(1)(A) & (B), (4) & (6)(C), (D) & (E).

CHARGE III.

On or about March 24, 2010, Respondent was arrested by the Tomball Police Department pursuant to a warrant issued by the 182nd Harris County District Court for SEXUAL ASSAULT. The Harris County District Attorney's Office found probable cause that Respondent unlawfully, intentionally, and knowingly caused the penetration of the female sexual organ of Patient TK by placing his sexual organ in the female organ of Patient TK, without the consent of Patient TK; namely, the Respondent compelled Patient TK to submit and participate by the use of physical force and violence. Respondent engaged in criminal and dishonorable conduct which caused emotional and physical harm to the public.

The Texas Board of Nursing further finds, after review and due consideration of the evidence and information presented during the open meeting that given the nature of the allegations concerning Respondent's fitness to practice, the continued practice of vocational nursing by ALLEN LANE FRUGE constitutes a continuing and imminent threat to public welfare and that the temporary suspension of the License No. 620992 is justified pursuant to TEX. OCC. CODE ANN. § 301.455.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 620992, issued to ALLEN LANE FRUGE, to practice professional nursing in the State of Texas be, and the same is hereby, SUSPENDED IMMEDIATELY in accordance with TEX. OCC. CODE ANN. § 301.455.

IT IS FURTHER ORDERED that a probable cause hearing be conducted in accordance with Section 301.455(c) not later than fourteen (14) days following the date of the entry of this order, and a final hearing on the matter be conducted in accordance with 301.455(d) not later than the 61st day following the date of the entry of this order.

Entered this 14th day of April, 2010.

TEXAS BOARD OF NURSING

BY: Katherine A. Thomas

KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR

DOCKET NO. 507-10-3720

IN THE MATTER OF	§	BEFORE THE STATE OFFICE
	§	
PERMANENT CERTIFICATE	§	
	§	OF
NUMBER 620992 ISSUED TO	§	
	§	
ALLEN LANE FRUGE	§	ADMINISTRATIVE HEARINGS

ORDER NO. 2
PROBABLE CAUSE ORDER

On April 14, 2010, the Texas Board of Nursing (Board/Staff) temporarily suspended the license of Allen Lane Fruge (Respondent), a registered nurse, after determining from information presented that his continued practice, pending a full evidentiary hearing, posed a continuing and imminent threat to the public welfare. After hearing the evidence at the preliminary hearing, the Administrative Law Judge (ALJ) has determined there is probable cause to believe that Respondent's continued practice poses a continuing and imminent threat to the public welfare and that his license shall remain suspended pending a final hearing.

PROCEDURAL HISTORY, NOTICE & JURISDICTION

On April 28, 2010, a public hearing on this matter was convened before ALJ Michael J. Borkland at the hearings facilities of the State Office of Administrative Hearings (SOAH), 300 West 15th Street, Austin, Texas. Nikki R. Hopkins and James W. Johnston, attorneys, represented the Board at the hearing. Respondent appeared through his attorneys, Louis Leichter and Dan Lype. There are no contested issues of notice or jurisdiction in this proceeding.

REASONS FOR DECISION

A. Allegations

In its First Amended Formal Charges, Staff alleged the following acts as a basis for its licensure action, including the continued temporary suspension of Respondent's license:

- On November 29, 2009, while employed with Tomball Regional Medical Center, Tomball, Texas, Respondent exploited Patient TK by kissing her when Patient TK was under his care in the emergency room of Tomball Regional Medical Center.

- On or about December 31, 2009, while employed with Tomball Regional Medical Center, Tomball, Texas, Respondent engaged in sexual intercourse, including oral sex, with Patient TK when her husband was admitted as a patient in the emergency room.

- On or about March 24, 2010, Respondent was arrested by the Tomball Police Department pursuant to a warrant issued by the 182nd Harris County District Court for sexual assault. The Harris County District Attorney's Office found probable cause that Respondent unlawfully, intentionally, and knowingly caused the penetration of the female sexual organ of Patient TK by placing his sexual organ in the female organ of Patent TK, without the consent of Patient TK; namely, the Respondent compelled Patient TK to submit and participate by the use of physical force and violence.

B. Burden of Proof and Relevant Definitions

Staff had the burden of proof. The parties were given the opportunity to make a *de novo* presentation of the evidence concerning the propriety of the temporary suspension.

Neither the Act nor the Board's rules appear to define the operative terms "probable cause," "continuing," "imminent," or "threat." Lacking any statutory definition, the ALJ will use the ordinary, dictionary definition of those terms, with guidance from analogous statutes and case law. Based on the following definitions, the ALJ finds the Act's "continuing and imminent threat" language requires Staff to show a reasonable basis for believing that Respondent committed the violations enumerated in the Order of Temporary Suspension, and that his continued practice would pose a constant and immediate danger to the public welfare.

Most commonly used in the criminal law, the "probable cause" standard requires a determination of whether a reasonable basis exists for believing a violation of the law occurred. *See Black's Law Dictionary, 7th ed. (1999).* Applied in this administrative context, the ALJ finds the probable cause standard requires a determination of whether a reasonable basis exists to

believe Respondent would be a continuing and imminent threat to the public welfare, based on his actions at the Tomball Regional Medical Center.

"Continuing" has been defined as "constant, needing no renewal, and enduring"; while "imminent" means "ready to take place, near at hand, and menacingly near." *Webster's Third International Dictionary.* The term "imminently dangerous" is defined as "a person, behavior, or thing reasonably certain to place life and limb in peril;" while a "threat" is "a person that might well cause harm." *Black's Law Dictionary, 7th ed. (1999).* An analogous definition found in the Texas Medical Practices Act, TEX. OCC. CODE § 151.002(a)(2), finds a physician to be a "continuing threat" when ". . . the acts or omissions of the physician through his lack of competence, impaired status, or failure to care adequately for his patients constitute a real and present danger to the health of his patients."

C. Issue

The issue to be decided is whether probable cause exists to believe that Respondent would pose a continuing and imminent threat to the public welfare if allowed to continue practicing under the license issued to him by the Board.

D. Evidence Presented at the Probable Cause Hearing

Staff's exhibits, which were admitted, included jurisdictional documents,[1] an offense report,[2] medical records,[3] an affidavit of Respondent's former supervisor,[4] the criminal complaint,[5] the Board's disciplinary sanctions for sexual misconduct,[6] and other documents.[7] Staff presented the

[1] Exs. 1, 2, 3, 5, 6, and 7.
[2] Ex. 10.
[3] Ex. 12.
[4] Ex. 11.
[5] Ex. 13.
[6] Ex. 14.
[7] Exs. 4, 8, and 9.

testimony of five witnesses, including Cynthia Smith, the Board's supervising investigator; Detective Gary Hammond, the detective who investigated the criminal complaint for the Tomball Police Department; Robert White, RN, Respondent's supervisor from the Tomball Regional Medical Center; Bonnie Cone, a nurse consultant for the Board; and Dr. Mathew Ferrara, a psychologist who specializes in sex offender treatment.

The evidence established that there is probable cause to believe that Respondent committed the acts alleged in Charge I and Charge II of the First Amended Formal Charges that led to the temporary suspension of his license. While it has not been established that Respondent compelled Patient TK to submit and participate in a sexual encounter by the use of physical force and violence, there is probable cause to believe that Respondent violated the Nursing Practice Act, TEX. OCC. CODE ch. 301, and the Board Rules, 22 TEX. ADMIN. CODE §§ 217.11 and 217.12.

Dr. Ferrara testified that he reviewed the records presented in this case, and, based on that review he believes Respondent is a continuing and imminent threat to the public. In his opinion, Respondent is likely to commit future acts of sexual misconduct based on the poor judgment exhibited by Respondent when he responded to TK's kiss and then when he escalated that encounter to oral and vaginal sex after having known TK for less than 24 hours. Dr. Ferrara also pointed out that due to Respondent's position as an emergency room nurse, he could not have had a consensual relationship with TK when either she was a patient or she was in the emergency room with her husband.

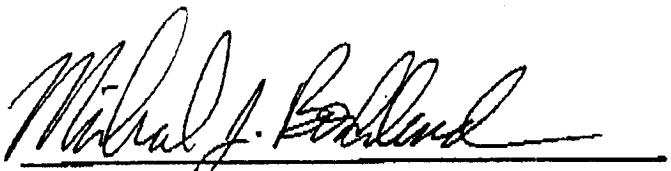
E. Conclusion

The ALJ finds there is probable cause to believe that Respondent violated the Nursing Practice Act, TEX. OCC. CODE ch. 301 and the Board Rules found at 22 TEX. ADMIN. CODE §§ 217.11 and 217.12. Further, the ALJ finds there is probable cause to believe that Respondent is a continuing and imminent threat to the public welfare.

This order does not include findings of fact, conclusions of law, and a recommendation for a final sanction, if any. A proposal for decision will be issued after the final hearing on the merits.

Based on the foregoing, **IT IS ORDERED** that the registered nurse license of Allen Lane Fruge shall remain **SUSPENDED,** pursuant to TEX. OCC. CODE § 301.455.

SIGNED May 3, 2010.



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

In the Matter of Permanent License	§	**BEFORE THE TEXAS**
Number 620992, Issued to	§	
ALLEN LANE FRUGE, Respondent	§	**BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, ALLEN LANE FRUGE, is a Registered Nurse holding license number 620992, which is in Current 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 March 16, 2010, while employed with Tomball Regional Medical Center, Tomball, Texas, Respondent admitted to Investigator G. Hammond, Badge Number 0754, Tomball Police Department and the Chief Nursing Office of Tomball Regional Medical Center, that he had sexually exploited Patient SJ, when she was a patient at Tomball Regional Medical Center on November 29, 2009. Respondent admitted that he had kissed Patient SJ on November 29, 2009, and had engaged in sexual intercourse, including oral sex, with Patient SJ, when her husband was a patient in the emergency room on or about December 31, 2009. Respondent's conduct was a gross violation of the nurse/client boundaries and caused emotional and physical harm to Patient SJ.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10) & (13), TEXAS OCCUPATIONS CODE, and is a violation of and 22 TEX. ADMIN. CODE §§217.11(1)(J) and 217.12(1)(A) & (B), (4) & (6)(C), (D) & (E).

CHARGE II.

On or about March 24, 2010, Respondent was arrested by the Tomball Police Department pursuant to a warrant issued by the 182nd Harris County District Court for SEXUAL ASSAULT AND FORCIBLE RAPE. Respondent engaged in criminal and/or dishonorable conduct which caused emotional and physical harm to the public.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), TEXAS OCCUPATIONS CODE, and is a violation of and 22 TEX. ADMIN. CODE §217.12(1)(A) & (B), (4) & (6)(C), (D) & (E) & (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. 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

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).

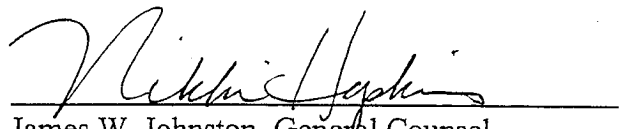
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.state.tx.us.

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 Sexual Misconduct, which can be found at the Board's website, www.bon.state.tx.us.

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 7th day of April, 2010.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
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Jena Renee Koslan Abel, Assistant General Counsel
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Lance Robert Brenton, Assistant General Counsel
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Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847
Nikki Hopkins, Assistant General Counsel
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0999/D

In the Matter of Permanent License	§	BEFORE THE TEXAS
Number 620992, Issued to	§	
ALLEN LANE FRUGE, Respondent	§	BOARD OF NURSING

FIRST AMENDED FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, ALLEN LANE FRUGE, is a Registered Nurse holding license number 620992, which is in Current 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 November 29, 2009, while employed with Tomball Regional Medical Center, Tomball, Texas, Respondent sexually exploited Patient TK by kissing her when Patient TK was under his care in the emergency room of Tomball Regional Medical Center. On March 16, 2010, Respondent admitted the facts above to the Chief Nursing Office of Tomball Regional Medical Center. Respondent's conduct was a gross violation of the nurse/client boundaries and caused emotional and physical harm to Patient TK.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10) & (13), Texas Occupations Code, and is a violation of and 22 TEX. ADMIN. CODE §§217.11(1)(J) and 217.12(1)(A) & (B), (4) & (6)(C), (D) & (E).

CHARGE II.

On or about December 31, 2009, while employed with Tomball Regional Medical Center, Tomball, Texas, Respondent engaged in sexual intercourse, including oral sex, with Patient TK when her husband was admitted as a patient in the emergency room. Patient TK began bleeding as a result of the sexual contact. On March 16, 2010, Respondent admitted the facts above to Investigator Gary Hammond, Badge Number 0754, Tomball Police Department and the Chief Nursing Office of Tomball Regional Medical Center. Respondent's conduct was a gross violation of the nurse/client boundaries and caused emotional and physical harm to Patient TK.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10) & (13), Texas Occupations Code, and is a violation of and 22 TEX. ADMIN. CODE §§217.11(1)(J) and 217.12(1)(A) & (B), (4) & (6)(C), (D) & (E).

CHARGE III.

On or about March 24, 2010, Respondent was arrested by the Tomball Police Department pursuant to a warrant issued by the 182nd Harris County District Court for SEXUAL ASSAULT. The Harris County District Attorney's Office found probable cause that Respondent unlawfully, intentionally, and knowingly caused the penetration of the female sexual organ of Patient TK by placing his sexual organ in the female organ of Patient TK, without the consent of Patient TK; namely, the Respondent compelled Patient TK to submit and participate by the use of physical force and violence. Respondent engaged in criminal and dishonorable conduct which caused emotional and physical harm to the public.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupation Code, and is a violation of and 22 TEX. ADMIN. CODE §217.12(1)(A) & (B), (4) & (6)(C), (D) & (E) & (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, if applicable. 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 Sexual Misconduct, which can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that, should Respondent be convicted of a felony listed in TEX. OCC. CODE § 301.4535, Staff will seek revocation Respondent's license.

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 14th day of April, 2010.

TEXAS BOARD OF NURSING

Nikki Hopkins

James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Renee Koslan Abel, Assistant General Counsel
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0999/D

In the Matter of Permanent License	§	**BEFORE THE TEXAS**
Number 620992, Issued to	§	
ALLEN LANE FRUGE, Respondent	§	**BOARD OF NURSING**

SECOND AMENDED FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, ALLEN LANE FRUGE, is a Registered Nurse holding license number 620992, which is in Current 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 November 29, 2009, while employed with Tomball Regional Medical Center, Tomball, Texas, Respondent sexually exploited Patient TK by kissing her when Patient TK was under his care in the emergency room of Tomball Regional Medical Center. On March 16, 2010, Respondent admitted the facts above to the Chief Nursing Office of Tomball Regional Medical Center. Respondent's conduct was a gross violation of the nurse/client boundaries and caused emotional and physical harm to Patient TK.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10) & (13), Texas Occupations Code, and is a violation of and 22 TEX. ADMIN. CODE §§217.11(1)(J) and 217.12(1)(A) & (B), (4) & (6)(C), (D) & (E).

CHARGE II.

On or about December 31, 2009, while employed with Tomball Regional Medical Center, Tomball, Texas, Respondent engaged in sexual intercourse, including oral sex, with Patient TK when her husband was admitted as a patient in the emergency room. Patient TK began bleeding as a result of the sexual contact. On March 16, 2010, Respondent admitted the facts above to Investigator Gary Hammond, Badge Number 0754, Tomball Police Department and the Chief Nursing Office of Tomball Regional Medical Center. Respondent's conduct was a gross violation of the nurse/client boundaries and caused emotional and physical harm to Patient TK.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10) & (13), Texas Occupations Code, and is a violation of and 22 TEX. ADMIN. CODE §§217.11(1)(J) and 217.12(1)(A) & (B), (4) & (6)(C), (D) & (E).

CHARGE III.

On or about March 24, 2010, Respondent was arrested by the Tomball Police Department pursuant to a warrant issued by the 182nd Harris County District Court for SEXUAL ASSAULT. The duly organized Grand Jury of Harris County, Texas, subsequently indicted Respondent and presented that Respondent, on or about November 29, 2009, did then and there unlawfully, intentionally, and knowingly cause the penetration of the female sexual organ of Patient TK by placing his sexual organ in the female organ of Patient TK, without the consent of Patient TK; namely, the Respondent compelled Patient TK to submit and participate by the use of physical force and violence. Respondent engaged in criminal and dishonorable conduct which caused emotional and physical harm to the public.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupation Code, and is a violation of and 22 TEX. ADMIN. CODE §217.12(1)(A) & (B), (4) & (6)(C), (D) & (E) & (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, if applicable. 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.

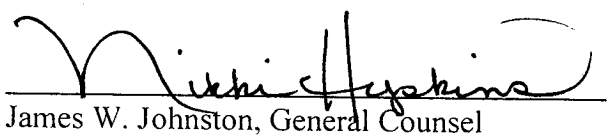
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Guidelines for Criminal Conduct and on Adopted Disciplinary Sanction Policies for Sexual Misconduct, which can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that, should Respondent be convicted of a felony listed in TEX. OCC. CODE § 301.4535, Staff will seek revocation Respondent's license.

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 20th day of September, 2010.

TEXAS BOARD OF NURSING



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