

DOCKET NUMBER 507-08-0738

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 641171
ISSUED TO
JULIE ANN (BROWN) MILLER

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BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARING



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: Julie Ann (Brown) Miller
805 NW 8th Street
Grand Prairie, Texas 75050

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 641171, previously issued to JULIE ANN (BROWN) MILLER, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 641171, previously issued to JULIE ANN (BROWN) MILLER, 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 nursing in the State of Texas.

Entered this 18th day of March, 2008.

TEXAS BOARD OF NURSING

BY:



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

SOAH DOCKET NO. 507-08-0738

IN THE MATTER OF PERMANENT § **BEFORE THE STATE OFFICE**
 §
LICENSE NUMBER 641171 § **OF**
 §
ISSUED TO JULIE ANN BROWN § **ADMINISTRATIVE HEARINGS**

PROPOSAL FOR DECISION

The staff of the Texas Board of Nursing¹ (Staff/Board) brought this case seeking revocation of the nursing license of Julie Ann Brown (Respondent). Staff alleged that Respondent engaged in unprofessional conduct while employed with a home health agency in Texas. Additionally, Staff alleged that Respondent's license was revoked in California as a result of Respondent falsifying time records and receiving compensation to which she was not entitled, as well as failing to appear at a pending criminal hearing. Despite being sent proper notice, Respondent failed to appear or be represented at this hearing. Staff moved for a default and the ALJ granted its motion, establishing all the factual allegations contained in Staff's First Amended Formal Charges as true. In this proposal for decision, the ALJ adopts Staff's requested sanction of revocation of Respondent's nursing license.

I. BACKGROUND AND EVIDENCE

On January 23, 2008, the hearing in this matter convened before Administrative Law Judge (ALJ) Suzanne Formby Marshall, at the hearings facility of the State Office of Administrative Hearings (SOAH), 300 W. 15th Street, Austin, Texas. Attorney Victoria Cox represented Staff.

Staff introduced various documents into evidence establishing that Respondent had been sent proper and timely notice of the allegations and of the hearing to her last known addresses in the

¹ Prior to September 1, 2007, the name of the Board was the Board of Nurse Examiners.

Board's records.² Staff then made an oral motion for default due to Respondent's failure to appear at the hearing. The motion was granted, resulting in all of Staff's allegations contained in the First Amended Formal Charges being deemed admitted as true.

Staff presented its expert witness, Carol Marshall, to testify regarding the appropriate sanction.³ According to Ms. Marshall, Respondent's license should be revoked due to her conduct in Texas and her license revocation in California. Ms. Marshall testified that the California license revocation resulted from Respondent's actions in falsifying time records and receiving compensation for work that she did not perform, and for failing to appear at a criminal hearing based on felony charges arising from her conduct. Ms. Marshall testified that Respondent's actions in California were relevant to the Texas nursing board's decision regarding whether to allow Respondent to remain licensed in the state of Texas.⁴ Stating that the Texas nurse board would consider Respondent's actions in California as serious violations, she said that the Board would also revoke a Texas nurse's license for the same conduct. Under all of the circumstances, Ms. Marshall stated, Respondent's license should be revoked

The details of jurisdiction and notice are set out in the Findings of Fact and Conclusions of Law.

² The Board's rules require its licensees to provide a current address and to notify the Board within 10 days of any change in address. 22 TEX. ADMIN. CODE § 217.7.

³ Ms. Marshall is a registered nurse with a master's degree who is employed as a nursing practice consultant by the Board. She has twenty-eight years' experience in many areas of nursing. She provides expert advice to the Board with issues related to nursing regulation, practice and patient safety, among other matters. Staff's Ex. 5. Ms. Marshall testified that she had previously reviewed all the exhibits admitted into evidence.

⁴ According to Ms. Marshall, Respondent's conduct in California, including her license revocation there, would be of concern to the Board if Respondent applied for re-licensure.

II. RECOMMENDATION

The ALJ recommends that a default be entered and that the Board revoke Respondent's nursing license based on the Findings of Fact and Conclusions of Law presented below.

III. PROPOSED FINDINGS OF FACT

1. Julie Ann Brown (Respondent), a registered nurse licensed by the State of Texas, holds permanent license number 641171 issued by the Texas Board of Nursing (Board).
2. Board Staff filed Formal Charges against Respondent on November 10, 2006, and First Amended Formal Charges on July 12, 2007.
3. On November 16, 2007, Staff mailed a First Amended Notice of Hearing and copy of the First Amended Formal Charges to Respondent by certified mail, return receipt requested, to her last known addresses of record on file with the Board, which are 2226 W. 11th Street, Irving, Texas 75060, and 2723 Grove Street, Irving, Texas 75060.
4. 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.
5. 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 CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF SHALL BE GRANTED BY DEFAULT.**
6. Respondent received notice of the hearing as represented by her signature on a return receipt from the mailings referred to in Finding of Fact No. 3.
7. Respondent did not appear and was not represented at the hearing held January 23, 2008.
8. Staff's motion for default was granted and its factual allegations were deemed admitted as true.
9. On August 26, 2005, while employed with Good Samaritan Home Health Agency in Irving, Texas, Respondent improperly used confidential patient information, contacted patients with

the agency, misrepresent the imminent closure of the agency, and solicited patients of the agency to transfer to another home health agency with whom Respondent was employed.

10. On March 21, 2007, the Board of Registered Nursing for the State of California revoked Respondent's license in a default decision and order. The Board's actions were based on findings that:
 - a. Respondent submitted falsified time cards in the amount of twenty-nine thousand two hundred eight dollars (\$29,280.00) from March 22, 2004, through August 9, 2004, representing payment for forty-five (45) 12-hour shifts that Respondent did not work at the St. Jude's Hospital in Fullerton, California. Respondent admitted that she falsified her working hours to her employer, and to the St. Judge Risk Management and Legal Counsel, and the Fullerton, California, police department.
 - b. On April 4, 2005, a bench warrant was issued by the Superior Court of California, County of Orange, North Justice Center, for Respondent's failure to appear for the hearing regarding the charge of felony of grand theft in the amount of \$25,000.

IV. 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. § 301.454.
3. A licensee is required to maintain a current address with the Board and to notify the Board within ten days of any change in address. 22 TEX. ADMIN. CODE § 217.7.
4. 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 and 217.7.
5. Based on 1 TEX. ADMIN. CODE § 155.55, Staff's allegations are deemed true.
6. Respondent violated TEX. OCC. CODE ANN. § 301.452(b)(8) and (10), and 22 TEX. ADMIN. CODE § 217.12(6)(G), (6)(H), and (13).

7. The Board should enter a default order against Respondent.
8. Pursuant to TEX. OCC. CODE ANN. §§ 301.452 and 301.453, Respondent's nursing license should be revoked.

SIGNED February 12, 2008.



SUZANNE FORMBY MARSHALL
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS