

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 438128
ISSUED TO
ROSEMARIE JOYCES HOLDER

§
§
§
§
§
§
§
§

BEFORE THE ELIGIBILITY
AND DISCIPLINARY
COMMITTEE
OF THE 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.
Patricia P. Roman
Executive Director of the Board

ORDER OF THE BOARD

TO: Rosemarie Joyces Holder
214 W. Brown Street
Cleburne, TX 76031

During open meeting held in Austin, Texas, on Tuesday, May 10, 2011, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee of the Texas Board of Nursing finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's license to practice professional nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Eligibility and Disciplinary Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing [22 TEX. ADMIN.CODE § 213.16(j)]. All parties have a right to judicial review of this Order.


All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 438128, previously issued to ROSEMARIE JOYCES HOLDER, to practice professional 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 nurse licensure compact privileges, if any, to practice professional nursing in the State of Texas.

Entered this 10th day of May, 2011.

TEXAS BOARD OF NURSING

BY: 
KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Attachment: Formal Charge filed March 2, 2011.

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of May, 2011, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

Rosemarie Joyces Holder
214 W. Brown Street
Cleburne, TX 76031



BY:

KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of Permanent License § BEFORE THE TEXAS
Number 438128, Issued to §
ROSEMARIE JOYCES HOLDER, Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, ROSEMARIE JOYCES HOLDER, is a Registered Nurse holding license number 438128, which is in Delinquent 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 April 21, 2004, Respondent's license to practice professional nursing in the State of Washington was issued a Stipulation to Informal Disposition by the State of Washington Department of Health, Olympia, Washington.

A copy of the Stipulation to Informal Disposition, dated April 21, 2004, is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8),(10)&(13), Texas Occupations Code.

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CONTINUED ON NEXT PAGE

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 Nursing Practice Act, Chapter 301, Texas Occupations Code and 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 (\$1,200.00).

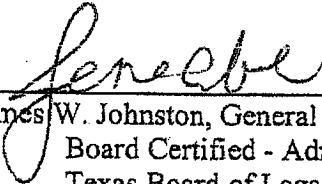
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that, 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/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Washington Stipulation to Informal Disposition, dated April 21, 2004.

Filed this 2nd day of March, 2011.

TEXAS BOARD OF NURSING


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

Jena 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: Stipulation to Informal Disposition of the Washington Board, dated April 21, 2004

D/2010.12.28

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE COMMISSION

FILED
MAR 19 2004
Adjudicative Clerk Office


In the Matter of the License to Practice)
as a Registered Nurse of:) Docket No. 04-03-A-1047RN
)
ROSEMARIE HOLDER, RN) STATEMENT OF ALLEGATIONS
Credential No. RN00075577,) AND SUMMARY OF EVIDENCE
)
Respondent.)
_____)

The Health Services Consultant of the Nursing Care Quality Assurance Commission (Commission), on designation by the Commission, makes the allegations below, which are supported by evidence contained in program case file No. 2003-05-0066RN. Any patients referred to in this Statement of Allegations and Summary of Evidence are identified in an attached Confidential Schedule.

Section 1: ALLEGED FACTS

- 1.1 Rosemarie Holder, RN, Respondent, was issued a license to practice as a Registered Nurse by the state of Washington in January 1982.
- 1.2 The following allegation occurred at Rosemarie Holder Adult Family Home in Brewster, Washington (facility). Respondent is the owner / operator and functions as a registered nurse at the facility.
- 1.3 On or about May 20, 2003, Respondent delegated unlicensed caregivers to use "dial-a-dose" insulin pens to administer insulin to Patient [REDACTED]

I certify that this is a true and correct copy of the Document on file with the State of Washington, Department of Health, Adjudicative Clerk Office

29 November 2010

Signature, Authorized Representative

Section 2: SUMMARY OF EVIDENCE

- 2.1 DSHS Complaint Intake and Routing Form dated May 22, 2003, including a Statement of Deficiencies / Plan of Correction dated May 23, 2003 (16 pages).
- 2.2 Patient [REDACTED] medical records (22 pages).
- 2.3 Respondent's statement dated November 10, AD 2003, including attachments (6 pages).

Section 3: ALLEGED VIOLATIONS

- 3.1 The facts alleged in paragraph 1.3, if proven, would constitute unprofessional conduct in violation of RCW 18.130.180(7), (10), (14) and WAC 246-840-710(3)(a), (b) which provide in part:

RCW 18.130.180 Unprofessional conduct. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

...

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

...

(10) Aiding or abetting an unlicensed person to practice when a license is required;

...

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

...

WAC 246-840-710. Violations of standards of nursing conduct or practice. The following conduct may subject a nurse to disciplinary action under the Uniform Disciplinary Act, chapter 18.130 RCW:

(3) Failure to adhere to the standards enumerated in WAC 246-840-700(2) which may include:

...

(a) Delegating nursing care function or responsibilities to a person the nurse knows or has reason to know lacks the ability or knowledge to perform the function or responsibility, or delegating to unlicensed persons those functions or responsibilities the nurse knows or has reason to know are to be performed only by licensed persons. This section should not be construed as prohibiting delegation to family members and other caregivers exempted by RCW 18.79.040(3), 18.79.050, 18.79.060 or 18.79.240; or

...

(b) Failure to supervise those to whom nursing activities have been delegated. Such supervision shall be adequate to prevent an unreasonable risk of harm to clients;

...

Section 4: NOTICE TO RESPONDENT

4.1 The Nursing Commission has determined that this case may be appropriate for resolution through a Stipulation to Informal Disposition, pursuant to RCW 18.130.172(2). A proposed Stipulation to Informal Disposition is attached, which contains the disposition the Commission believes is necessary to address the conduct alleged in this Statement of Allegations and Summary of Evidence.

4.2 If Respondent agrees that the disposition imposed by the Stipulation to Informal Disposition is appropriate to address the conduct alleged in this Statement of Allegations and Summary of Evidence, Respondent should sign and date the Stipulation to Informal Disposition and return it within fourteen (14) days to the Commission at PO Box 47864, Olympia, WA 98504-7864

4.3 If Respondent does not agree that the terms and conditions contained in the Stipulation to Informal Disposition are appropriate to address the conduct alleged in the Statement of Allegations and Summary of Evidence, Respondent should contact Gail Banning, Department of Health Paralegal, PO Box 47864, Olympia, WA 98504-7864, (360) 236-4750 within fourteen (14) days.

4.4 If Respondent does not respond within fourteen (14) days, the Commission will assume Respondent has declined to resolve the allegations by means of a Stipulation to Informal Disposition.

4.5 In the event Respondent declines to resolve the allegations by means of a Stipulation to Informal Disposition pursuant to RCW 18.130.172(2), the Commission may proceed to formal disciplinary action against Respondent by filing a statement of charges, pursuant to RCW 18.130.172(3).

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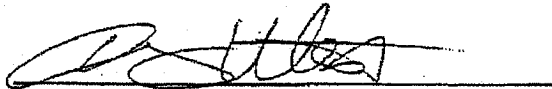
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4.6 The cover letter enclosed with this Statement of Allegations and Summary of Evidence was mailed to the name and address currently on file for Respondent's license. Pursuant to WAC 246-01-100, Respondent must notify, in writing, the Commission if Respondent's name and / or address changes.

DATED this 19th day of March, 2004.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE
COMMISSION



Terry West, Health Services Consultant


Janet Staiger, WSBA #16573
Department of Health Staff Attorney

FOR INTERNAL USE ONLY. INTERNAL TRACKING NUMBERS:
Program No. 2003-05-0066RN

CONFIDENTIAL SCHEDULE

This information is confidential and is NOT to be released without the consent of the individual or individuals named herein. RCW 42.17.310(1)(d)

Patient 

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE COMMISSION

In the Matter of the License to Practice as a)
Registered Nurse of:) Docket No. 04-03-A-1047RN
)
ROSEMARIE HOLDER, RN) STIPULATION TO INFORMAL
Credential No. RN00075577,) DISPOSITION
)
Respondent.)
_____)

Section 1: STIPULATION

The parties to the above-entitled matter stipulate as follows:

1.1 Rosemarie Holder, RN, Respondent, is informed and understands that the Health Services Consultant of the Nursing Care Quality Assurance Commission (Commission), on designation by the Commission, has made the following allegations.

1.2 Rosemarie Holder, RN, Respondent, was issued a license to practice as a Registered Nurse by the state of Washington in January 1982.

1.3 The following allegation occurred at Rosemarie Holder Adult Family Home in Brewster, Washington (facility). Respondent is the owner / operator and functions as a registered nurse at the facility.

1.4 On or about May 20, 2003, Respondent delegated unlicensed caregivers to use "dial-a-dose" insulin pens to administer insulin to Patient [REDACTED]

I certify that this is a true and correct copy of the
Document on file with the State of Washington,
Department of Health, Adjudicative Clerk Office

29 day of November 2010

[Signature]

Signature, Authorized Representative

1.5 Respondent is informed and understands that the Commission has alleged that the conduct described above, if proven, would constitute a violation of RCW 18.130.180(7), (10), (14) and WAC 246-840-710(3)(a), (b).

1.6 The parties wish to resolve this matter by means of a Stipulation to Informal Disposition pursuant to RCW 18.130.172(1).

1.7 Respondent agrees to be bound by the terms and conditions of the Stipulation to Informal Disposition.

1.8 This Stipulation to Informal Disposition is of no force and effect and is not binding on the parties unless and until it is accepted by the Commission.

1.9 Respondent does not admit any of the allegations in the Statement of Allegations and Summary of Evidence or in paragraph 1.4 above. This Stipulation to Informal Disposition shall not be construed as a finding of unprofessional conduct or inability to practice.

1.10 This Stipulation to Informal Disposition is not formal disciplinary action. However, it is subject to the federal reporting requirements pursuant to Section 1128E of the Social Security Act.

1.11 This Stipulation to Informal Disposition is releasable to the public upon request pursuant to the Public Records Act, chapter 42.17 RCW. The Statement of Allegations and Summary of Evidence and the Stipulation to Informal Disposition shall remain part of Respondent's file and cannot be expunged.

1.12 The Commission agrees to forego further disciplinary proceedings concerning the allegations contained in paragraph 1.4 above.

1.13 Respondent agrees to successfully complete the terms and conditions of this informal disposition.

1.14 Respondent is advised and understands that a violation of the provisions of section 2 of this Stipulation to Informal Disposition, if proved, would constitute grounds for discipline under RCW 18.130.180 and the imposition of sanctions under RCW 18.130.160.

Section 2: INFORMAL DISPOSITION

Pursuant to RCW 18.130.172 (2) and based upon the foregoing stipulation, the parties agree to the following Informal Disposition:

2.1 Respondent shall reimburse the Commission five hundred dollars (\$500.00) for costs of investigating and processing this matter. Said reimbursement shall be paid in full directly to: Department of Health, Attention: Nursing Compliance, P.O. Box 1099, Olympia, Washington 98507-1099 within ninety (90) days of the date of this Stipulation to Informal Disposition.

2.2 Respondent shall provide evidence to the Commission that she has successfully completed theoretical instruction (at least six (6) contact hours) on: Legal Issues Regarding Delegation and Supervision. The coursework must be taken at an accredited educational institution or through a program otherwise approved by the Commission. Proof of successful completion of the above coursework shall be submitted directly to the Commission for approval within ninety (90) days from the date of this Stipulation to Informal Disposition.

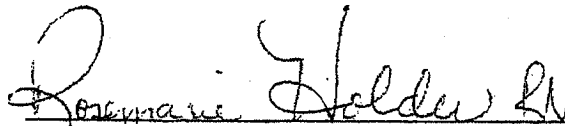
2.3 Respondent shall obey all federal, state and local laws and all administrative rules governing the practice of the profession in Washington.

2.4 Respondent shall assume all costs of complying with this Stipulation to Informal Disposition.

2.5 If Respondent violates any provision of this Stipulation to Informal Disposition in any respect, the Commission may take further action against Respondent's license.

2.6 Respondent shall inform the Commission and the Adjudicative Clerk Office in writing, of changes in her residential and / or business address within thirty (30) days of such change.

I, Rosemarie Holder, RN, Respondent, certify that I have read this Stipulation to Informal Disposition in its entirety; that my counsel of record, if any, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Commission without my appearance. If the Commission accepts the Stipulation to Informal Disposition, I understand that I will receive a signed copy.



Rosemarie Holder, RN
Respondent

April 1, 2004
Date

_____, WSBA #
Attorney for Respondent

Date

Section 3: ACCEPTANCE

The Commission accepts this Stipulation to Informal Disposition. All parties shall be bound by its terms and conditions.

DATED this 21 day of April, 2004.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE
COMMISSION

Barbara Madlene Wells R.N.
Panel Chair

Presented by:

Janet Staiger #16573

Janet Staiger, WSBA #16573
Department of Health Staff Attorney

April 5, 2004
Date

FOR INTERNAL USE ONLY. INTERNAL TRACKING NUMBERS:
Program No. 2003-05-0066RN



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

August 30, 2004

FILED
AUG 30 2004
Adjudicative Clerk Office

Rosemarie Holder, RN
[REDACTED]

RE: Stipulation to Informal Disposition
Docket No. 04-03-A-1047RN

Dear Ms. Holder:

The Reviewing Commission Panel has reviewed and approved submissions for each item in your Stipulation to Informal Disposition. Your file has been closed and there are no further requirements by the Commission regarding this matter.

If you have any questions, please contact me at (360) 236-4739, or at the email address below.

Sincerely,

Adena Nolet, Compliance Officer
Department of Health, Health Professions Quality Assurance Division
(360) 236-4739
(360) 236-4738, fax
adena.nolet@doh.wa.gov

cc: Reviewing Commission Member
Adjudicative Service Unit

I certify that this is a true and correct copy of the
Document on file with the State of Washington,
Department of Health, Adjudicative Clerk Office

29 day of November 2004

Signature, Authorized Representative