



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 Ann Potts
Executive Director of the Board

DOCKET NUMBER 507-08-2706

**IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 175631
ISSUED TO
PATRICIA ANN POTTS**

§
§
§
§
§

**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

ORDER OF THE BOARD

**TO: Patricia Ann Potts
PO Box 3453
Crosby, Texas 77532**

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 175631, previously issued to PATRICIA ANN POTTS, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.


IT IS FURTHER ORDERED that Permanent Certificate Number 175631, previously issued to PATRICIA ANN POTTS, 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 June, 2009.

TEXAS BOARD OF NURSING

BY:



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

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

May 4, 2009

Katherine A. Thomas, M.N., R.N.
Executive Director
Texas Board of Nursing
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701

VIA INTER-AGENCY

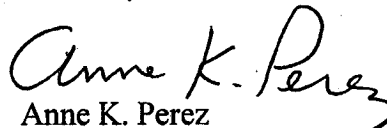
RE: Docket No. 507-08-2706; In the Matter of Permanent Certificate No. 175631 issued to Patricia Ann Potts

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 § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,


Anne K. Perez
Administrative Law Judge

AKP/pp

XC: Kyle Hensley, TBN, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 – **VIA INTER-AGENCY**
Carol Pepper, Legal Assistant TBN, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 - **VIA INTER-AGENCY**
Patricia Ann Potts, P.O. Box 3453, Crosby, TX 77532 - **VIA REGULAR MAIL**

SOAH DOCKET NO. 507-08-2706

IN THE MATTER OF PERMANENT § BEFORE THE STATE OFFICE
CERTIFICATE NO. 175631 § OF
ISSUED TO PATRICIA ANN POTTS § ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Board of Nursing (Staff/Board) brought this case seeking revocation of the vocational nurse's license of Patricia Ann Potts (Respondent). Staff's allegations concerned Respondent's failure to document patient assessments, her falsification of patient assessments, and her lack of fitness to safely practice vocational nursing due to psychiatric impairment. Despite being sent proper notice, Respondent failed to appear or be represented at the hearing. Staff moved for a default, which motion was granted, establishing all the allegations as true. The proposal for decision adopts Staff's requested sanction of a revocation of Respondent's nursing license.

I. BACKGROUND AND EVIDENCE

On March 5, 2009, the hearing in this matter convened before State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ) Anne K. Perez at SOAH, 300 W. 15th Street, Austin, Texas. Assistant General Counsel Kyle Hensley represented Staff.

Staff introduced documentary evidence establishing Respondent had been sent proper and timely notice of the hearing to her last known address in the Board's records.¹ Staff's notice was adequate to support its default motion, which was made after Respondent did not appear and was not represented at the hearing. The granting of Staff's motion for default resulted in all of its allegations being deemed true. The details of jurisdiction and notice are set out in the Findings of Fact and Conclusions of Law.

¹ 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 (TAC) §§ 213.10 and 217.7

Staff presented its expert witness, Katherine Thomas, MN, RN, who testified regarding the appropriate sanction. Ms. Thomas stated that Respondent's failure to document patient assessments posed a danger to the public because subsequent caregivers rely on such assessments to provide on-going medical care. For example, an incoming nurse must be informed of the timing and type of medication administered to the patient during the previous shift. The public was endangered by Respondent's falsification of patient assessments for the same reason: Respondent created inaccurate medical records on which subsequent caregivers would rely to provide on-going medical care. In addition to her known misconduct, Respondent's ability to safely practice nursing is in doubt due to her mental status. Respondent admitted that she has been diagnosed with two psychiatric disorders, schizophrenia and delusional disorder, which may impair her ability to communicate and cooperate with other medical staff.

II. RECOMMENDATION

Staff established that, for the type of misconduct Respondent committed, Board policy requires revocation of the nursing license until Respondent shows she is fit for licensure. The ALJ recommends that a default be entered and that Respondent's nursing license be revoked based on the Findings of Fact and Conclusions of Law presented below.

III. FINDINGS OF FACT

1. Patricia Ann Potts (Respondent), a vocational nurse licensed by the State of Texas, currently holds license number 175631 issued by the Texas Board of Nursing (Board/Staff).
2. Staff filed formal charges against Respondent on February 6, 2008.
3. On the same date, Staff sent via certified mail, its formal charges to Respondent at her address of record on file with the Board, P.O. Box 3453, Crosby, Texas 77532. Respondent received the formal charges on February 19, 2008, as evidenced by her signature on the certified mail return receipt
4. On April 24, 2008, Staff sent via certified mail, its Notice of Hearing to Respondent at her official address of record. The certified mail return receipt card was not returned to Staff.

5. On November 13, 2008, Staff sent via certified mail, its First Amended Notice of Hearing to Respondent at her official address of record. The United States Postal Service's notation on the mailing envelope showed that the Second Amended Notice of Hearing was not claimed by Respondent.
6. On November 20, 2008, Staff sent via certified mail, its Second Amended Notice of Hearing to Respondent at her address of record on file with the Board. The United States Postal Service's notation on the mailing envelope showed that the Second Amended Notice of Hearing was not claimed by Respondent.
7. The Second Amended 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 Second Amended Notice of Hearing contained the following language in capital letters in 12-point or larger 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. Subsequent to the date of Staff's Second Amended Notice of Hearing, two orders issued by a State Office of Administrative Hearings' (SOAH) Administrative Law Judge (ALJ) referenced the date and time of the hearing on the merits: March 5, 2009, at 1:00 p.m.
10. The orders referenced in Finding of Fact No. 9 were sent by regular first class mail to Respondent at her official address of record, the first on January 26, 2009, and the second on February 13, 2009. Neither of the items mailed to Respondent were returned to SOAH as undeliverable by the United States Postal Service.
11. The hearing on the merits was convened at 1:00 p.m. on March 5, 2009, in a fourth floor hearing room of the SOAH facility located at 300 West 15th Street, Austin, Texas.
12. Staff appeared at the hearing through its Assistant General Counsel Kyle Hensley. Respondent did not appear and was not represented at the hearing.
13. Upon proof of jurisdiction and proper notice, Board Staff's motion for default was granted, and the allegations in its notice of hearing were deemed true.
14. On November 21 and 22, 2005, while employed as a licensed vocational nurse with Magnolia Healthcare, LLP in Liberty, Texas, Respondent failed to document assessments of five patients (Medical Record Numbers 60831, 60840, 60845, 60848 and 60847) assigned to her care, which deprived subsequent caregivers of essential information on which to base their on-going medical care.
15. On November 26, 2005, while employed as a licensed vocational nurse with Magnolia Healthcare, LLP in Liberty, Texas, Respondent falsified assessments of four patients

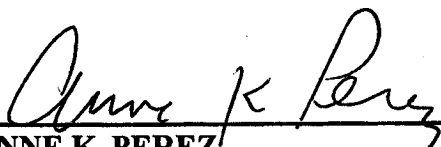
(Medical Record Numbers 60840, 60845, 60848 and 60847) assigned to her care, which created inaccurate medical records on which subsequent caregivers would rely to provide on-going medical care.

16. Respondent's ability to safely practice nursing is in doubt due to her mental status. Respondent admitted that she has been diagnosed with two psychiatric disorders, schizophrenia and delusional disorder, which may impair her ability to communicate and cooperate with other medical staff.

IV. CONCLUSIONS OF LAW

1. The Texas Board of Nursing (Board) has jurisdiction over this matter pursuant to TEX. OCC. CODE ANN. §§ 301.451 through 301.555.
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.
3. The Board's rules authorize service of notice by sending it to Respondent's last known address as reflected in the Board's records. 22 TEX. ADMIN. CODE § 213.10(a).
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.
5. Based on the above Findings of Fact and Conclusions of Law, Respondent is subject to discipline by the Board, including revocation of her license. TEX. OCC. CODE ANN. §§ 301.452, 301.453, and 22 TEX. ADMIN. CODE § 217.12
6. Based on Respondent's failure to appear despite being provided proper notice, default is appropriate and the allegations in Staff's notice of hearing are deemed true. 1 TEX. ADMIN. CODE § 155.501.
7. The Board should enter a default order against Respondent and should revoke Respondent's vocational nurse's license number 175631.

SIGNED May 4, 2009.



ANNE K. PEREZ
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

CHARGE III.

Respondent may lack fitness to safely practice nursing in that she admitted that she was diagnosed with Schizophrenia in 2002 and with Delusional Disorder in 2003, due to her belief that she is being persecuted by local government agencies. Respondent's condition may prevent her from delivering safe nursing care.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10) & (12), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(5).

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).

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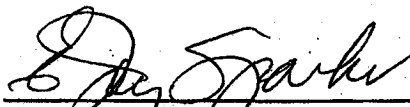
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NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Lying and Falsification, Fraud, Theft & Deception which can be found at the Board's website, www.bon.state.tx.us.

Filed this 5th day of February, 2008.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

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