

DOCKET NUMBER 507-09-2053

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER **146637**
ISSUED TO
PAMELA R. JOHNSON

§
§
§
§
§

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.
Pamela R. Johnson
Executive Director of the Board

ORDER OF THE BOARD

TO: PAMELA R. JOHNSON
4103 LEEANN LANE
SPRING, TEXAS 77373

AMI L. LARSON
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting on July 23-24, 2009, the Board considered the following items: (1) The Proposal for Decision (PFD) regarding the above cited matter; and (2) Staff's recommendations that the Board adopt the PFD regarding the Vocational Nursing license of Pamela R. Johnson without changes.

The Board of Nursing 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.

The Board of Nursing, after review and due consideration of the PFD and Staff's recommendations, 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. Further, 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 146637, previously issued to PAMELA R. JOHNSON, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 146637, previously issued to PAMELA R. JOHNSON, 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 vocational nursing in the State of Texas.

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

Entered this 24 day of July, 2009.

TEXAS BOARD OF NURSING



KATHERINE A. THOMAS, MN, RN

Attachment: Proposal for Decision; Docket No. 507-09-2053 (May 21, 2009).

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

May 21, 2009

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. 507-09-2053; Pamela R. Johnson

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,

Ami L. Larson
Ami L. Larson
Administrative Law Judge

ALL/ds

Enclosures

XC: R. Kyle Hensley, Assistant General Counsel, Texas Board of Nursing, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 – **VIA INTER-AGENCY**
Carol Pepper, Legal Assistant Texas Board of Nursing, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 – (with 1 hearing CD; TBN Exhibit(s) 1, 2, 2a, 2b, 2c, 2d, 3, 4 and 4a) - **VIA INTER-AGENCY**
Pamela R. Johnson, 4103 LeeAnn Ln, Spring, TX 77373 - **VIA REGULAR MAIL**

SOAH DOCKET NO. 507-09-2053

IN THE MATTER OF PERMANENT § BEFORE THE STATE OFFICE
CERTIFICATE NO. 146637 § OF
ISSUED TO PAMELA R. JOHNSON § ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Staff of the Texas Board of Nursing (Staff/Board) brought this action seeking revocation of the vocational nurse's license of Pamela R. Johnson (Respondent). Staff alleged that Respondent committed multiple violations of the Nursing Practice Act¹ and Board's rules. The hearing on the merits was held on March 17, 2009. Respondent failed to appear at the hearing. Based on Respondent's failure to appear, Staff moved for default, which was granted by the Administrative Law Judge (ALJ) upon proof that proper notice of the hearing had been provided. Staff's allegations were accepted as true, establishing the alleged violations. Staff also offered the testimony of Denise Benbow, a nursing practice consultant, to support the sanction requested by Staff. Based on the Findings of Fact and Conclusions of Law set forth below, the ALJ agrees with Staff's recommendation that Respondent's license be revoked.

I. FINDINGS OF FACT

1. Pamela R. Johnson (Respondent) holds vocational nurse license number 146637 issued by the Texas Board of Nursing (Board).
2. From July 4 - 29, 2003, while employed as a Licensed Vocational Nurse with Staff Search Healthcare in Houston, Texas, and assigned to Conroe Regional Medical Center in Conroe, Texas, Respondent, on 21 occasions, withdrew Hydrocodone, Zolpidem, or Morphine Sulfate from the medication dispensing system for patients (Accudose) but failed to document, or accurately document, the administration of the medications in the patients' medication administration records.
3. Respondent's conduct in failing to properly document the administration of medications to patients was likely to injure the patients because subsequent care givers would rely on

¹ TEX. OCC. CODE ANN. ch. 301.

- Respondent's documentation to administer further medication, which could result in an overdose.
4. From July 4 – July 29, 2003, while employed as a licensed vocational nurse with Staff Search Healthcare in Houston, Texas, and assigned to Conroe Regional Medical Center in Conroe, Texas, Respondent withdrew Hydrocodone, Zolpidem, or Morphine Sulfate from Accudose for patients, but failed to follow the facility's policy and procedure for wastage of the unused portions of those medications on 21 occasions.
 5. Respondent's failure to follow the facility's policy and procedure for wastage of the unused portions of patient medications was likely to deceive the hospital pharmacy.
 6. From July 4 – July 29, 2003, while employed as a licensed vocational nurse with Staff Search Healthcare in Houston, Texas, and assigned to Conroe Regional Medical Center in Conroe, Texas, Respondent misappropriated Hydrocodone, Zolpidem, or Morphine Sulfate from the facility and patients thereof, or failed to take precautions to prevent such misappropriation.
 7. Respondent's misappropriation or failure to take precautions to prevent misappropriation of patient medications defrauded the facility and patients, which were responsible for the cost of those medications.
 8. On April 22, 2004, while employed as a licensed vocational nurse with Maxim Healthcare in Houston, Texas, Respondent engaged in the intemperate use of Cannabinoids and Ethanol as evidenced by her submission of a drug screen specimen which yielded positive results for those substances.
 9. On October 25, 2005, while employed as a licensed vocational nurse with MedCare Pediatrics in Stafford, Texas, Respondent engaged in the intemperate use of Codeine as evidenced by her submission of a drug screen specimen which yielded positive results for that drug.
 10. The use of cannabinoids, ethanol, or Codeine by a 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 July 10 and 11, 2006, while employed as a licensed vocational nurse with MedCare Pediatrics in Stafford, Texas, and assigned to provide nursing care and services for Patient No. 519003340, Respondent falsely documented that she provided nursing care and services for that patient until 9:00 p.m. on both dates even though she left the patient's home at 8:00 p.m. on July 10, 2006, and at 7:30 p.m. on July 11, 2006.

12. Respondent's false documentation of the time she provided nursing care or services to a patient was deceptive and created an inaccurate, fraudulent patient record.
13. On July 10 and 11, 2006, while employed as a licensed vocational nurse with MedCare Pediatrics in Stafford, Texas, and assigned to provide nursing care and services for Patient No. 519003340, Respondent falsely documented the following information in the medical record for that patient: that she turned the patient, checked oxygen saturation and administered oxygen to the patient, and that the patient was on a ventilator and the patient's side rails were up. Respondent also falsely documented that she gave a report to the patient's mother at the patient's bedside and that the patient was present and asleep during the report.
14. Respondent's action in falsely documenting information about her care of a patient was deceptive and created an inaccurate, fraudulent patient medical record.
15. As of February 1, 2008, Respondent had failed to repay her Texas Guaranteed Student Loan as required, which may have deprived other students of funds necessary for their educational programs.
16. On February 6, 2008, Staff of the Board (Staff) sent its formal charges by certified mail to Respondent's last known address of record on file with the Board.
17. On January 15, 2009, Staff sent its original Notice of Hearing for the March 17, 2009, hearing by certified mail to Respondent's last known address of record on file with the Board.
18. 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.
19. 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."
20. The hearing on the merits was convened at 9:00 a.m. on March 17, 2009, in a fourth floor hearing room of the State Office of Administrative Hearings, William P. Clements Office Building, 300 West 15th Street, Austin, Texas.
21. Staff appeared at the hearing through its assistant general counsel, R. Kyle Hensley. Respondent did not appear and was not represented at the hearing. Respondent did not file a motion for continuance or provide an explanation for her failure to appear.

22. Staff made a motion for default, which was granted following the admission of evidence demonstrating jurisdiction and that proper notice had been provided to Respondent.
23. The ALJ granted Staff's motion for default.
24. Pursuant to default, the allegations in Staff's Notice of Hearing were deemed true.
25. The record closed on April 27, 2009, upon receipt of Staff's submission of copies of the repealed laws relied upon to support a portion of the allegations against Respondent.

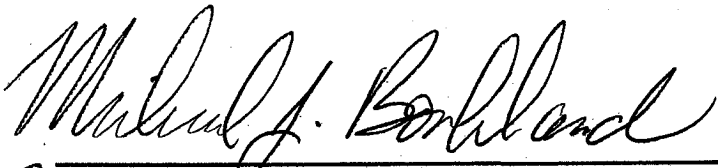
II. CONCLUSIONS OF LAW²

1. The Texas Board of Nursing (Board) has jurisdiction over this matter pursuant to TEX. OCC. CODE ANN. §§ 301.451 through 301.555.
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, pursuant to TEX. GOV'T CODE ANN. ch. 2003.
3. Proper and timely notice was affected upon Respondent pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and 22 TEX. ADMIN. CODE § 213.10.
4. Failure to properly document the withdrawal or administration of drugs for a patient from the Accudose Medication Dispensing System constitutes a violation of the Board's rules and is grounds for disciplinary action including license revocation. 22 TEX. ADMIN. CODE (TAC) §§ 239.11(2)(3) and (4); TEX. OCC. CODE ANN. § 302.402(a)(10).
5. Failure to follow a health care facility's policy and procedure for wastage of the unused portion of prescription patient medications constitutes a violation of the Board's rules and is grounds for disciplinary action including license revocation. 22 TAC §§ 239.11(4), and (27)(G); TEX. OCC. CODE ANN. § 302.402(a)(10).
6. Misappropriating drugs from a healthcare facility or its patients or failing to take precautions to prevent such misappropriation constitutes a violation of the Board's rules and is grounds for disciplinary action including license revocation. 22 TAC §§ 239.11(1), and (6); TEX. OCC. CODE ANN. §§ 302.402(a)(10).
7. The intemperate use of Codeine, cannabanoids, or alcohol by a licensed nurse, while subject to call or duty, is a violation of the Board's rules and constitutes grounds for disciplinary action including license revocation. 22 TAC §§ 239.11(10), and (27)(B); TEX. OCC. CODE ANN. §§ 301.452(b)(9), (10), and (12) and 301.453 .

² All or a portion of the laws cited in Conclusions of Law 4 through 7 above were repealed as of February 1, 2004, but were in effect at the time of Respondent's conduct in violation therewith.

8. Falsely documenting the provision of nursing care or services to a patient constitutes a violation of the Board's rules and is grounds for disciplinary action including license revocation. 22 TAC §§ 217.11(1)(B) and (D); 22 TAC 217.12(1)(B) and (C), (4), (6)(A) and (H); TEX. OCC. CODE ANN. §§ 301.452(b)(10) and (13) and 301.453.
9. Failure to repay a guaranteed student loan as required by law constitutes a violation of the Board's rules and is grounds for disciplinary action including license revocation. 22 TAC § 217.12(7); TEX. OCC. CODE ANN. §§ 301.452(b)(10) and 301.453.
10. Based on 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.
11. Based on the above Findings of Fact and Conclusions of Law, the Board should enter a default order against Respondent and should revoke Respondent's Permanent Certificate No. 146637 as a vocational nurse.

SIGNED May 21, 2009.


for AMI L. LARSON
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS