

**DOCKET NUMBER 507-09-0143**

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 187967  
ISSUED TO  
LARRY N. KINSLOW, JR.

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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.  
*Patricia R. Thomas*  
Executive Director of the Board

**ORDER OF THE BOARD**

TO: Larry N. Kinslow, Jr.  
1210B Squaw Valley Drive  
Brownsville, Texas 78520

During open meeting held in Austin, Texas, the Texas Board of Nursing finds that after proper and timely notice was given, the above-styled case was heard by an Administrative Law Judge who made and filed a proposal for decision containing the Administrative Law Judge's findings of fact and conclusions of law. The proposal for decision 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 Texas Board of Nursing, after review and due consideration of the proposal for decision, and exceptions and replies filed, if any, adopts the findings of fact and conclusions of law of the Administrative Law Judge as if fully set out and separately stated herein. 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 187967, previously issued to LARRY N. KINSLOW, JR., to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 187967, previously issued to LARRY N. KINSLOW, JR., 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 10th day of February, 2009.

TEXAS BOARD OF NURSING

  
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KATHERINE A. THOMAS, MN, RN

**SOAH DOCKET NO. 507-09-0143**

**IN THE MATTER OF PERMANENT § BEFORE THE STATE OFFICE**  
**CERTIFICATE NO. 187967 § OF**  
**ISSUED TO LARRY N. KINSLOW § 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 Larry Kinslow (Respondent). Staff's alleged that Respondent committed multiple violations of the Nursing Practice Act<sup>1</sup> and Board's rules. The hearing on the merits was held on November 3, 2008. 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. 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. Larry N. Kinslow (Respondent), holds vocational nurse license number 187967 issued by the Texas Board of Nursing (Board).
2. On November 9, 2006, while employed as a staff nurse with Odyssey Healthcare in Brownsville, Texas, Respondent administered two doses of two tablets of Hydrocodone 10/325 mg to patient WH more frequently than indicated in the physician's order.
3. Hydrocodone is an opioid controlled substance and Respondent's conduct in administering doses of that medication to a patient more frequently than recommended was likely to injure patient WH from overdose-related adverse effects, including tissue toxicity or possible demise, and constitutes a violation of the applicable statutes and Board rules.
4. On November 9, 2006, while employed as a staff nurse with Odyssey Healthcare, Respondent left his nursing assignment with patient WH before the end of his assigned shift without notifying the appropriate agency staff and without reporting the patient's status.

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<sup>1</sup> TEX. OCC. CODE ANN. ch. 301.

5. Patient WH was found deceased 45 minutes after Respondent left his nursing assignment early.
6. Respondent's conduct denied patient WH the benefit of appropriate nursing and hospice care and may have contributed to the patient unnecessarily suffering pain and discomfort during the death and dying process in violation of the applicable statutes and Board rules.
7. On November 9, 2006, while employed as a staff nurse with Odyssey Healthcare, Respondent falsely pre-documented narrative nursing notes reflecting that they had been recorded at 0800 hours even though Respondent had already left the patient's home by that time.
8. Respondent's pre-documenting his nursing notes was deceptive conduct that resulted in an inaccurate medical record and constitutes a violation of the applicable statutes and Board rules.
9. Respondent's employment with Odyssey Healthcare was terminated on November 9, 2006, for Respondent's falsification of records.
10. On November 13, 2006, Respondent falsely indicated on an application for employment with San Martin Home Health, Inc., in Brownsville, Texas, that he left his previous employment with Odyssey Healthcare because a day position was not available.
11. Respondent's providing false information on his employment application was deceptive and constitutes a violation of the applicable statutes and Board rules.
12. From July 1, 2007, through November 30, 2007, Respondent failed to renew his license to practice vocational nursing.
13. From July 1, 2007 through November 30, 2007, Respondent practiced vocational nursing without a license while employed with San Martin Home Health, Inc. in Brownsville, Texas.
14. Respondent's practice of vocational nursing without a current license was deceptive to his patients, their families, fellow care givers, and the public, all of whom relied on Respondent's nursing practice being in compliance with all Board Rules and regulations.
15. On April 25, 2008, Staff of the Board (Staff) sent its formal charges to Respondent by certified mail. Respondent received the formal charges as indicated by his signature on the return receipt.
16. On September 11, 2008, Staff sent its Notice of Hearing for the November 3, 2008, hearing to Respondent by certified mail.

17. The Notice of Hearing was sent to Respondent's last known home address of record on file with the Board and was received by Respondent on September 22, 2008, as indicated by his signature on the return receipt.
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 November 3, 2008, in a fourth floor hearing room of the State Office of Administrative Hearings, William P. Clements Office Building, 300 West 15<sup>th</sup> Street, Austin, Texas.
21. Staff appeared at the hearing through its assistant general counsel, James W. Johnston. Respondent did not appear and was not represented at the hearing. Respondent did not file a motion for continuance or provide an explanation for his failure to appear.
22. Staff made a motion for default, which was granted following the admission of evidence demonstrating jurisdiction and proper notice.
23. The ALJ granted Staff's motion for default.
24. Pursuant to default, the allegations in Staff's Notice of Hearing were deemed true.

## II. CONCLUSIONS OF LAW

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 effected upon Respondent pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and 22 TEX. ADMIN. CODE § 213.10.

4. Administering a controlled substance to a patient more frequently than indicated by the applicable physician's orders is a violation of the Nursing Practice Act and Board's rules. TEX. OCC. CODE ANN. §§ 301.452(b)(10) and (13), 22 TEX. ADMIN. CODE §§ 217.11(1)(A), (C), and (M), and 217.12(1)(A), (B), and (4).
5. Leaving a nursing shift before the end of the assigned shift without notifying appropriate agency staff and without reporting the patient's status is a violation of the Nursing Practice Act and Board's rules. TEX. OCC. CODE ANN. §§ 301.452(b)(10) and (13), 22 TEX. ADMIN. CODE §§ 217.11(1)(A), (D), (I), (P), and (2)(A).
6. Falsely pre-documenting narrative nursing notes constitutes a violation of the Nursing Practice Act and the Board's rules. TEX. OCC. CODE ANN. §§ 301.452(b)(10) and (13), 22 TEX. ADMIN. CODE §§ 217.11(1)(A) and 217.12 (1)(A), (B), C), and (6)(A).
7. Providing false information on an application for nursing employment is a violation of the Nursing Practice Act and Board's rules. TEX. OCC. CODE ANN. §§ 301.452(b)(10) and (13), 22 TEX. ADMIN. CODE §§ 217.11(1)(A) and 217.12(6)(A), (H), and (I).
8. Practicing vocational nursing without a current license is a violation of the Nursing Practice Act and Board's rules. TEX. OCC. CODE ANN. §§ 301.452(b)(1),(10), and (13), 22 TEX. ADMIN. CODE §§ 217.11(1)(A) and 217.12(1)(A) and (1)(B).
9. Based on the above Findings of Fact and Conclusions of Law, Respondent is subject to discipline by the Board, including revocation of his license. TEX. OCC. CODE ANN. §§ 301.452(b)(1) and 301.453; 22 TEX. ADMIN. CODE § 217.11.
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 § 155.55.
11. The Board should enter a default order against Respondent and should revoke Respondent's Permanent Certificate No. 187967 as a vocational nurse.

**SIGNED December 29, 2008.**



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

**In the Matter of Permanent License  
Number 187967, Issued to  
LARRY NATHAN KINSLOW, JR., 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, LARRY NATHAN KINSLOW, JR., is a Vocational Nurse holding license number 187967, 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 9, 2006, while employed as a Staff Nurse with Odyssey Healthcare, Brownsville, Texas, Respondent administered two (2) tablets of Hydrocodone 10/325 mg to Patient WH in excess frequency of the physician's order, which indicated that the patient was to receive the medication every four (4) to six (6) hours, as needed. However, Respondent administered a second dose of two (2) tablets of Hydrocodone after only three (3) hours, at 0700, after he had earlier administered a dose at 0400. Hydrocodone is an opioid controlled substance used for pain relief. Respondent's conduct was likely to injure the patient from overdose related adverse effects, including tissue toxicity and/or possible demise.

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

#### **CHARGE II.**

On or about November 9, 2006, while employed as a Staff Nurse with Odyssey Healthcare, Brownsville, Texas, Respondent left his nursing assignment with Patient WH before the end of his assigned shift, without notifying the appropriate agency staff and without reporting the patient's status. The patient was found deceased 45 minutes after Respondent left. Respondent's conduct denied the patient the benefit of appropriate nursing and hospice care, and may have contributed to the patient suffering pain and discomfort unnecessarily during the death and dying process.

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),(1)(I),(1)(P)&(2)(A) and 217.12(1)(A),(1)(B),(1)(C),(4)&(12).

### **CHARGE III.**

On or about November 9, 2006, while employed as a Staff Nurse with Odyssey Healthcare, Brownsville, Texas, Respondent falsely pre-documented narrative nursing notes reflecting that they had been recorded at 0800, even though Respondent had already left the patient's home by that time. Respondent's conduct was deceptive and resulted in an inaccurate medical record.

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)&(1)(D) and 217.12(1)(A),(1)(B),(1)(C)&(6)(A).

### **CHARGE IV.**

On or about November 13, 2006, Respondent falsely indicated on an application for employment with San Martin Home Health, Inc., Brownsville, Texas, that he left his previous employment with Odyssey Healthcare, Brownsville, Texas, because a day position was unavailable. Respondent's employment with Odyssey Healthcare, Brownsville, Texas, was terminated on November 9, 2006, for falsification of records. Respondent's conduct was deceptive and may have affected the facility's decision regarding his employment.

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) and 217.12(6)(A),(6)(H)&(6)(I).

### **CHARGE V.**

On or about July 1, 2007, through November 30, 2007, Respondent failed to renew his license to practice vocational nursing in the State of Texas and, consequently, practiced vocational nursing while employed with San Martin Home Health, Inc., Brownsville, Texas, without a current license, as required. Respondent did not renew his license to practice vocational nursing in the State of Texas until March 12, 2008. Respondent's conduct deceived patients, their families, fellow care givers and the public in that they believed Respondent's nursing practice was in compliance with all Board Rules and Regulations.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1),(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §§ 217.11(1)(A) and 217.12(1)(A)&(1)(B)

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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).

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Lying and Falsification, 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 25<sup>th</sup> day of April, 2008.

TEXAS BOARD OF NURSING

  
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