

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBERS 698951 & 160735
ISSUED TO
JOHN JOSEPH WHITAKER

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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: John Joseph Whitaker
5130 Barrows Dr.
Kountze, TX 77625

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 licenses to practice professional and 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 Numbers 698951 and 160735, previously issued to JOHN JOSEPH WHITAKER, to practice professional and vocational nursing in the State of Texas be, and the same are hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Numbers 698951 and 160735, previously issued to JOHN JOSEPH WHITAKER, 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 and vocational 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

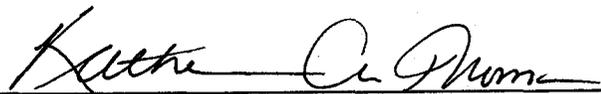
Re: Permanent Certificate Numbers 698951 & 160735
Issued to JOHN JOSEPH WHITAKER
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 15 day of June, 20 08 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):

John Joseph Whitaker
5130 Barrows Dr.
Kountze, TX 77625

BY:


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

**In the Matter of Permanent License
Numbers 698951 & 160735, Issued to
JOHN JOSEPH WHITAKER, 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, JOHN JOSEPH WHITAKER, is a Registered Nurse holding license number 698951 which is in current status at the time of this pleading, and a Vocational Nurse holding license number 160735, 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 March 10, 2008, through March 24, 2008, while employed with Memorial Hermann Baptist Hospital, Beaumont, Texas, Respondent misappropriated Vicoprofen, Oxycontin, and Norco belonging to the facility and patients thereof, in that he admitted that he removed said medications for Patient Numbers 685271, 689169, and 694035, from the Pyxis Medication Dispensing System and sold them for his monetary gain. The total amount of medications misappropriated includes, but is not limited to thirty-one (31) tabs of Norco 10/325, twenty-one (21) tabs of Vicoprofen 7.5/200, and nine (9) tabs of Oxycontin. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

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), (8), (10)(E) & (11)(B).

CHARGE II.

On or about April 4, 2008, while employed with Memorial Hermann Baptist Hospital, Beaumont, Texas, Respondent falsified a physician's order for Patient Number 695392 to reflect an unauthorized prescription for Norco 10/325 1-2 tabs Q4-6H PRN in that he admitted to such falsification. Respondent's conduct was likely to deceive the pharmacy and possession of Norco through use of a falsified prescription is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

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(8), (10)(B), (E) & (11)(B).

CHARGE III.

On or about April 4, 2008, while employed with Memorial Hermann Baptist Hospital, Beaumont, Texas, Respondent misappropriated Norco 10/325 belonging to the facility and patients thereof in that he admitted to using a false prescription in order to remove Norco from the Pyxis Medication Dispensing System which he then sold for his monetary gain. The total amount of Norco misappropriated includes, but is not limited to, ten (10) tabs of Norco 10/325. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

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), (8), (10)(E) & (11)(B).

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.

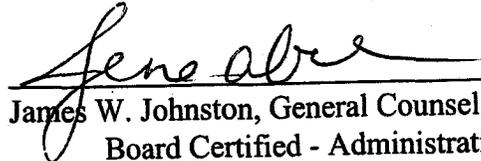
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NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder Lying and Falsification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

Filed this 4th day of May, 20 09.

TEXAS BOARD OF NURSING


James W. Johnston, General Counsel

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Texas Board of Legal Specialization
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