

DOCKET NUMBER 507-07-1661



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. Johnson
Executive Director of the Board

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 130572
ISSUED TO
DAWN ELAINE JOHNSON

§
§
§
§
§

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

ORDER OF THE BOARD

TO: Dawn Elaine Johnson
9391 FM 2757
Forney, Texas 75126

During open meeting held in Austin, Texas, the Board of Nurse Examiners 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 Board of Nurse Examiners, 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 130572, previously issued to DAWN ELAINE JOHNSON, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 130572, previously issued to DAWN ELAINE JOHNSON, upon receipt of this Order, be immediately delivered to the office of the Board of Nurse Examiners for the State of Texas.

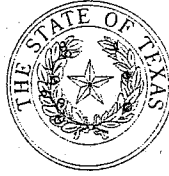
IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privilege, if any, to practice professional nursing in the State of Texas.

Entered this 12th day of June, 2007.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

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

May 3, 2007

Katherine A. Thomas, M.N., R.N.
Executive Director
Board of Nurse Examiners for the State of Texas
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701

HAND DELIVERY

**RE: Docket No. 507-07-1661; In the Matter of Permanent Certificate Number
130572 Issued to Dawn Elaine Johnson**

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, appearing to read "S. Rivas", with a long horizontal flourish extending to the right.

Steven M. Rivas
Administrative Law Judge

SMR/rm

Enclosures

XC: Docket Clerk, State Office of Administrative Hearings - **VIA HAND DELIVERY**
Victoria Cox, Assistant General Counsel, BNE, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 - **VIA HAND DELIVERY**
Dawn E. Johnson, 9391 FM 2757, Forney, TX 75126-**VIA REGULAR MAIL**

SOAH DOCKET NO. 507-07-1661

IN THE MATTER OF	§	BEFORE THE STATE OFFICE
PERMANENT CERTIFICATE	§	
NUMBER 130572	§	OF
ISSUED TO	§	
DAWN ELAINE JOHNSON	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas State Board of Nurse Examiners (Staff/Board) brought this case seeking disciplinary action against Dawn Elaine Johnson (Respondent), a licensed vocational nurse (LVN), by revoking the permanent certificate issued to Respondent for violating the Nursing Practice Act (the Act), TEX. OCC. CODE ANN. ch. 301, and the Board's rules. Despite being sent proper notice, Respondent did not appear nor was she represented at the hearing. Based on Respondent's failure to appear, Staff's allegations were accepted as true. The Administrative Law Judge (ALJ) agrees with Staff's recommendation that Respondent's permanent certificate as a LVN be revoked.

I. PROCEDURAL HISTORY, NOTICE, AND JURISDICTION

On February 7, 2007, Respondent was served a Notice of Hearing that informed Respondent of the hearing, and included language that failure to appear at the hearing would result in the Board being granted a default. On March 5, 2007, a hearing on the merits was convened before ALJ Steven M. Rivas at the State Office of Administrative Hearings, William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas. Staff was represented by Victoria Cox, Assistant General Counsel, who moved for a default based on Respondent's failure to appear. Staff offered evidence establishing jurisdiction and that appropriate notice of the hearing had been provided to Respondent. The hearing was concluded and the record closed that same day.

II. RECOMMENDATION

Staff presented its expert witness, Carol Marshall, who testified regarding the appropriate sanction. Ms. Marshall stated that Respondent's misconduct posed a danger to the public, patients,

and her employers. Staff established that, for the type of misconduct Respondent committed, Board policy requires revocation of the nursing license until Respondent shows that she is fit for licensure. Also in its notice, Staff mentions that it will seek to impose on Respondent the administrative costs of the proceeding pursuant to TEX. OCC. CODE ANN. § 301.461.¹ Based upon the following findings and conclusions, and in accordance with 1 TEX. ADMIN. CODE § 155.55, the ALJ recommends that a default be entered and that Respondent's permanent certificate as a LVN be revoked.

III. FINDINGS OF FACT

1. Dawn Elaine Johnson (Respondent) is a licensed vocational nurse who holds permanent certificate number 130572, issued by the State of Texas.
2. On August 15, 2004, while employed with Cuddle Me Home Care, Rowlett, Texas, Respondent borrowed and failed to repay \$500 from the parents of a patient.
3. The staff of the Texas State Board of Nurse Examiners (Staff/Board) filed formal charges against Respondent on February 10, 2006.
4. On February 15, 2006, Staff mailed a copy of the formal charges to Respondent by certified mail, return receipt requested, to Respondent's then known address of record of 9391 FM 2757, Forney, Texas, 75126.
5. On February 7, 2007, Staff sent a notice of hearing to Respondent by certified mail, return receipt requested, to Respondent's address as described in Findings of Fact No. 4.
6. 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.
7. The notice of hearing contained the following language in capital letters in 12-point 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

¹ At the hearing, Staff did not present evidence to establish the imposition of administrative costs; therefore, the ALJ will not address the issue in this proposal.

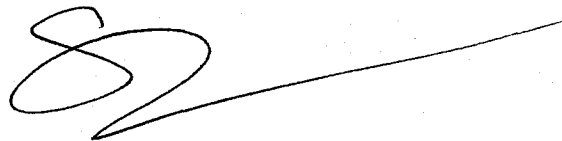
charges being admitted as true and the proposed recommendation of staff shall be granted by default.”

8. On March 5, 2007, the Administrative Law Judge convened the hearing on the merits. Staff was represented by Victoria Cox, Assistant General Counsel. Although properly notified of the hearing, as stated in Findings of Fact No.5, Respondent did not appear and was not represented at the hearing.
9. Staff's motion for default was granted, and Staff's factual allegations in the notice of hearing and formal charges were established as true.

IV. CONCLUSIONS OF LAW

1. The Texas State Board of Nurse Examiners (Board) has jurisdiction over this matter pursuant to the Nursing Practice Act (the Act), TEX. OCC. CODE ANN. § 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 § 301.454 of the Act.
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 (TAC) §§ 213.10 and 213.22.
4. A default is authorized pursuant to 1 TAC § 155.55.
5. Based on Findings of Fact No. 2, Respondent violated § 301.452(b)(10) of the Act, and 22 TAC § 239.11(27)(L).
6. The Board is authorized to take disciplinary action against the Respondent, including revocation, pursuant to § 301.453 of the Act.
7. Pursuant to § 301.453 of the Act, Respondent's permanent certificate as a LVN in the State of Texas should be revoked.

SIGNED May 3, 2007.



STEVEN M. RIVAS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS