

DOCKET NUMBER 507-11-4265

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 169393
ISSUED TO
PAUL ZAVALA

§ BEFORE THE STATE OFFICE
§ OF
§ ADMINISTRATIVE HEARINGS
§



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.
Patricia P. Thomas
Executive Director of the Board

OPINION AND ORDER OF THE BOARD

TO: PAUL ZAVALA
3209 FAIR OAKS DRIVE
CORPUS CHRISTI, TX 78410

JOANNE SUMMERHAYS
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting on October 27-28, 2011, 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 Paul Zavala 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 169393, previously issued to PAUL ZAVALA, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privileges, if any, to practice nursing in the State of Texas.

Entered this 28th day of October, 2011.

TEXAS BOARD OF NURSING

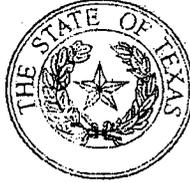


KATHERINE A. THOMAS, MN, RN

EXECUTIVE DIRECTOR FOR THE BOARD

Attachment: Proposal for Decision; Docket No. 507-11-4265 (June 24, 2011).

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

June 24, 2011

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. 507-11-4265; Texas Board of Nursing v. Paul Zavala

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,

A handwritten signature in cursive script that reads "Joanne Summerhays".

Joanne Summerhays
Administrative Law Judge

JS/llg

Enclosures

XC: R. Kyle Hensley, Attorney, Texas Board of Nursing, 333 Guadalupe, Tower III, Ste. 460, Austin, TX
78701 – VIA INTER-AGENCY
Dina Flores, Legal Assistant Texas Board of Nursing, 333 Guadalupe, Tower III, Ste. 460, Austin, TX
78701 – VIA INTER-AGENCY
Paul Zavala, 3209 Fair Oaks Dr., Corpus Christi, TX 78410 -- VIA REGULAR MAIL

SOAH DOCKET NO. 507-11-4265

TEXAS BOARD OF NURSING,	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
v.	§	OF
	§	
PAUL ZAVALA,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

This matter was scheduled for hearing at the request of the Texas Board of Nursing (Board/ Staff). Despite being sent proper notice, Paul Zavala (Respondent) did not appear and was not represented at the hearing. For the reasons set out in the Findings of Fact and Conclusions of Law, the Administrative Law Judge finds that the relief requested by the Board should be granted on a default basis.

FINDINGS OF FACT

1. Notice of the hearing was mailed to Respondent at Respondent's address of record at least ten days prior to the scheduled hearing.
2. 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.
3. The notice of hearing contained a statement in at least 12-point, boldface type that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice of hearing might be granted by default against a party that failed to appear at the hearing.
4. The hearing was held and the record closed on June 23, 2011.
5. Respondent did not appear at the scheduled hearing and was not represented at the hearing.
6. Staff moved for a default, which was granted.

7. The factual allegations set out in the notice of hearing are deemed admitted and are incorporated by reference into this Finding of Fact.

CONCLUSIONS OF LAW

1. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with findings of fact and conclusions of law. TEX. GOV'T CODE ch. 2003.
2. The Texas Board of Nursing (Board) has jurisdiction over this matter.
3. Proper and timely notice was provided to Respondent in accordance with TEX. GOV'T CODE ch. 2001 and 1 TEX. ADMIN. CODE ch. 155.
4. The allegations in the notice of hearing were properly deemed admitted. 1 TEX. ADMIN. CODE § 155.501.
5. Staff has established the basis for revocation of Respondent's license as alleged in the notice of hearing, which is incorporated into this Conclusion of Law. 22 TEX. ADMIN. CODE § 213.33(m).
6. The Board is entitled to revoke Respondent's license.

SIGNED June 23, 2011.



**JOANNE SUMMERHAYS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

TEXAS BOARD OF NURSING

In the Matter of Permanent

Certificate Number 169393

Issued to PAUL ZAVALA

NOTICE OF HEARING

SOAH Docket Number 507-11-4265

Respondent: Paul Zavala
3209 Fair Oaks Dr.
Corpus Christi, TX 78410

In accordance with Section 2001.051 et seq., Texas Government Code, you are hereby notified that a hearing will be held before an Administrative Law Judge (ALJ), beginning on the **23rd day of June, 2011, at 9:00 a.m.**, at the State Office of Administrative Hearings, William P. Clements Building, 300 W. 15th Street, 4th Floor, Austin, Texas, regarding the First Amended Formal Charges previously filed and served upon you by the Texas Board of Nursing. The First Amended Formal Charges are attached and incorporated by reference as a part of this notice.

The hearing is to be held under the legal authority and jurisdiction of the Administrative Procedures Act, Texas Government Code §2001 et seq.; Title I Part VII Texas Administrative Code Chapter 155; the Nursing Practice Act, Texas Occupations Code §301.451 through §301.555; and the Board of Nursing Rule 213 at 22 Texas Administrative Code.

The particular sections of statutes and rules involved in determining the charges are stated in the attached First Amended Formal Charges in connection to the facts or conduct alleged.

Pursuant to 22 TEX. ADMIN. CODE §213.22, you are required to enter an appearance in this proceeding by filing a written answer or other responsive pleading with the State Office of Administrative Hearings, P.O. Box 13025, Austin, Texas, 78711-3025, with a copy to the staff (General Counsel, Texas Board of Nursing, 333 Guadalupe, Suite 3-460, Austin, Texas 78701). **FAILURE TO ENTER AN APPEARANCE BY FILING A WRITTEN ANSWER OR OTHER RESPONSIVE PLEADING TO THE FIRST AMENDED FORMAL CHARGES WITHIN 20 DAYS OF THE DATE THIS NOTICE WAS MAILED SHALL ENTITLE THE STAFF TO A CONTINUANCE AT THE TIME OF THE HEARING.** "Staff" is defined by 22 TEX. ADMIN. CODE §213.1(41). Continuances are set by the Administrative Law Judge.

Paul Zavala
April 6, 2011
Page 2 of 2

You have the right to appear at this hearing and to have legal representation at the hearing at your own expense. **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 FIRST AMENDED FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF SHALL BE GRANTED BY DEFAULT.**

If it is determined that the First Amended Formal Charges are substantiated, then any prior disciplinary action that has been taken against your license will be considered when determining the appropriate sanction for these violation(s).

Issued, dated, and mailed this the 6th day of April, 2011.

TEXAS BOARD OF NURSING



By: _____

Katherine A. Thomas

Katherine A. Thomas, MN, RN
Executive Director

In the Matter of Permanent License § BEFORE THE TEXAS
Number 169393, Issued to §
PAUL ZAVALA, Respondent § BOARD OF NURSING

FIRST AMENDED FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, PAUL ZAVALA, is a Vocational Nurse holding license number 169393, 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 or about January 11, 2011, Respondent plead guilty to "Fraudulent Possession of a Controlled Substance/Prescription Schedule III/IV," a 3rd Degree Felony (committed on February 17, 2008), in the Nueces County Judicial District Court, Corpus Christi, Texas, under Cause Number 10CR3055. An adjudication of guilt was deferred, and Respondent was placed on probation for a period of sixty (60) months.

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(11)(B)&(13).

CHARGE II.

On or about January 11, 2011, Respondent plead guilty to "Fraudulent Possession of a Controlled Substance/Prescription Schedule III/IV," a 3rd Degree Felony (committed on July 10, 2008), in the Nueces County Judicial District Court, Corpus Christi, Texas, under Cause Number 10CR3055. An adjudication of guilt was deferred, and Respondent was placed on probation for a period of sixty (60) months.

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(11)(B)&(13).

CHARGE III.

On or about January 11, 2011, Respondent plead guilty to "Tampering with a Government Record," a State Jail Degree Felony (committed on February 17, 2008), in the Nueces County Judicial District Court, Corpus Christi, Texas, under Cause Number 10CR3055. An adjudication of guilt was deferred, and Respondent was placed on probation for a period of sixty (60) months.

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 IV.

On or about January 11, 2011, Respondent plead guilty to "Tampering with a Government Record," a State Jail Degree Felony (committed on July 10, 2008), in the Nueces County Judicial District Court, Corpus Christi, Texas, under Cause Number 10CR3055. An adjudication of guilt was deferred, and Respondent was placed on probation for a period of sixty (60) months.

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. 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, and for Fraud, Theft & Deception, 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.

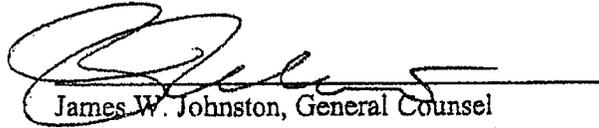
NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Orders which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order dated October 26, 2007.

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Filed this 1st day of February, 2011.

TEXAS BOARD OF NURSING



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

State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel

State Bar No. 24066924

Robert Kyle Hensley, Assistant General Counsel

State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel

State Bar No. 24052269

John F. Legris, Assistant General Counsel

State Bar No. 00785533

TEXAS BOARD OF NURSING

333 Guadalupe, Tower III, Suite 460

Austin, Texas 78701

P: (512) 305-6824

F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Board dated October 26, 2007

0999/D

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of License Number 169393 § AGREED
issued to PAUL ZAVALA § ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of PAUL ZAVALA, Vocational Nurse License Number 169393, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Sections 301.452(b)(2) & (10) and 302.402(a) (2) & (10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on June 14, 2007, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Del Mar College, Corpus Christi, Texas, on August 19, 1998. Respondent was licensed to practice vocational nursing in the State of Texas on September 30, 1998.
5. Respondent's vocational nursing employment history is unknown.
6. On April 10, 2001, Respondent completed an application for licensure renewal and answered "No" to the question which reads: *"Were you convicted of a misdemeanor other than a minor traffic violation since your last renewal?"*

7. On April 19, 2005, Respondent completed an application for licensure renewal and answered "No" to the question which reads as follows: *"Have you been convicted, adjudged guilty by a court, plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests (excluding minor traffic violations)? This includes expunged offenses and deferred adjudications with or without prejudice of guilt."*
8. Respondent was requested to comply with a random criminal background audit check, and the results revealed the following non disclosed criminal history, to wit:
 - A. On or about July 30, 2000, Respondent was convicted of the misdemeanor offense of Driving While Intoxicated. Respondent was sentenced to ninety (90) days of confinement which was suspended and received and one (1) year of probation, and was assessed a fine in the amount of five hundred dollars (\$500.00).
 - B. On or about December 24, 2003, Respondent was convicted of the misdemeanor offense of Obstruction of a Public Highway. Respondent received one (1) year of probation and was assessed a fine in the amount of one thousand five hundred dollars (\$1,500.00) and fifty (50) hours of community service.

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 Sections 301.452(b)(2) & (10) and 302.402(a) (2) & (10), Texas Occupations Code, and 22 Tex. Admin. Code §§217.12(6)(I) and 239.11(8) (eff. to 9/28/04).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 169393, heretofore issued to PAUL ZAVALA, including revocation of Respondent's license to practice vocational nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of a Fine with Remedial

Education, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Vocational Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

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

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding Sexual Misconduct, Fraud, Theft and Deception, Nurses with Chemical Dependency, and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT's successful completion of the course. This course shall be taken in addition

to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bne.state.tx.us/about/stipscourses.html>*

(2) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500.00). RESPONDENT SHALL pay this fine within forty-five (45) days of entry of this Order. Payment is to be made directly to the Board of Nurse Examiners in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice vocational nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation 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 when this Order becomes final and the terms of this Order become effective, a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 21 day of September, 2007.

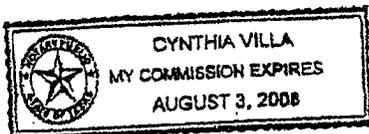
Paul Zavala
PAUL ZAVALA, Respondent

Sworn to and subscribed before me this 21 day of September, 2007.

SEAL

Cynthia Villa

Notary Public in and for the State of Texas



Signed this 21 day of September, 2007.

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby ratify and adopt the Agreed Order that was signed on the 21st day of September, 2007, by PAUL ZAVALA, Vocational Nurse License Number 169393, and said Order is final.

Effective this 26th day of October, 2007.



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