

DOCKET NUMBER 507-08-2590

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 619155  
ISSUED TO  
GINA R. LESTER

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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: Gina R. Lester  
9907 Brookview  
La Porte, Texas 77571

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.

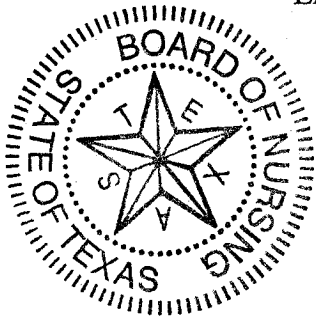
The Texas Board of Nursing, after review and due consideration of the proposal for decision, and exceptions and replies filed, if any, adopts the findings of fact and conclusions of law of the Administrative Law Judge as if fully set out and separately stated herein. All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 619155, previously issued to GINA R. LESTER, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 619155, previously issued to GINA R. LESTER, 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 9th day of September, 2008.



TEXAS BOARD OF NURSING

BY:

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

SOAH DOCKET NO. 507-08-2590

**IN THE MATTER OF**

**PERMANENT CERTIFICATE  
NUMBER 619155 ISSUED TO**

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**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**PROPOSAL FOR DECISION**

Staff of the Texas Board of Nursing (Staff/Board) seeks to revoke the registered nurse's license issued to Gina R. Lester (Respondent) for failing to comply with two Agreed Orders issued by the Board and for falsifying medical records of patients to reflect home visits that did not occur. Despite being sent proper notice, Respondent did not appear nor was she represented at the hearing. Based on Respondent's failure to appear, Staff moved for a default. The motion was granted establishing all the allegations pled against Respondent as true. The Administrative Law Judge (ALJ) recommends adopting Staff's requested sanction of revocation of Respondent's license.

**I. JURISDICTION, NOTIC, AND PROCEDURAL HISTORY**

On June 11, 2008, ALJ Stephen J. Pacey convened the hearing in the hearing facilities of the State Office of Administrative Hearings located on the fourth floor of the William P. Clements Building, 300 West 15<sup>th</sup> Street, Austin, Texas. Assistant General Counsel Victoria Cox represented Staff. In support of its default motion, Staff provided sufficient documentary evidence to establish both jurisdiction and adequate notice of the hearing.

**II. RECOMMENDATION**

Based upon the following Findings of Fact and Conclusions of Law and in accordance with 1 TEX. ADMIN. CODE § 155.55, the ALJ recommends that Respondent's license be revoked.

Staff's expert witness, Carol Marshall, testified that the only appropriate sanction that should be considered is revocation of Respondent registered nurse's license because over the last eight years Respondent has been subject to two Agreed Orders issued against her by the Board, and has complied with neither. In addition, the latest charges against Respondent include falsifying medical records of patients by documenting home visits that never took place. That conduct poses a direct danger to patients in that subsequent health care providers must rely on medical records, which need to be accurate, to ensure that proper care is given to patients.

### III. PROPOSED FINDINGS OF FACT

1. Gina R. Lester (Respondent), a registered nurse, holds license number 619155 issued on June 30, 1995.
2. The Texas Board of Nursing (Board) filed its Formal Charges against Respondent on June 26, 2007.
3. On June 28, 2007, the Board sent a copy of the Formal Charges to Respondent by certified mail, return receipt requested, at her address of record on file with the Board: 9907 Brookview, LaPorte, Texas 77571.
4. On April 11, 2008, the Board's staff (Staff) sent a notice of hearing with a copy of the Formal Charges to Respondent by certified mail, return receipt requested, at the address described in Finding of Fact No. 3.
5. The hearing notice 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.
6. The hearing notice advised Respondent in capital letters in 12-point, boldface type that failure to appear at the hearing in person or by legal representative, regardless of whether an appearance had been entered, could result in the allegations contained in the Formal Charges being admitted as true and the proposed recommendation of Staff being granted by default.
7. Staff issued the notices specified above and gave Respondent an opportunity to show compliance with the required law and Board's rules.
8. On June 11, 2008, Administrative Law Judge (ALJ) Stephen J. Pacey convened and closed the hearing at the hearing facilities of the State Office of Administrative Hearings

located in the William P. Clements Building, 300 West 15<sup>th</sup> Street, Austin, Texas. Assistant General Counsel Victoria Cox represented the Board. Despite being provided proper notice of the hearing, Respondent did not appear and was not represented at the hearing.

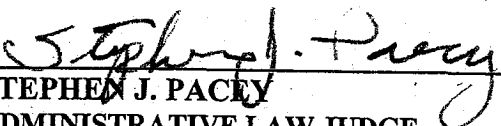
9. Staff's motion for default was granted, and Staff's factual allegations in the Notice of Hearing were established as true.
10. On September 15, 2003, while employed with All Nursing Home Health Services, Inc., Houston, Texas, Respondent failed to comply with the Agreed Order issued to her on June 13, 2000, by the Board because Respondent failed to cause her employer to submit the Notification of Employment to the Board's office within five days of her employment as a professional nurse.
11. On December 15, 2003, March 15, 2004, June 15, 2004, and September 15, 2004, while employed with All Nursing Home Health Services, Inc., Houston, Texas, Respondent failed to comply with the Agreed Order issued to her by the Board on June 13, 2000, because Respondent failed to cause her employer to submit periodic reports of Respondent's capability to practice professional nursing to the Board.
12. During the period of September 2003 through September 2004, while employed with All Nursing Home Health Services, Inc., Houston, Texas, Respondent failed to comply with the Agreed Order issued to her by the Board, because Respondent failed to once a month submit to random periodic screens for drugs and alcohol.
13. During the period of August 12, 2005 through September 6, 2005, while employed with All Nursing Home Health Services, Inc., Houston, Texas, Respondent falsified documents on Visit Slips and in Skilled Nurse's Notes to reflect that she made five skilled nursing visits with a patient when she had not, which resulted in inaccurate medical records and was likely to injure the patient in that subsequent care givers would not have complete information on which to base their care decisions.
14. During the period of August 29, 2005, through September 5, 2005, while employed with All Nursing Home Health Services, Inc., Houston, Texas, Respondent falsified documents on Visit Slips and in Skilled Nurse's Notes to reflect that she made three skilled nursing visits with a patient when she had not, which resulted in inaccurate medical records and was likely to injure the patient because subsequent care givers would not have complete information on which to base their patient care decisions.

#### IV. PROPOSED CONCLUSIONS OF LAW

1. The Texas Board of Nursing (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 proceeding, 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(c) of the Act.
3. Proper and timely notice was effected upon Gina R. Lester (Respondent) as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§ 2001.051, 2001.052, and 2001.054, and 22 TEX. ADMIN. CODE §§ 213.10 and 213.22(a).
  4. A default is authorized pursuant to 1 TEX. ADMIN. CODE § 155.55.
  5. Based on the above Findings of Fact and Conclusions of Law, Respondent violated § 301.452(b)(1) and (10) of the Act, and 22 TEX. ADMIN. CODE § 217.12(11)(B) (effective September 28, 2004).
  6. Based on the above Findings of Fact and Conclusions of Law, Respondent violated § 301.452(b)(10) and (13) of the Act, and 22 TEX. ADMIN. CODE §§ 217.11(1)(D) and 217.12(6)(A) and (H).
  7. The Board is authorized to take disciplinary action against Respondent, including revocation of her registered nurse's license, pursuant to § 301.453 of the Act.
  8. Pursuant to § 301.452 of the Act, the Board should revoke Respondent's registered nurse's license.

**SIGNED July 16, 2008.**

  
STEPHEN J. PACZY  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS