



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

DOCKET NUMBER 507-10-0161

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 185605
ISSUED TO
FRANCES C. BOND

§
§
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§
§

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

OPINION AND ORDER OF THE BOARD

TO: FRANCES C. BOND
104 PRIVATE ROAD 544
FAIRFIELD, TX 75840-5812

TRAVIS VICKERY
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 vocational nursing license of Frances C. Bond 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 185605, previously issued to FRANCES C. BOND, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 185605, previously issued to FRANCES C. BOND, 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. 507-10-0161 (April 30, 2010).

SOAH DOCKET NO. 507-10-0161

IN THE MATTER OF PERMANENT § BEFORE THE STATE OFFICE
CERTIFICATE NO. 185605 § OF
ISSUED TO FRANCES C. BOND § 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 Frances C. Bond (Respondent). Staff alleges that Ms. Bond is subject to discipline under several provisions of the Nursing Practice Act¹ and the Board's rules.²

The hearing on the merits was held on April 13, 2010. Ms. Bond 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

At the hearing on the merits, Staff dropped charge one of three formal charges against Ms. Bond. The remaining asserted bases for revocation of Ms. Bond's license – that she lacks fitness to practice vocational nursing due to using and being impaired by cocaine while on duty at a nursing home – constitutes adequate grounds for Staff's requested outcome in this case. The ALJ recommends that Ms. Bond's license be revoked.

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. The ALJ also took official notice of SOAH's file in this docket and the Nurse Practicing Act and the Board's rules found at 22 TEX. ADMIN. CODE ch. 213 and 217.

⁴ 1 TEX. ADMIN. CODE § 155.501.

I. FINDINGS OF FACT

1. Frances C. Bond (Respondent) holds permanent nurse license number 185605 issued by the Texas Board of Nursing (Board).
2. On September 10, 2009, the staff of the Board (Staff) sent a Notice of Hearing and Formal Charges to Ms. Bond by certified mail to her attorney of record, Louis Leichter. Staff received a return receipt from Mr. Leichter's office.
3. On November 23, 2009, Respondent filed a Motion for Continuance. On December 1, 2009, State Office of Administrative Hearings Order No. 2 was issued, granting the Motion for Continuance.
4. On December 16, 2009, pursuant to Order No. 3, the hearing on the merits was set for April 13, 2010, at 9 a.m.
5. On March 9, 2010, Respondent filed an Original Answer.
6. On March 18, 2010, Mr. Leichter filed a Motion to Withdraw as Attorney for Respondent due to his inability to maintain contact with the Respondent.
7. On March 30, 2010, pursuant to Order No. 4, the Motion to Withdraw as Attorney for Respondent was granted.
8. On March 31, 2010, Staff sent its Notice of Hearing for the April 13, 2010 hearing to Ms. Bond by certified mail and regular mail to Ms. Bond's last known address. This address had been supplied to Staff by Ms. Bond. The regular mail and the return receipt were returned to the Board stating: "Return to Sender; Moved Left No Address; Unable to Forward; Return to Sender."
9. 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.
10. 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."
11. The hearing on the merits was convened at 9:00 a.m. on April 13, 2010, at the State Office of Administrative Hearings, William P. Clements Office Building, 300 West 15th Street, Austin, Texas.

12. Staff appeared at the hearing through its assistant general counsel, John Legris. Ms. Bond did not appear and was not represented at the hearing. Ms. Bond did not file a motion for continuance or provide an explanation for her failure to appear.
13. Staff made a motion for default and offered evidence demonstrating jurisdiction, proper notice, and the appropriateness of the remedy sought by Staff.
14. Staff's motion for default was granted.
15. The allegations in Staff's Notice of Hearing were deemed true.
16. On or about February 19, 2009, while employed with Country Meadows Nursing Home, Corsicana, Texas, Respondent lacked fitness to practice vocational nursing in that she was observed exhibiting impaired behavior and/or characteristics including, but not limited to: slurred speech, glazed eyes, and an inability to organize her thoughts.
17. Respondent admitted to the Director of Nursing that she had been using drugs.
18. Respondent engaged in the intemperate and/or unlawful use of cocaine
19. Respondent was asked to submit a specimen for a drug screen which resulted positive for cocaine.
20. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patient's conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

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 Respondent'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. Respondent's intemperate and/or unlawful use of cocaine and lack of fitness to practice vocational nursing while employed with Country Meadows Nursing Home in Corsicana, Texas, subjects her to discipline by the Board. TEX. OCC. CODE § 301.452(b)(9), (10), (12); 22 TEX. ADMIN. CODE § 217.12(5), (10)(A)(D) & (11)(B).
6. The Board is authorized to revoke Ms. Bond's license. TEX. OCC. CODE § 301.453.

III. RECOMMENDATION

The Board should revoke Ms. Bond's license to practice nursing in Texas under Permanent Certificate No. 185605.

SIGNED April 30, 2010.



TRAVIS VICKERY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of Permanent License
Number 185605, Issued to
FRANCES CLAUDETTE BOND, Respondent

§ BEFORE THE TEXAS
§
§ BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, FRANCES CLAUDETTE BOND, is a Vocational Nurse holding license number 185605, 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 November 2007, Respondent failed to comply with the Agreed Order issued to her on August 13, 2007, by the Board of Nurse Examiners for the State of Texas. Non-compliance is a result of Respondent's failure to apply to and be accepted into the Texas Peer Assistance Program for Nurses (TPAPN). Stipulation Number One (1) of the Agreed Order dated August 13, 2007, reads, in pertinent part:

“RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00) payable to TPAPN.”

A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated August 13, 2007, 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)(1) & (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(9) & (11)(B).

CHARGE II.

On or about February 19, 2009, while employed with Country Meadows Nursing Home, Corsicana, Texas, Respondent lacked fitness to practice vocational nursing in that she was observed exhibiting impaired behavior and/or characteristics including, but not limited to: slurred speech, glazed eyes, and an inability to organize her thoughts. Respondent also admitted to her Director of Nursing that she had been using drugs. Respondent was asked to submit a specimen for a drug screen which resulted positive for cocaine. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10) & (12), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(5).

CHARGE III.

On or about February 19, 2009, while employed with Country Meadows Nursing Home, Corsicana, Texas, Respondent engaged in the intemperate and/or unlawful use of cocaine in that she submitted a specimen for a drug screen which resulted positive for cocaine. Possession of cocaine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of cocaine by a Registered 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.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9) & (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(10)(A)(D) & (11)(B).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of 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 § 301.461, TEX. OCC. CODE ANN. 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 Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder which can be found at the Board's website, www.bon.state.tx.us.

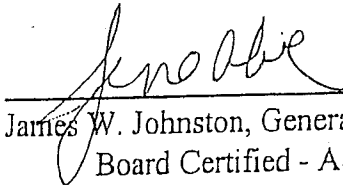
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NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order dated August 13, 2007.

Filed this 14th day of April, 2009.

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

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

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 August 13, 2007

0999/D

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Vocational Nurse §
License Number 185605 § AGREED
issued to FRANCES CLAUDETTE BOND § ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of FRANCES CLAUDETTE BOND, Vocational Nurse License Number 185605, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9), (10), and (13), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on June 22, 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 Navarro College, Corsicana, Texas, on August 9, 2002. Respondent was licensed to practice vocational nursing in the State of Texas on October 2, 2002.
5. Respondent's vocational nursing employment history includes:

10/02 - 12/05	LVN	Palestine Regional Medical Center
	Med/Surg	Palestine, Texas

Respondent's vocational nursing employment history continued:

01/06- 03/06	Unknown	
04/06 - 09/06	LVN	Healthcare and Rehab of Corsicana Corsicana, Texas
10/06 - 01/07	Unknown	
02/07- present	LVN	Healthcare and Rehab of Corsicana Corsicana, Texas

6. At the time of the incidents, Respondent was employed as a Licensed Vocational Nurse with Palestine Regional Medical Center, Palestine, Texas, and had been in this position for approximately three (3) years and two (2) months.
7. On or about September 27, 2005, while employed with Palestine Regional Medical Center, Palestine, Texas, Respondent withdrew Demerol from the Medication Dispensing System (Acudose) for patients, but failed to completely and accurately document the administration of the medication in the patients' Medication Administration Records (MARs), Nurses Notes, or both, in that Respondent admitted to such conduct. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose.
8. On or about September 27, 2005, while employed with Palestine Regional Medical Center, Palestine, Texas, Respondent withdrew Demerol from the Medication Dispensing System (Accudose) for patients, but failed to follow the facility's policy and procedure for the wastage of the medication in that Respondent admitted to such conduct. Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
9. On or about September 27, 2005, while employed with Palestine Regional Medical Center, Palestine, Texas, Respondent misappropriated Demerol belonging to the facility and patients thereof, in that Respondent admits to the misappropriation of Demerol. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
10. On or about September 27, 2005, while employed with Palestine Regional Medical Center, Palestine, Texas, Respondent engaged in the intemperate use of Demerol, in that Respondent admitted to the intemperate use of Demerol. Possession of Demerol without a lawful prescription is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Demerol 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.

11. On or about July 24, 2006, while employed with Healthcare and Rehab of Corsicana, Corsicana, Texas, Respondent engaged in the intemperate use of Tramadol in that Respondent produced a specimen for a drug/alcohol screen which resulted positive for Tramadol. Possession of Tramadol without a lawful prescription is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Tramadol 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.
12. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
13. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.
14. Respondent's conduct described in Findings of Fact Numbers Seven (7) through Eleven (11) resulted from Respondent's dependency on chemicals.
15. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violations of Section 301.452(b)(9),(10), and (13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A)&(1)(D) and 22 TEX. ADMIN. CODE §217.12(4),(6)(G),(8),(10)(A),(B),(C),(D)&(E) and (11)(B).
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 185605, heretofore issued to FRANCES CLAUDETTE BOND, including revocation of Respondent's professional license to practice nursing in the State of Texas.
5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Board of Nurse Examiners.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§301.001 *et seq.*, the Rules and Regulations Relating to 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 privileges, 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, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including revocation of Respondent's license and multistate licensure privileges, if any, to practice vocational nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

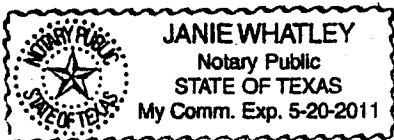
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Board of Nurse Examiners, and 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 7 day of August, 2007.

Frances Claudette Bond
FRANCES CLAUDETTE BOND, Respondent

Sworn to and subscribed before me this 7 day of August, 2007.


SEAL



Janie Whatley
Notary Public in and for the State of Texas

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby accept and enter the Agreed Order that was signed on the 7th day of August, 2007, by FRANCES CLAUDETTE BOND, Vocational Nurse License Number 185605, and said Order is final.

Entered and effective this 13th day of August, 2007.



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