

DOCKET NUMBER 507-07-3064

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 687978
ISSUED TO
CHARLA K. GAAR

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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 P. Thomas
Executive Director of the Board

ORDER OF THE BOARD

TO: Charla K. Gaar
2000 W. Arkansas Lane #53
Arlington, TX 76013

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 687978, previously issued to CHARLA K. GAAR, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 687978, previously issued to CHARLA K. GAAR, 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 11th day of December, 2007.

TEXAS BOARD OF NURSING

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

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

October 17, 2007

Katherine A. Thomas, M.N., R.N.
Executive Director
Texas Board of Nursing
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701

HAND DELIVERY

RE: Docket No. 507-07-3064; Charla K. Gaar

Dear Ms. Thomas:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.59(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink that reads "Paul D. Keeper".

Paul D. Keeper
Administrative Law Judge

PDK/ds
Enclosures

XC: Docket Clerk, State Office of Administrative Hearings - **VIA HAND DELIVERY**
Victoria Cox, Staff Attorney, Texas Board of Nursing, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 -
VIA HAND DELIVERY
Charla Gaar, 2000 W. Arkansas Lane, #53, Arlington, TX 76013]-**VIA REGULAR MAIL**

SOAH DOCKET NO. 507-07-3064

TEXAS BOARD OF NURSING
Petitioner

V.

CHARLA K. GAAR,
Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Staff of the Texas Board of Nursing (Staff/Board) brought this case seeking revocation of the registered nurse's license of Charla K. Gaar, Respondent. Respondent was alleged to have exhibited impaired behavior while employed with two different hospitals, engaged in the intemperate use of Alprazolam, cannabinoids, and cocaine, pled guilty or *nolo contendere* to the misdemeanor possession of a controlled substance, and failed to disclose the fact of her conviction to the Board. Respondent failed to appear at the hearing on the merits, and Staff's motion for entry of a default order against Respondent was granted. Staff's allegations against Respondent were accepted as true, and the facts supporting the alleged violations were established as a matter of law. The Administrative Law Judge (ALJ) agrees with Staff's recommendation that Respondent's license be revoked.

I. BACKGROUND AND RECOMMENDATION

On August 16, 2007, the hearing in this matter convened before the State Office of Administrative Hearings (SOAH) ALJ Paul Keeper at 300 W. 15th Street, Austin, Texas. Assistant General Counsel Victoria Cox represented Staff. Staff introduced documentary evidence establishing that Respondent had been sent proper and timely notice of the hearing. Despite the receipt of notice, Respondent did not appear and was not represented at the hearing.¹

Staff relied on its First Amended Notice of Hearing to establish that Respondent had: (1) exhibited impaired behavior while employed at Medical Center of Plano and at HealthSouth Rehabilitation Center of Arlington, Texas; (2) engaged in the intemperate use of Alprazolam,

¹ Staff Exs. 3, 3a, 4, and 4a.

cannabinoids, and cocaine; (3) pled guilty or *nolo contendere* in the County Court at Law No. 4 of Collin County, Texas, to the misdemeanor charge of possession of a controlled substance; and (4) failed to disclose the fact of her conviction to the Board.²

In addition, Staff introduced evidence reflecting that Respondent: (1) held license number 687978 as a registered nurse,³ (2) had been sent notice that that she was under investigation by Staff for exhibiting bizarre behavior while employed at Medical Center of Plano,⁴ and (3) had been sent notice that Staff had learned that Respondent had pled guilty or *nolo contendere* in Cause Number 4-81890-05 in the County Court at Law No. 4 of Collin County, Texas, to the misdemeanor charge of possession of a controlled substance.⁵

The ALJ recommends that a default be entered and that Respondent's registered nurse license number 687978 be revoked based on the Findings of Fact and Conclusions of Law presented below.

II. PROPOSED FINDINGS OF FACT

1. Charla K. Gaar, Respondent, a registered nurse, holds license number 687978 issued by the Texas Board of Nursing (Board).
2. On June 9, 2004, while employed at Medical Center of Plano, Respondent was observed exhibiting bizarre behavior, including slurred speech, dry mouth, unsteady gait, bloodshot eyes, talking to herself, dilated pupils, and slow and deliberate movements.
3. On June 9, 2004, while employed at Medical Center of Plano, Respondent tested positive for the use of Alprazolam, cannabinoids, and cocaine.
4. On July 15, 2005, Respondent pled guilty or *nolo contendere* in Cause Number 4-81890-05 in the County Court at Law No. 4 of Collin County, Texas, to the misdemeanor charge of possession of a controlled substance.

² Staff Ex. 4a.

³ Staff Ex. 1.

⁴ Staff Exs. 2 and 2a.

⁵ Staff Ex. 2b.

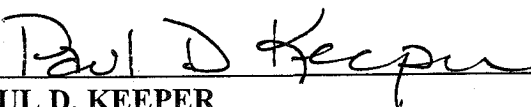
5. Respondent failed to disclose the fact of her conviction to the Board.
6. On February 16, 2006, while employed with HealthSouth Rehabilitation Hospital of Arlington, Respondent exhibited impaired behavior, including lethargy, the inability to form a coherent sentence, and the inability to perform basic nursing services.
7. On June 11, 2007, Board Staff provided Respondent with an Amended Notice of Hearing that a hearing on the merits would be convened before the State Office of Administrative Hearings (SOAH) on August 16, 2007, to consider formal charges against her.
8. The Amended Notice of Hearing was sent to Respondent's last known address that she had provided to the Board.
9. The Amended 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.
10. The Amended Notice of Hearing contained the following language in capital letters in 12-point or larger boldface type: 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.
11. The hearing on the merits was convened pursuant to the Notice of Hearing at 9:00 a.m. on August 16, 2007, at the offices of the State Office of Administrative Hearings, William P. Clements Office Building, 300 West 15th Street, Austin, Texas. The record closed that day.
12. Staff made an appearance through its assistant general counsel, Victoria Cox. Respondent did not appear and was not represented.
13. Staff's motion for default was granted, and its allegations were established as true.

III. PROPOSED CONCLUSIONS OF LAW

1. The Texas Board of Nursing (Board) has jurisdiction over this matter pursuant to TEX. OCC. CODE ANN. §§ 301.452 and 301.453.
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 and TEX. OCC. CODE ANN. § 301.459.

3. The Board's rules authorize service of notice by sending it to Respondent's last known address. 22 TEX. ADMIN. CODE (TAC) § 213.10(a).
4. Proper and timely notice was effected upon Respondent. TEX. GOV'T CODE ANN ch. 2001 and 22 TAC § 213.10.
5. Respondent's exhibition of impaired behavior is the basis for disciplinary action by the Board. TEX. OCC. CODE ANN. § 301.452(b)(10) and (12); 22 TAC § 217.12(12).
6. Respondent's intemperate use of Alprazolam, cannabinoids, and cocaine is the basis for disciplinary action by the Board. TEX. OCC. CODE ANN. § 301.452(b)(9) and (10); 22 TAC § 217.12(1).
7. Respondent's criminal conviction for misdemeanor possession of a controlled substance is a violation of the Board's rule concerning unprofessional conduct. TEX. OCC. CODE ANN. § 301.452(b)(3) and (10); 22 TAC § 217.12(13).
8. Respondent failure to disclose her conviction for misdemeanor possession of a controlled substance is the basis for disciplinary action by the Board. TEX. OCC. CODE ANN. § 301.452(b)(10); 22 TAC § 217.12(6)(I).
9. The Board should enter a default order against Respondent and should revoke her license number 687978 as a registered nurse.

SIGNED October 17, 2007.



PAUL D. KEEPER
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS