

**DOCKET NUMBER 507-01-3828**

IN THE MATTER OF	§	BEFORE THE STATE OFFICE
PERMANENT CERTIFICATE	§	
NUMBER 555220	§	OF
ISSUED TO	§	
APRIL DAWN MOSELEY	§	ADMINISTRATIVE HEARINGS

**ORDER OF THE BOARD**

TO: APRIL DAWN MOSELEY  
5153 W 73rd Ave.  
Westminster, Colorado 80026

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 555220, previously issued to APRIL DAWN MOSELEY, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 555220, previously issued to APRIL DAWN MOSELEY, 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 October, 2001.

BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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

<b>IN THE MATTER OF</b>	§	<b>BEFORE THE STATE OFFICE</b>
<b>PERMANENT CERTIFICATE</b>	§	
<b>NUMBER 555220</b>	§	<b>OF</b>
<b>ISSUED TO</b>	§	
<b>APRIL DAWN MOSELEY</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

### PROPOSAL FOR DECISION

Staff of the Texas State Board of Nurse Examiners (Board) seeks discipline against April Dawn Moseley (Respondent) for violating certain provisions of the Nursing Practice Act (Act), TEX. OCC. CODE ANN. ch. 301,<sup>1</sup> 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, and established the violations. The Administrative Law Judge (ALJ) agreed with Staff's recommendation that Respondent's nursing license be revoked.

#### **I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

The hearing convened September 4, 2001, before ALJ Sharon Cloninger in the Stephen F. Austin Building, 1700 N. Congress Ave., Suite 1100, Austin, Texas. General Counsel James W. Johnston represented Staff. After the presentation of evidence, Staff moved for a default based on Respondent's failure to appear.

There are no contested issues of jurisdiction or notice in this proceeding, and Staff offered competent evidence establishing that appropriate notice of the charges and of the hearing were provided to Respondent. Those matters are set out in the Findings of Fact and Conclusions of Law.

#### **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 Staff's motion for default be granted and that Respondent's license to practice professional nursing be revoked.

#### **III. FINDINGS OF FACT**

1. April Dawn Moseley (Respondent), a nurse licensed by the State of Texas, holds permanent certificate number 555220.
2. The Board filed formal charges against Respondent on July 18, 2001.

---

<sup>1</sup> The Nursing Practice Act was formerly found at TEX. REV. CIV. STAT. ANN. art. 4525. It is now codified in the TEX. OCC. CODE ANN. ch. 301, effective September 1, 1999. The codification made no substantive changes to the Act, and all citations to the Act will be to the Occupations Code, even if the violation(s) occurred prior to the codification.

3. On July 18, 2001, the Board mailed a copy of the formal charges to Respondent by certified mail, return receipt requested, at her address of record: 28151 Westberry Court, Houston, Texas 77487. The letter was returned marked "no such street."
4. On July 18, 2001, the Board mailed a copy of the formal charges to Respondent by certified mail, return receipt requested, at her previous address of record: 5153 W. 73<sup>rd</sup> Avenue, Westminster, Colorado 80026. The letter was returned as "not deliverable."
5. On August 21, 2001, the Board mailed notice of the hearing to Respondent by certified mail, return receipt requested, to the addresses in Findings of Fact Nos. 3 and 4. The return receipt was not returned for either letter.
6. On August 25, 2001, Respondent contacted the Board via telephone and was verbally informed that the hearing would be held at 9 a.m. September 4, 2001, in Austin. Respondent was asked to provide an updated address where the notice of hearing could be sent. Respondent did not provide an updated address.
7. 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.
8. 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."
9. Respondent did not appear and was not represented at the hearing.
10. The formal charges, which were set forth in the notice of hearing, contained the following allegations:

#### **CHARGE I.**

Respondent, on or about March 22 and 23, 2001, while employed with Advantage Nursing, Houston, Texas, and working at Park Plaza Hospital, Houston, Texas, exhibited the following behavior while on duty: slumped over the medication cart, unnatural color of skin, and confusion.

#### **CHARGE II.**

Respondent, on or about March 22 and 23, 2001, while employed with Advantage Nursing, Houston, Texas, and working at Park Plaza Hospital, Houston, Texas, failed to complete the assessment and evaluation form, failed to document input and output, and failed to

document patient status and nursing care rendered in the 24 hour patient notes of patient MR # 7508745 and # 7509031.

#### **CHARGE III.**

Respondent, on or about March 22 and 23, 2001, while employed with Advantage Nursing, Houston, Texas, and working at Park Plaza Hospital, Houston, Texas, withdrew Demerol and Phenergan from the pyxis system for patient MR # 7508745, but failed to document the administration of the medication on the 24 hour patient notes or Medication Administration Record (MAR).

#### **CHARGE IV.**

Respondent, on or about March 22 and 23, 2001, while employed with Advantage Nursing in Houston, Texas, and working at Park Plaza Hospital, Houston, Texas, failed to document intake and output and failed to complete the assessment and evaluation form for patient MR # 7508469 and # 7508240.

#### **CHARGE V.**

Respondent, on or about March 23, 2001, while employed with Advantage Nursing in Houston, Texas, and working at Park Plaza Hospital, Houston, Texas, withdrew Demerol and Phenergan from the pyxis system for patient MR # 7508469, but failed to document the administration of the medication on the 24 hour patient notes or Medication Administration Record (MAR).

#### **CHARGE VI.**

Respondent, on or about March 22, 2001, while employed with Advantage Nursing in Houston, Texas, and working at Plaza Park Hospital, Houston, Texas, documented the administration of Demerol in the medical record of patient MR # 7508240 at 2200. Demerol was not ordered by a physician for patient MR # 7508240 and is listed as an allergy on the nursing admission assessment.

#### **CHARGE VII.**

Respondent, on or about March 22 and 23, 2001, while employed with Advantage Nursing in Houston, Texas, and working at Park Plaza Hospital, Houston, Texas, failed to complete the assessment and evaluation form, failed to complete the blood bank forms, and failed to perform the pre-vital signs, 15-minute vital signs, and post-vital signs for patient MR # 7509779 who received a blood transfusion.

### **CHARGE VIII.**

Respondent, on or about May 11, 2001, while employed with Team Staff Nursing Services, Houston, Texas, and working at Cleveland Regional Medical Center, Cleveland, Texas, exhibited the following behavior while on duty: disorientation, and the inability to follow simple directions and give accurate personal information.

### **CHARGE IX.**

Respondent, on or about May 11, 2001, while employed with Team Staff Nursing services, Houston, Texas, and working at Cleveland Regional Medical Center, Cleveland, Texas, signed out Demerol 225 mg on the controlled substance administration record for patient MR # M022943 in excess of the physician's order.

### **CHARGE X.**

Respondent, on or about May 11, 2001, while employed with Team Staff Nursing Services, Houston, Texas, and working at Cleveland Regional Medical Center, Cleveland, Texas, engaged in the intemperate use of Morphine and Demerol in that Respondent produced a specimen for a drug screen which resulted positive for Opiates and Meperidine. Possession of Morphine and Demerol is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Morphine and Demerol by a Registered Nurse, while subject to a call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair a nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

### **CHARGE XI.**

Respondent, on or about May 18, 2001, while employed with Stat Med Services, Houston, Texas, and working at Polly Ryan Memorial Hospital, withdrew Benadryl from the pyxis system for patient MR # M0205024 without a physician's order.

### **CHARGE XII.**

Respondent, on or about May 18, 2001, while employed with Stat Med Services, Houston, Texas, and working at Polly Ryon Memorial Hospital, made false entries in the medical record of patient MR # M0107168 when she documented a physician's order for Benadryl that had not been ordered by the physician.


### CHARGE XIII.

On June 26, 2001, Respondent's license to practice professional nursing in the State of Colorado was revoked by the Colorado Board of Nursing, Denver, Colorado.

#### 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. Pursuant to 1 TAC § 155.55, the allegations stated in Finding of Fact No. 10 are deemed admitted.
5. A default should be entered against Respondent pursuant to 1 TAC § 155.55.
6. Respondent is subject to disciplinary action under §§ 301.452(b)(8), 301.452(b)(9), and 301.452(b)(10) of the Act.
7. Respondent's license to practice professional nursing in the State of Texas should be revoked, pursuant to § 301.453 of the Act.

**SIGNED this 10<sup>th</sup> day of September 2001.**

  
\_\_\_\_\_  
**SHARON CLONINGER**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**