



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.  
*William O. Thomas*  
Executive Director of the Board

**SOAH DOCKET NO. 507-98-0530**

<b>IN THE MATTER OF</b>	§	<b>BEFORE THE</b>
	§	
<b>PERMANENT CERTIFICATE</b>	§	
<b>NUMBER: 568437</b>	§	<b>STATE OFFICE OF</b>
	§	
<b>ISSUED TO</b>	§	
<b>CAROL PATRICIA RIEKSTINS</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**PROPOSAL FOR DECISION**

The staff of the Board of Nurse Examiners (the Staff) brought this case seeking to revoke the license of Carol Patricia Riekstins (Respondent) to practice professional nursing. The Respondent failed to appear at the hearing either in person or through counsel, and this proposal recommends revocation of the license.

**I. BACKGROUND**

The hearing convened on April 30, 1998 before Bill Zukauckas, Administrative Law Judge, in the Stephen F. Austin Building, 1700 N. Congress Ave., Suite 1100, Austin, Texas. Penny Puryear Burt, Of Counsel for the Board, represented Staff. Respondent did not appear and was not represented at the hearing.

There are no contested issues of jurisdiction or notice in this proceeding. Those matters are set out in the Findings of Fact and Conclusions of Law. The Administrative Law Judge (ALJ) notes that the Staff did not refer to 1 TEX. ADMIN. CODE Chapter 155 (1998) in the notice of hearing, as required by the State Office of Administrative Hearing's (SOAH's) new procedural rules effective January 2, 1998. Nonetheless, the ALJ believes that this is probably a harmless error and not the reason the Respondent failed to appear at 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 Administrative Law Judge recommends a default judgment revoking Respondent's license to practice professional nursing.

**III. FINDINGS OF FACT**

1. Carol Patricia Riekstins (Respondent), a nurse licensed by the Board of Nurse Examiners (Board), holds license number 568437, which is in delinquent status.
2. 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 an opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

3. On December 1, 1997, the notice of formal charges, dated November 26, 1997, was properly addressed and sent by certified mail, return receipt requested, to Respondent's last known address. Notice was returned marked "Addressee Unknown."
4. On March 30, 1998, the notice of hearing was properly addressed and sent by certified mail, return receipt requested to Respondent's last known address. (Hearing set for April 30, 1998). Notice was returned marked "Unclaimed."
5. 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.
6. The notice of hearing also contained the following language in capital letters in 10-point or larger boldface type:

**FAILURE TO APPEAR AT THE HEARING WILL RESULT IN THE ALLEGATIONS AGAINST YOU IN THE FORMAL CHARGES CONTAINED IN THIS NOTICE OF HEARING BEING ADMITTED AS TRUE.**

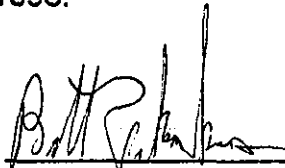
7. Respondent did not appear and was not represented at the hearing on April 30, 1998.
8. The Staff filed a motion for default judgment, together with an affidavit from counsel stating there was legally admissible, credible evidence reasonably available to support the factual allegations against Respondent in the formal charges.
9. In the formal charges against Respondent, Staff alleged: Respondent, on or about August 15, 1996, while employed with Seton Medical Center, Austin, Texas, misappropriated Demerol from the facility. Respondent's conduct defrauded the facility of the cost of the medication.

#### **IV. CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to TEX. REV. CIV. STAT. ANN. art. 4525 (Vernon Supp. 1998).
2. The State Office of Administrative Hearings has jurisdiction over all matters relating to the conduct of a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003 (Vernon 1998).

3. Service of proper and timely notice of the hearing was effected upon Respondent pursuant to the Administrative Procedure Act (APA) TEX. GOV'T CODE ANN. ch. 2001 (Vernon 1998).
4. The Board's formal charges, set out in Finding of Fact No. 9, are deemed admitted as true pursuant to 1 TEX. ADMIN. CODE § 155.55 (1998) and 22 TEX. ADMIN. CODE § 213.22 (1997).
5. The Respondent's actions constitute sufficient cause for disciplinary action against license number 568437, pursuant to TEX. REV. CIV. STAT. ANN. art. 4525 (Vernon Supp. 1998) and 22 TEX. ADMIN. CODE § 217.13 (1997).
6. Based on the foregoing, the Board is warranted in revoking Respondent's license to practice professional nursing in Texas.

SIGNED this 18<sup>th</sup> day of May, 1998.



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BILL ZUKAUCKAS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS