

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 622917
ISSUED TO
F. DANIEL LANDER

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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 A. Thomas
Executive Director of the Board

ORDER OF THE BOARD

TO: F. Daniel Lander
1900 Coffeepoint Road, #C12
Brownsville, TX 78521

During open meeting held in Austin, Texas, on June 9, 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 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 622917, previously issued to F. DANIEL LANDER, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 622917, previously issued to F. DANIEL LANDER, 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 professional nursing in the State of Texas.

Entered this 9th day of June, 2009.

TEXAS BOARD OF NURSING


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

Re: Permanent Certificate Number 622917
Issued to F. Daniel Lander
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of June, 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):

F. Daniel Lander
1900 Coffeepport Road, #C12
Brownsville, TX 78521

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

**In the Matter of Permanent License
Number 622917, Issued to
F. DANIEL LANDER, 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, F. DANIEL LANDER, is a Registered Nurse holding license number 622917, 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 February 11, 2009, Respondent's license to practice professional nursing in the State of New Mexico was revoked by default by the Board of Nursing for the State of New Mexico, Albuquerque, New Mexico. A copy of the New Mexico Order effective February 11, 2009, is attached and incorporated, by reference, as a part of this Order.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8), Texas Occupations Code.

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.

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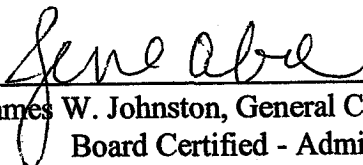
CONTINUED ON NEXT PAGE.

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.

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: New Mexico Order of the Board dated February 11, 2009.

Filed this 4th day of May, 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: New Mexico Order of the Board dated February 11, 2009

0999/D

BEFORE THE BOARD OF NURSING
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:
F. Daniel F. Lander
LICENSE NO.: R50771

Respondent

I certify this to be a true copy of the
records on file with the New Mexico
Board of Nursing.

Signed: 


DEFAULT ORDER

THIS MATTER having come before the Board of Nursing ("BON") on Wednesday, February 11, 2009, the
BON finds the following:

1. A Notice of Contemplated Action was served on the respondent in accordance with the Uniform
Licensing Act, N.M.S.A. §61-1-1 et seq.
2. The respondent has not mailed a request for hearing within the time and in the manner required by
N.M.S.A. §61-1-4 and is therefore in default.

IT IS THEREFORE ORDERED THAT: the license of Daniel F. Lander, R50771, is hereby revoked by
default.

DATE: Feb. 11, 2009


TONY ESCUDERO, CHAIRPERSON
NEW MEXICO BOARD OF NURSING

CERTIFIED MAIL NO: 700634500005164497
RETURN RECEIPT REQUESTED

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BEFORE THE BOARD OF NURSING
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:
F. Daniel Lander
License No. R50771

I certify this to be a true copy of the records on file with the New Mexico Board of Nursing.

Signed: 

Respondent.

NOTICE OF CONTEMPLATED ACTION

1. The Respondent is licensed under the Nursing Practice Act, NMSA 1978, §61-3-1 et seq., and is subject to the jurisdiction of the New Mexico Board of Nursing ("BON").

2. The BON has sufficient evidence which, if not rebutted or explained, will justify the BON in suspending or revoking or taking other action against the Respondent's license pursuant to NMSA 1978, §61-3-28.

3. The general nature of the allegations is contained in Exhibit 1 to this Notice of Contemplated Action.

4. Unless the Respondent within twenty days after service of this notice deposits in the mail a certified return receipts requested letter addressed to the BON at the address below containing a request for hearing, the BON will take the contemplated action.

61-1-8. Rights of person entitled to hearing.

A. A person entitled to be heard under the Uniform Licensing Act [61-1-1 NMSA 1978] shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the

production of relevant books, papers, documents and other evidence upon making written request therefore to the board or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or the hearing officer. All notices issued pursuant to §61-1-4 NMSA 1978 shall contain a statement of these rights.

B. Upon written request to another party, any party is entitled to:

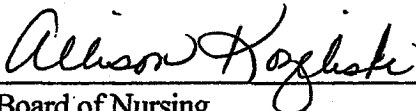
(1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and

(2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.

C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.

Date: 12/19/08



Board of Nursing
Executive Director
6301 Indian School rd., NE
Suite 710
Albuquerque, New Mexico 87110

CERTIFIED MAIL: 7006 B450 0000 5164 4593
RETURN RECEIPT REQUESTED

Exhibit 1

RECEIVED

AUG 26 '08

BOARD OF NURSING

ny #1937

STATE OF NEW MEXICO

(505) 841-8340



Board of Nursing

6301 Indian School NE, Suite 710
Albuquerque, NM 87110

(PLEASE PRINT OR TYPE INFORMATION)

IN THE MATTER OF THE COMPLAINT OF
Brenda Romero, RN – Director of Nursing

Espanola Hospital

1010 Spruce Street	Names of Complainant and Institution			
	Espanola		NM	87532
Street Address	753-1542	City	747-1849	State
Telephone Numbers:	Office:	Home:		Zip

F. Daniel Lander	<u>AGAINST</u>		License or Certificate No:	R50771
Name of Nurse or Certificate Holder	12831(M89)	Plainwell,	Michigan	49080
Street Address	PO Box	City	State	Zip
				Telephone

(Write a detailed statement, directly on this form, describing the facts related to the alleged violation(s) of the Nursing Practice Act and/or rules adopted by the Board. Attach copies of records, reports, letters, etc., relative to the alleged violation(s). Additional sheets may be attached if necessary. (USE TYPEWRITER IF POSSIBLE). PLEASE HAVE THE FORM SIGNED AND DATED ON THE FOLLOWING PAGE.

Comes now the complaint in the above entitled matter alleges

August 22, 2008

RE: F. Daniel Lander

I am writing to share concerns that I have with F. Daniel Lander RN. Daniel came to work at Espanola Hospital on August 11, 2008. Dan is a traveler and was sent to us through a company by the name of The Right Solutions and assigned to work in the Operating Room. Daniel was terminated from Espanola Hospital on August 13, 2008. Espanola Hospital chose to terminate Mr. Landers contract because of poor work performance, unsafe behaviors/attitude and behaviors that communicated that Mr. Landers was under the influence of drugs. During his 3 days of work at Espanola Hospital the staff witnessed the following performance and behaviors:

1. Mr. Lander was not able to give a proper report on patient's conditions to the Day Surgery RN.
2. Mr. Lander was sent to retrieve supplies for the Operating Room (needed immediately for patient care) and did not return. When the manager, Anna Dixon, RN, went to look for him she found him in the cafeteria

ATTACHMENT #1

3. When Mr. Lander was recovering a patient he seemed to rely solely on the paperwork to know what he needed to do next instead of assessing the patient and doing what a prudent RN would do.
4. Mr. Lander's documentation was inappropriate and inadequate. One example of this is under "nurses notes he documented "see CRNA's notes". Mr. Lander referred his assessment to someone else's documentation.
5. Mr. Lander came in to work late two out of two days.
6. Mr. Lander did not seem interested in his training. One example of this was he spent lots of time talking to doctors & the CRNAs rather than learning the steps for the case. When a nurse tried to show him how things were to be done here he would state " I know" but then he would do things inappropriately.
7. When Mr. Lander was asked to come into the OR room to learn how to set up a fracture bed he did not show up as asked. The manager went to find him and asked him for a second time to come observe, as it is a difficult task. Mr. Lander came in the room for a few minutes and then left again prior to placing the patient on the bed. Mr. Lander failed to participate in the training as asked and required.
8. A physician expressed concern to a nurse that she was not comfortable with Mr. Lander in her case alone because Mr. Lander did not seem competent.
9. The CRNAs also had concerns with Mr. Landers work performance and quizzed him prior to leaving him with a patient in the PACU. The CRNA's did not feel comfortable with Mr. Lander's responses and felt it was unsafe to let Mr. Lander care for patients.
10. Mr. Lander had slurred speech, a flat affect and was unable to follow the flow of conversation. When Mr. Lander was asked a direct question he would not directly answer, rather, he brought up another topic.
11. On the way out of the hospital an employee stopped to speak to Mr. Lander. This employee reported that Mr. Lander looked like he was going to fall asleep standing in the hallway. Mr. Lander looked like his eyes were barely open, he lost his balance, stumbled and caught himself on the wall. Speech was slow and Mr. Lander appeared really sedated.

Wherefore complainant prays that an investigation be made as to the matter herein alleged, and if the facts warrant it, the appropriate action be initiated in accordance with the provisions of Section 61-3-1 through 61-3-39, NMSA, 1978 COMP. as amended.

8/22/08
DATE

Brenda Romero RN Don
Signature of Complainant(s)
(Please type or print name below)

INVESTIGATIVE SUMMARY
New Mexico Board of Nursing

Licensee: F. Daniel Lander, RN

License#: R50771

Complainant: Brenda Romero, RN, DON
Espanola Hospital

Reference, #: 1937

On August 26, 2008, a complaint was filed by Brenda Romero, RN, Director of Nursing, Espanola Hospital, against F. Daniel Lander, RN, License #R50771, alleging:

Incompetence
Intemperance or Addiction to the use of Habit Forming Drugs
Unprofessional Conduct

Specifics of the Complaint

- Licensee is accused of allegedly violating the Nursing Practice Act though incompetence:
 - A. Licensee was unable to give proper report on a patient's condition;
 - B. Licensee was "sent to retrieve supplies for the Operating Room (needed immediately for patient care) and did not return. When the Manager went to look for him, she found him in the cafeteria;
 - C. Licensee relied "solely on the paperwork to know what he needed to do next, instead of assessing the patient and doing what a prudent RN would do";
 - D. "A physician expressed concern to a nurse that she was not comfortable with (Licensee) in her case alone because (Licensee) did not seem competent";
 - E. "CRNAs also had concerns with (Licensee's) work performance and quizzed him prior to leaving him with a patient in the PACU. The CRNAs did not feel comfortable with (Licensee's) responses and felt it was unsafe to the (Licensee) care for patients".
- Licensee is accused of allegedly displaying "slurred speech, a flat affect, and being unable to follow the flow of conversation. When (Licensee) was asked a direct question he would not directly answer, rather, he brought up another topic".
- In a separate incident, an employee stopped to talk with the Licensee on the way out of the building. "(Licensee) looked like he was going to fall asleep standing in the hallway. (Licensee) looked like his eyes were barely open, he lost his balance, stumbled and caught himself on the wall. Speech was slow and (Licensee) appeared really sedated".

- Licensee is accused of alleged unprofessional conduct by:
 - A. Failing to make or keep accurate, intelligible entries in records as required by law, policy and standards for the practice of nursing. “(Licensee’s) documentation was inappropriate and inadequate. One example of this is under nurses notes. He documented ‘see CRNA’s notes’. (Licensee) referred his assessment to someone else’s documentation”.
 - B. (Licensee) was late for duty two out of two days assigned.
 - C. Licensee “did not seem interested in his training. Once example of this was he spent lots of time talking to doctors and the CRNAs rather than learning the steps for the case. When a nurse tried to show him how things were to be done here, he would state, ‘I know’, but then would do things inappropriately”.

Investigative Findings

- Ms. Romero, Director of Nursing at Espanola Hospital stated, “We contracted with an agency for his services. When confronted with the evidence he left. He was scary and unreliable. We didn’t know about the ‘do not use’ agency list until afterwards”.
- Ms. Sanchez, Administrative Secretary to Brenda Romero, RN stated, “On his third day I ran into him on the first floor on his way out. He stopped to talk to me and looked like he wanted to fall asleep. He lost his balance when he turned to leave. He had slow speech, not really slurred, but slow. He looked like he was falling asleep. I couldn’t smell anything on him. He made sense, but it was very odd”.
- **Peer Review Sheet from The Right Solution, dated August 21, 2008** states, “Recruiter recommends terminate/decline. Healthcare Provider was late for shift, unable to perform duties such as assist, report, recover. Found eating and chatting with guard when (he was) supposed to be retrieving gloves. Received call from Brenda Romero, DON at Espanola. She called to notify she will be turning (Licensee) into board. Suspected alcohol/controlled substance abuse. Also notified The Right Solution of Do Not Return list that (Licensee) is on through previous agency”.
- Licensee did not respond to the accusations.
- PACU record on patient Tina Velasquez dated August 13, 2008 shows documentation by the Licensee of an unknown pain medication at 25 mcg., I.V. (Attachment #5).
- Moderate Sedation Nursing Record on patient Veronica Dennis dated August 12, 2008 shows documentation by the Licensee of only a post-op diagnosis and no nursing notes (Attachment #6).
- Moderate Sedation Nursing Record on patient Stan Sanders dated August 12, 2008 shows the following documentation by the Licensee in the Nurses Notes: “See M.D. post-op dictation” (Attachment #7).
- Do Not Use Travelers documentation shows Licensee in two locations as a Do Not Use Traveler for Worldwide Agency in POR and OR (Attachment #8).