

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 189986  
ISSUED TO  
OCTAVIA GAYLE EARL

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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 R. Thomas*  
Executive Director of the Board

**ORDER OF THE BOARD**

TO: OCTAVIA GAYLE EARL  
1019 Ritchey  
Gainesville, Texas 76240

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.

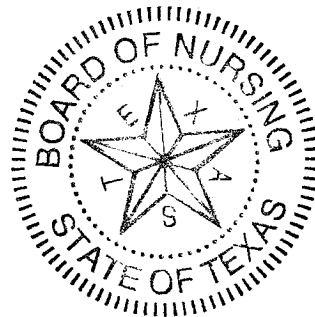
NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 189986, previously issued to OCTAVIA GAYLE EARL, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 189986, previously issued to OCTAVIA GAYLE EARL, 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*  
KATHERINE A. THOMAS, MN, RN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Re: Permanent Certificate Number 189986  
Issued to OCTAVIA GAYLE EARL  
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 24<sup>th</sup> 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):

OCTAVIA GAYLE EARL  
1019 Ritchey  
Gainesville, Texas 76240

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

**In the Matter of Permanent License  
Number 189986, Issued to  
OCTAVIA GAYLE EARL, Respondent**

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**BEFORE THE TEXAS  
BOARD OF NURSING**

### **FORMAL CHARGES**

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, OCTAVIA GAYLE EARL, is a Vocational Nurse holding license number 189986, 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 20, 2006, and November 21, 2006, while employed with Angels of Care Pediatrics, Howe, Texas, Respondent failed to document Skilled Nursing Visits for Patient Medical Record Number SA0130, who was assigned to her care. Respondent's conduct resulted in an inaccurate, incomplete medical record, and was likely to injure the patient in that subsequent care givers would rely on her documentation in order to provide further patient care.

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)&(1)(D) and 217.12(1)(A),(1)(B),(1)(C)&(4).

#### **CHARGE II.**

On or about November 21, 2006, while employed with Angels of Care Pediatrics Home, Howe, Texas, Respondent endangered Patient Medical Record Number SA0130, a child age six (6) years with special needs, including seizures and asthma. Respondent was arrested on suspicion of theft near a retail store while the patient was in her care. Respondent turned the patient over to her relative who was non-healthcare and requested she return the child to his mother. Respondent's conduct was likely to injure the patient in that the patient could have experienced a situation such as a seizure or an asthma attack and required a trained care giver.

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),(1)(B)&(2)(A), and 217.12(1)(A),(1)(B),(1)(D)&(4)&(12).

### CHARGE III.

On or about November 27, 2006, while employed with Angels of Care Pediatrics, Howe, Texas, Respondent engaged in the intemperate use of amphetamines in that she submitted a specimen for a drug screen which resulted positive for amphetamines. The use of *Amphetamines* 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, judgements, 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)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §§217.11(1)(A)&(1)(B), and 217.12(1)(A),(1)(B),(5),(10)(A)&(10)(D).

### CHARGE IV.

On or about April 18, 2007, Respondent plead "Nolo Contendere" to "Theft of Property >=\$500<\$1500, (a Class A Misdemeanor offense that occurred on November 21, 2006), in the County Criminal Court 2, Tarrant County, Fort Worth, Texas, Cause Number CR200700350B. As a result of the pleading, adjudication was deferred and Respondent was placed on twelve (12) months probation.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(3)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

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](http://www.bon.state.tx.us).

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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 for Fraud, Theft & Deception, which can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

Filed this 6<sup>th</sup> day of April, 2009.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel  
Board Certified - Administrative Law  
Texas Board of Legal Specialization  
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Jena Renee Koslan Abel, Assistant General Counsel  
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