

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 175049
ISSUED TO
JOSEPH JOHN FORKL

§
§
§
§
§
§
§
§

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 A. Thomas
Executive Director of the Board

ORDER OF THE BOARD

TO: Joseph John Forkl
PO Box 2784
Tucson, AZ 85702

During open meeting held in Austin, Texas, on Tuesday, August 18, 2009, 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 vocational 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 175049, previously issued to JOSEPH JOHN FORKL, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 175049, previously issued to JOSEPH JOHN FORKL, 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.

Entered this 18th day of August, 2009.

TEXAS BOARD OF NURSING

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

Re: Permanent Certificate Number 175049
Issued to Joseph John Forkl
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of August, 2009, 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):

Joseph John Forkl
PO Box 2784
Tucson, AZ 85702

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

In the Matter of Permanent License § **BEFORE THE TEXAS**
Number 175049, Issued to §
JOSEPH JOHN FORKL, Respondent § **BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, JOSEPH JOHN FORKL, is a Vocational Nurse holding license number 175049, 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 November 8, 2006, Respondent's license to practice practical nursing in the State of Kansas was Revoked by Default by the Kansas State Board of Nursing, Topeka, Kansas. On or about November 19, 2007, Respondent's reinstatement application was denied. A copy of the Findings of Fact, Conclusion of Law, and Summary Order issued by the Kansas State Board of Nursing, Topeka, Kansas, effective November 19, 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)(8), Texas Occupations Code.

CHARGE II.

As of June 5, 2009, Respondent's student loan issued by Texas Guaranteed Student Loan is in default. Respondent exhibited unprofessional conduct in his failure to repay a Texas Guaranteed Student Loan, which may have deprived other students of funds necessary for their educational programs.

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(7).

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.

Filed this 10th day of June, 2009.

TEXAS BOARD OF NURSING

Jena Abel
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

November *19*, 2007

Joseph J. Forkl
P. O. Box 2784
Tucson, Arizona 85702

License No. 24-030991-052

SUMMARY ORDER

Dear Mr. Forkl:

The Investigative Committee of the Kansas State Board of Nursing (KSBN) has reviewed your application materials. It is the decision of the Board that your reinstatement application to practice nursing as a licensed practical nurse in Kansas is denied. This denial is based upon the following:

FINDINGS OF FACT

1. (a) Respondent submitted an application to the Board for reinstatement as a licensed practical nurse in the State of Kansas on 3/27/2007.
- (b) Respondent previously filed a reinstatement application on June 1, 2006 but paid the fees with a bad check. The Board filed a disciplinary petition in Case No. 06-525-4, to collect the licensing and bad check fees. The respondent failed to respond and his license was revoked on 11/8/06. The case was reopened when the respondent filed a reinstatement application with a check for \$165.00. The respondent intended for the check to cover both the reinstatement fees and the bad check and collection fees. Unfortunately the fees due and owing in Case No. 06-525-4 are \$160.00. The fees assessed for a reinstatement with a temporary permit are \$75.00. Therefore, the amount owed by the respondent is a total of \$235.00.
- (c) Respondent has two other discipline cases (04-703-5 and 06-125-5) that the Board has directed to be paired with the case described above and five months of unlicensed practice.
- (d) In Case No. 04-703-5, the respondent while working at Lakewood Heights in Wichita, Kansas failed to document his assessment of a resident's shoulder injury, a fractured clavicle, which occurred when the respondent and staff were transferring the patient to his bed. The respondent failed to report the injury to the resident's doctor, wife or administration. After an investigation by the facility, the respondent was terminated on 8/17/04. Respondent failed to disclose the reasons for his termination from Lakewood on his subsequent applications and reinstatement applications to the Board.

(e) In Case No. 06-125-5, the respondent was employed by Infinia in Wichita, Kansas from 2/19/05 to 11/21/05. While employed there he failed to appropriately document he gave medications to be administered at bedtime during the evening meal. He documented the medications as administered at bedtime. The respondent also failed to disclose on his employment application, the reasons for his termination from Lakewood Heights.

(f) The respondent was employed at Lakewood Senior Living in Pratt, Kansas from 12/23/05 to 3/15/07 but respondent's license was revoked on 11/8/06. He was terminated because he failed to show up for work and the facility reviewed his license status on line and found that he had been working without a license since November of 2006. He had five months of unlicensed practice. Additionally, the respondent failed to disclose on his reinstatement application submitted to the Board on March 27, 2007, respondent was employed at Lakewood Senior Living through 3/15/07. Respondent stated he was employed through 11/06 and left his employment because he moved to Arizona.

CONCLUSIONS OF LAW

2. Pursuant to K.S.A. 65-1120(a), the Kansas State Board of Nursing may deny, revoke, limit or suspend any license, certificate of qualification or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or as a registered nurse anesthetist that is issued by the board or applied for under this act or may publicly or privately censure a licensee or holder of a certificate of qualification or authorization, if the applicant, licensee or holder of a certificate of qualification or authorization is found to have violated the Nurse Practice Act. The above fact findings establish evidence that the applicant violated the following provisions of the Nurse Practice Act:

Count 1: K.S.A.65-1120(a)(1), to be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing.

Count 2: K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(1), one or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board.

Count 3: K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(3), a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

Count 4: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(c), failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient.

Count 5: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board.

Count 6: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(v), practicing without a license or while the license has lapsed.

3. K.S.A. 77-511(a)(2)(A) of the Kansas Administrative Procedure Act authorizes the use of summary proceedings by a state agency when denying an application in whole or in part.

4. Your conduct described herein violates the Kansas Nurse Practice Act.


5. The role of the Kansas State Board of Nursing is to protect citizens of Kansas.

6. If you wish to dispute this matter, contact the Board immediately by following the procedure for requesting a hearing. A copy of your application will be sent to you upon request.

7. Pursuant to K.S.A. 77-537, this decision, which is called a Summary Order, is subject to your request for a hearing. If you desire a hearing, you must submit or direct a written request for hearing to:

Kansas State Board of Nursing
Legal Division
900 SW Jackson, Suite 1051
Topeka, Kansas 66612-1230
(785) 296-4325

THIS REQUEST MUST BE SUBMITTED WITHIN FIFTEEN (15) DAYS FROM THE DATE OF THIS ORDER. If a hearing is not requested in the time and manner stated above, this Summary Order becomes effective and final upon the expiration of the time for requesting a hearing.


Judith Hiner, RN, BSN, CNA
Investigative Committee, Chair
Kansas State Board of Nursing



**I do hereby certify the
foregoing to be a true copy
of the document which
is on file or is of record
in my office**

CERTIFICATE OF SERVICE

I certify that on the 20th day of November, 2007, the foregoing copy of the Summary Order was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Joseph J. Forkl
416 S. Ninnescah Apt #2
Pratt, Kansas 67124


Alma A. Heckler, #14555
Assistant Attorney General