

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 155844  
ISSUED TO  
STEVEN GENE GARDINER

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BEFORE THE ELIGIBILITY  
AND DISCIPLINARY  
COMMITTEE OF THE BOARD  
OF NURSE EXAMINERS OF THE  
STATE OF TEXAS



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: Steven Gene Gardiner  
908 N. Main  
Rusk, Texas 75785

During open meeting held in Austin, Texas, on June 12, 2007, 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 file a written response to the Formal Charges as required by 22 TEX. ADMIN. CODE, §213.16.

The Committee of the Board of Nurse Examiners 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 Texas Occupations Code, for retention of Respondent's licenses to practice 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 of the violations alleged in the Formal Charges were given to Respondent in this matter, Respondent has failed to file an answer in accordance with 22 TEX. ADMIN. CODE, §213.16.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code, §2001.056 and 22 Texas Administrative Code, §213.16.

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 to set aside the default order (22 TEX. ADMIN.CODE § 213.16(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.

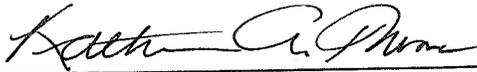
NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 155844, previously issued to STEVEN GENE GARDINER, to practice vocational nursing in the State of Texas be, and the same are hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 155844, previously issued to STEVEN GENE GARDINER 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 vocational 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

In the Matter of Permanent License  
Number 155844, Issued to  
STEVEN GENE GARDINER, Respondent

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BEFORE THE BOARD  
OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

### FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, STEVEN GENE GARDINER, is a Vocational Nurse holding license number 155844, 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 September 2006, Respondent failed to comply with the Agreed Order issued to him on June 12, 2006, by the Board of Nurse Examiners for the State of Texas. Noncompliance is the result of his failure to comply with Stipulation Number Three (3) of the Agreed Order which reads, in pertinent part:

- (3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term.

Specifically, Respondent withdrew from the TPAPN after filing for disability.

A copy of the June 12, 2006 Agreed Order, Findings of Fact and Conclusions of Law is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) and (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(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).

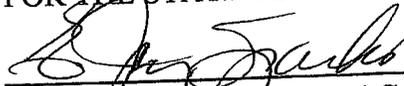
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bne.state.tx.us](http://www.bne.state.tx.us).

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Chemical Dependency which can be found at the Board's website, [www.bne.state.tx.us](http://www.bne.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: Agreed Order dated June 12, 2006.

Filed this 10<sup>th</sup> day of April, 2007.

BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS



James W. Johnston, General Counsel

Board Certified - Administrative Law  
Texas Board of Legal Specialization  
State Bar No. 10838300

Victoria Cox, Assistant General Counsel

State Bar No. 00789585

E. Joy Sparks, Assistant General Counsel

State Bar No. 18874600

BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701

P: (512) 305-6824

F: (512) 305.8101 or (512)305-7401

Attachments: Agreed Order dated June 12, 2006.

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BEFORE THE BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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In the Matter of Vocational Nurse  
License Number 155844  
issued to STEVEN GENE GARDINER

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AGREED  
ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of STEVEN GENE GARDINER, Vocational Nurse License Number 155844, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452 (b) (10) & (12), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on April 14, 2006, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Tyler Junior College, Jacksonville, Texas, on November 9, 1995. Respondent was licensed to practice vocational nursing in the State of Texas on January 2, 1996.
5. Respondent's vocational nursing employment history includes:

January 1996	-	June 1997	Unknown
July 1997	-	October 1997	Pediatric Nurse Grace Visiting Nurse & Home Health Svcs. Inc. Jacksonville, Texas

Respondent's vocational nursing employment history continued:

November 1997	-	January 1998	Unknown
February 1998	-	August 1998	Staff Nurse Bonner Place Jacksonville, Texas
September 1998	-	December 1999	Staff Nurse Oak Park Care Center Rusk, Texas
July 1999	-	September 2001	Staff Nurse UTMB/Skyview Hospital Rusk, Texas
October 2001	-	April 2002	Unknown
May 2002	-	July 2004	Staff Nurse CLC Oak Park Rusk, Texas
August 2004	-	Present	Unknown

6. At the time of the incidents in Findings of Fact Numbers Seven (7) and Eight (8), Respondent was employed as a Staff Nurse with CLC Oak Park, Rusk, Texas, and had been employed in this position for two (2) years and two (2) months.
7. On or about July 7, 2004, while employed as a Staff Nurse with CLC Oak Park, Rusk, Texas, Respondent failed to administer medications/treatments to patients as ordered by the physician. Respondent's conduct was likely to injure the patients in that failure to administer medications as ordered by the physician could have resulted in nonefficacious treatment.
8. On or about July 7, 2004, while employed as a Staff Nurse with CLC Oak Park, Rusk, Texas, Respondent failed to document the administration of as needed (PRN) medications and narcotics in the patients' Medication Administration Record (MAR) and/or nurses notes. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on Respondent's documentation to further medicate the patients.
9. In response to the incidents in Findings of Fact Numbers Seven (7) and Eight (8), Respondent states that, "The medications were changed per physician order without my knowledge. The nurse who took the order failed to place the order in follow-up and they failed to pass the information along to the next shift so that medication errors could be avoided. I have to admit that if I don't put it on the MAR at the very minute I give a medication, I get busy and forget to do so."
10. On or about April 5, 2006, Respondent underwent a forensic psychological evaluation with chemical dependency and polygraph components by John Lehman, Ph.D., Clinical Psychologist, in which Dr. Lehman diagnosed Respondent with moderate major depression and recommended that Respondent be referred to the Texas Peer Assistance Program for Nurses (TPAPN) so that appropriate psychological treatment for Respondent could be monitored.
11. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

## CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violations of Section 301.452 (b) (10) & (12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §239.11 (2) and (4).
4. The evidence received is sufficient cause pursuant to Section 301.452 (b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 155844, heretofore issued to STEVEN GENE GARDINER, including revocation of Respondent's vocational license to practice nursing in the State of Texas.
5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

## ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Board of Nurse Examiners.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§ 301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE § 211.01 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privileges, if any, to practice vocational nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including revocation of Respondent's license and multistate licensure privileges, if any, to practice vocational nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Board of Nurse Examiners, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

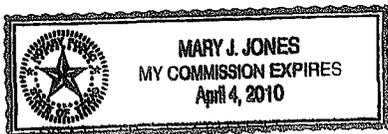
Signed this 6th day of June, 2006.

Steven Gene Gardiner  
STEVEN GENE GARDINER, Respondent

Sworn to and subscribed before me this 6 day of June, 2006.

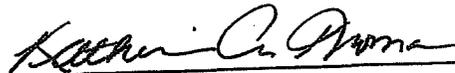
SEAL

Mary J. Jones  
Notary Public in and for the State of Texas



WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby accept and enter the Agreed Order that was signed on the 6th day of June, 2006, by STEVEN GENE GARDINER, Vocational Nurse License Number 155844, and said Order is final.

Effective this 12th day of June, 2006.

  
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Katherine A. Thomas, MN, RN  
Executive Director  
on behalf of said Board

Re: Permanent Certificate Number 155844  
Issued to STEVEN GENE GARDINER  
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of June, 2007, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via first class mail, and addressed to the following person(s):

Steven Gene Gardiner  
908 N. Main  
Rusk, Texas 75785

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