

IN THE MATTER OF	§	BEFORE THE ELIGIBILITY
PERMANENT CERTIFICATE	§	AND DISCIPLINARY
NUMBER 641015	§	COMMITTEE OF THE BOARD
ISSUED TO	§	OF NURSE EXAMINERS OF THE
JENNIFER HARDIN	§	STATE OF TEXAS

**ORDER OF THE BOARD**

TO: Jennifer Hardin  
720 Tafalgar  
San Antonio, TX 78216

During open meeting held in Austin, Texas, on May 13, 2003, the Eligibility and Disciplinary Committee (herinafter "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 license to practice professional 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 641015, previously issued to JENNIFER HARDIN, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 641015, previously issued to JENNIFER HARDIN, 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 13th day of May, 2003

BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

BY:

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

CERTIFICATE OF SERVICE

I hereby certify that on the  13th  day of  May , 20 , 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):

Jennifer Hardin  
720 Tafalgar  
San Antonio, TX 78216

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

**In the Matter of Permanent License  
Number 641015, Issued to  
JENNIFER HARDIN, Respondent**

§ **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, JENNIFER HARDIN, is a Registered Nurse holding license number 641015, 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.**

Respondent, on or about April 10, 2002 through September 13, 2002, failed to comply with an Agreed Order issued to her by the Board of Nurse Examiners for the State of Texas on January 7, 2002. On September 13, 2002, Respondent produced a specimen for a drug screen which tested positive for cocaine and Respondent failed to attend additional treatment as recommended, which constitutes a failure to comply with stipulation number three (3) of the Agreed Order which states in pertinent part that, "RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term." A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated January 7, 2002, is attached and incorporated by reference as part of this pleading.

The above action constitutes a violation of Section 301.452(b)(1), Texas Occupations Code.

#### **CHARGE II.**

Respondent, on or about September 13, 2002, engaged in the intemperate use of cocaine in that she produced a specimen for a drug screen which tested positive for cocaine. Possession of cocaine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of cocaine by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

The above action constitutes a violation of Section 301.452(b)(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1).

NOTICE IS GIVEN that staff will present evidence in support of any recommended disposition of this matter pursuant to the factors stated in the Board's rule regarding penalty/sanction factors, 22 TEX. ADMIN. CODE, § 213.33. NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as a part of this pleading.

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 to the disposition recommended by staff: Agreed Order dated January 7, 2002.

Filed this 18<sup>th</sup> day of January, 2003.

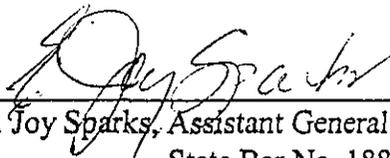
BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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James W. Johnston, General Counsel

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Attachments: Section 301.452(b)  
Section 213.33, 22 Texas Administrative Code (repeal and new chapter adopted 06/98,  
change effective 09/01/98. Amended 06/99, effective 07/20/99)  
Order of the Board dated January 7, 2002.  
Section 217.12, 22 Texas Administrative Code.

BEFORE THE BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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In the Matter of License Number 641015                    §     AGREED  
issued to JENNIFER HARDIN                               §     ORDER

An investigation by the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, produced evidence indicating that JENNIFER HARDIN, hereinafter referred to as Respondent, License Number 641015, may have violated Section 301.452(b)(9), Texas Occupations Code.

An informal conference was held on November 20, 2001, at the office of the Board of Nurse Examiners, in accordance with Section 301.464, Texas Occupations Code.

Respondent appeared in person. Respondent was notified of her right to be represented by legal counsel and elected to waive representation by counsel. In attendance were Sandra Owen, Executive Director's Designee; James W. Johnston, General Counsel; Elizabeth Joy Sparks, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; and Christopher B. Schroeder, Investigator.

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, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received a Baccalaureate in Nursing from Texas Christian-Harris College, Fort Worth, Texas, on May 5, 1997. Respondent was licensed to practice professional nursing in the State of Texas on June 17, 1997.

5. Respondent's professional employment history includes:

June 1997 - January 1998	Employment Unknown
January 1998 - May 2000	RN, Inpatient Care (Chemotherapy) Baptist Hospital Nashville, TN
February 1999 - May 2000	RN, Phone Triage Tennessee Oncology Nashville, TN
June 2000 - September 2000	Agency Nurse Bexar County Medical Staffing San Antonio, Texas
September 2000 - March 2001	Employment Unknown
March 2001 - Present	RN, (Cancer Treatment) Dr. Kapoor (Cancer Clinic) San Antonio, Texas

6. At the time of the incident, Respondent was employed as an Agency Nurse at Bexar County Medical Staffing, San Antonio, Texas, where Respondent had been employed for four (4) months.

7. Respondent, on or about September 22, 2000, while employed with Bexar County Medical Staffing, San Antonio, Texas, and on duty at Hematology and Oncology Associates of South Texas, San Antonio, Texas, engaged in the intemperate use of alcohol as evidenced by a positive Blood Alcohol Test. The use of Alcohol by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

9. The Respondent's conduct described in the preceding Finding of Fact was reportable under the provisions of Texas Occupations Code, Sections 301.401-301.419.

10. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

11. Respondent's conduct described in Finding Number 7 resulted from Respondent's impairment by dependency on chemicals.
12. 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-.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation of Section 301.452(b)(9), Texas Occupations Code.
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code., to take disciplinary action against License Number 641015, heretofore issued to JENNIFER HARDIN, including revocation of Respondent's professional 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.

(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, §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

IT IS FURTHER AGREED, that the terms of this Agreed Order shall be applicable to Respondent's multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

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 professional nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

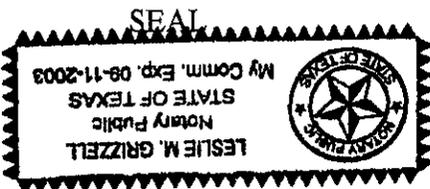
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions 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 professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 28 day of Dec, 2001.

Jennifer Hardin  
JENNIFER HARDIN, Respondent

Sworn to and subscribed before me this 28 day of DECEMBER 2001,

Leslie M. Grizzell  
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 28th day of December, 2001, by JENNIFER HARDIN, License Number 641015, and said Order is final.

Entered and effective this 7th day of January, 2002.



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