

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 582692
ISSUED TO
DEBORAH KAY SHEARER

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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. Thomas
Executive Director of the Board

ORDER OF THE BOARD

TO: Deborah Kay Shearer
1201 Park Pl. # 2122
Sherman, TX 75092

During open meeting held in Austin, Texas, on August 17, 2010, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case. This case was heard, and 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 § 213.2(j)). All parties have a right to judicial review of this Order.

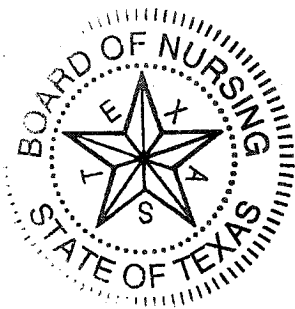
All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 582692, previously issued to DEBORAH KAY SHEARER, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 582692, previously issued to DEBORAH KAY SHEARER, 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 nurse licensure compact privileges, if any, to practice professional nursing in the State of Texas.

Entered this 17th day of August, 2010.



TEXAS BOARD OF NURSING

BY:

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

Re: Permanent Certificate Number 582692
Issued to Deborah Kay Shearer
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of August, 2010, 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):

Deborah Kay Shearer
1201 Park Pl. # 2122
Sherman, TX 75092

BY:



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

In the Matter of Permanent License § **BEFORE THE TEXAS**
Number 582692, Issued to §
DEBORAH KAY SHEARER, Respondent § **BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, DEBORAH KAY SHEARER, is a Registered Nurse holding license number 582692, 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 September 13, 2007, Respondent failed to comply with an Agreed Order issued to her on March 23, 2007, by the Board of Nurse Examiners for the State of Texas. Respondent's non-compliance is the result of her failure to comply with Stipulation Number One (1) of the Order which states in pertinent part that:

- (1) "Respondent shall, within forty-five (45) days following the date of entry of this final Order, apply and be accepted into the Texas Peer Assistance Program for Nurses (TPAPN),"

A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated March 23, 2007, is attached and incorporated, by reference, as part of this pleading. On September 13, 2007, Respondent was dismissed from TPAPN and referred to the Board.

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 January 8, 2008, while employed as a Registered Nurse by Texoma Medical Center BHC, Sherman, Texas, Respondent withdrew Seroquel 100mg from the Pyxis Medication Dispensing System for Patient S. W., but failed to timely document the administration of the medication in the patient's Medication Administration Records and/or nurse's notes. Respondent's conduct above 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.

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 22 TEX. ADMIN. CODE §§217.11(1)(A)&(D) and 217.12(1)(A),(B),(4)&(11)(B).

CHARGE III.

On or about January 9, 2008, while employed as a Registered Nurse by Texoma Medical Center BHC, Sherman, Texas, Respondent misappropriated, or failed to take precautions to prevent the misappropriation of Lasix, belonging to the facility and the patients there of. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(6)(G)&(11)(B).

CHARGE IV.

On or about November 14, 2008, December 1, 2008, and December 2, 2008, while employed as a Registered Nurse by Texoma Medical Center BHC, Sherman, Texas, Respondent misappropriated or failed to take precautions to prevent the misappropriation of Seroquel belonging to the facility and the patients there of. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(6)(G)&(11)(B).

CHARGE V.

On or about November 14, 2008, December 1, 2008, and December 2, 2008, while employed as a Registered Nurse by Texoma Medical Center BHC, Sherman, Texas, Respondent engaged in the intemperate use of Seroquel in that she admitted she misappropriated Seroquel for her personal use. The use of Seroquel 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).

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.

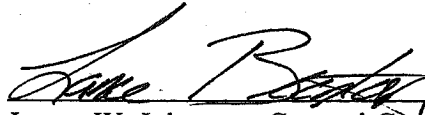
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, and Theft & Deception, which can be found at the Board's website, www.bon.state.tx.us.

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/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order dated March 23, 2007.

Filed this 28th day of April, 2010.

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: Agreed Order dated March 23, 2007.

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Respondent's professional employment history continued:

2/93 - 2/98	Case Manager	Home Hospice of Grayson County Sherman, Texas
2/98 - 8/98	Agency Staff Nurse	Nurse Finders Dallas, Texas
9/98 - 2/05	Staff Nurse	Medical City Dallas Hospital Dallas, Texas
3/05 - present	Unknown	

6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a Staff Nurse with Medical City Dallas Hospital, Dallas, Texas, and had been in this position for six (6) years and one (1) month.
7. On or about October 6, 2004, while employed at Medical City Dallas Hospital, Dallas, Texas, Respondent may have lacked fitness to safely practice nursing in that she experienced panic attacks, expressed feelings of sadness and suicidal ideation. On October 6, 2004, Respondent was admitted to Green Oaks Behavioral Healthcare Services because she ingested an overdose of Klonopin in a suicide attempt. Respondent's condition may prevent her from delivering safe nursing care.
8. The Respondent's conduct described in the preceding Finding of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
9. Charges were filed on December 13, 2006.
10. Charges were mailed to Respondent on December 14, 2006.
11. Respondent's conduct described in Finding of Fact Number Seven (7) resulted from Respondent's mental illness.
12. 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.

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2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation of Section 301.452(b)(10) & (12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 582692, heretofore issued to DEBORAH KAY SHEARER, including revocation of Respondent's license to practice professional 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 five hundred dollars (\$500) 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.

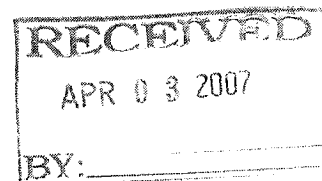
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IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, 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 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 nursing in the State of Texas.

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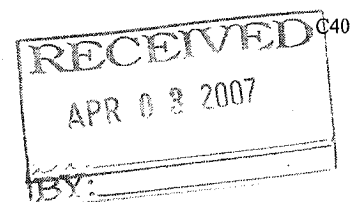
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RESPONDENT'S CERTIFICATION

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. 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 professional nursing in the State of Texas, as a consequence of my noncompliance.

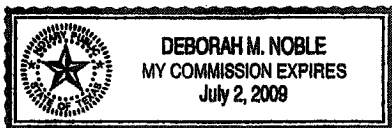
Signed this 23 day of Feb., 2007.

Deborah Kay Shearer
DEBORAH KAY SHEARER, Respondent

Sworn to and subscribed before me this 23 day of February, 2007 ^{D.N. 07}

SEAL

Deborah M. Noble
Notary Public in and for the State of Texas

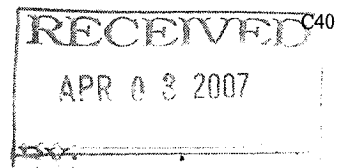


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WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby accept and enter the Agreed Order that was signed on the 23rd day of February, 2007, by DEBORAH KAY SHEARER, Registered Nurse License Number 582692, and said Order is final.

Entered and effective this 23rd day of March, 2007.


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

I certify this to be a true copy of the records on file with the Board of Nurse Examiners for the State of Texas.
Date: 3/29/07
Signed: Bonnie Fitzgerald

SCANNED

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BY: _____