

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of License Number 651532	§	REINSTATEMENT
issued to TAMMY COX	§	AGREED ORDER

On this day came to be considered by the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, the Petition for Reinstatement of registered nurse license number 651532, held by TAMMY COX, hereinafter referred to as Petitioner.

An informal conference was held on February 15, 2005, at the office of the Board of Nurse Examiners, in accordance with Section 301.464, Texas Occupations Code.

Petitioner appeared in person. Petitioner was notified of her right to be represented by legal counsel and elected to waive representation by counsel. In attendance were Katherine A. Thomas, MN, RN, Executive Director; Mary Beth Thomas, MSN, RN, Director of Nursing; James W. Johnston, General Counsel; Anthony L. Diggs, MSCJ, Director of Enforcement; Paul Longoria, Investigator; and Diane E. Burell, Investigator.

FINDINGS OF FACT

1. Prior to institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Petitioner waived representation by counsel, notice and hearing, and consented to the entry of this Order.
3. Petitioner received a Certificate in Nursing from Texas State Technical College, Sweetwater, Texas, August 18, 1992. Petitioner was originally licensed to practice vocational nursing in the State of Texas on December 6, 1992. Petitioner's license to practice vocational nursing in the State of Texas is in delinquent status.

4. Petitioner received an Associate Degree in Nursing from South Plains College, Levelland, Texas, on May 1, 1998. Petitioner was originally licensed to practice professional nursing in the State of Texas on June 23, 1998.

5. Petitioner's professional employment history includes:

1993 - 2000	LVN/GN/Staff Nurse	Southern Manor Lakeridge Rehabilitation and Nursing Center Lubbock, Texas
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1993 - 2000	LVN/GN/Staff Nurse	White Dove Rehabilitation Littlefield, Texas
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2000	Charge Nurse	Slaton Care Center Slaton, Texas
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2000 - present	Not employed in nursing	
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6. On October 11, 2001, Petitioner's license to practice professional nursing in the State of Texas was revoked by the Board of Nurse Examiners for the State of Texas. A copy of the October 11, 2001, Order, Findings of Fact, and Conclusions of Law, is attached and incorporated, by reference, as a part of this Order.

7. On or about September 24, 2004, Petitioner submitted a Petition for Reinstatement of License to practice professional nursing in the State of Texas.

8. Petitioner presented the following in support of her petition:

8.1. Court records reflecting Petitioner plead "Guilty" to the offense of "Obtaining a Controlled Substance by Fraud," a Third Degree Felony, in the 137th District Court of Lubbock County, Texas, on October 24, 2000. Petitioner was placed on Community Supervision for a period of seven (7) years.

8.2. Judgment revoking probation by the 137th District Court of Lubbock County, Texas, on January 31, 2002. Petitioner was ordered to serve three (3) years of confinement in the Texas Department of Criminal Justice.

8.3. Certificate of Parole issued January 27, 2003. Petitioner was released from parole on December 17, 2004.

- 8.4. Letter, dated September 19, 2004, from Tonya E. Lange, Texas Department of Criminal Justice, Lubbock, Texas. Ms. Lange indicates the Petitioner was released to parole supervision on May 9, 2003. Petitioner was convicted for obtaining a controlled substance by fraud and sentenced to three (3) years of incarceration. During her period of incarceration, she completed an intensive substance abuse treatment program and was released into a therapeutic community continuum of care program. Since Petitioner's release, she has complied with all program and parole requirements. All UAs have been negative.
- 8.5. Letter of support, dated June 24, 2004, from Beverly Pratt, LSW, LNFA, Administrator, Lakeridge Rehabilitation and Nursing Center, Lubbock, Texas. Ms. Pratt states Petitioner is a safe practitioner and in her opinion, is capable of practicing as a registered nurse. Petitioner has worked with Ms. Pratt since February 1997. Petitioner fulfilled the role of LVN, RN, and later as Director of Nursing at Southern Manor. Following rehabilitation, Petitioner began employment as Assistant Administrator at Lakeridge Rehabilitation and Nursing Center. As Assistant Administrator, Petitioner was highly involved with nursing issues, which has maintained and broadened her knowledge in the nursing field. Petitioner is responsible and dependable and has maintained a full-time position as Ms. Pratt's assistant since March 21, 2003. She takes administrative call for a 96-bed facility and consistently exhibits good judgment in making competent decisions involving nursing issues, resident advocacy and personnel issues. Ms. Pratt relies on Petitioner's professionalism and knowledge of long-term care nursing, as well as her reliability and professionalism to take over and run the facility in Ms. Pratt's absence. Ms. Pratt highly recommends Petitioner to be reinstated and truly believes that she will be an asset to the nursing industry.
- 8.6. Letter of support, dated June 26, 2004, from Keri Matlock, LVN. Ms. Matlock states that being Petitioner's niece, she has been a part of her life through rough times and the good. Ms. Matlock currently works with Petitioner as the Assistant Director of Nursing at a long-term care facility. Ms. Matlock has seen the struggles and accomplishments Petitioner has made in her life. Since Petitioner's incarceration, Ms. Matlock has seen a woman who would not even look people in the eyes, become a person who can deal with even the most stressful situations. Petitioner has exhibited sound and mature judgment when it comes to issues. Ms. Matlock feels wholeheartedly that Petitioner can handle the stressors of the nursing profession without turning to drugs to help her deal with it. She is involved in her counseling sessions with peer support groups and with others that have had to deal with drug addiction. Ms. Matlock highly encourages the Board to reinstate Petitioner's license to practice.

- 8.7. Letter of support, dated July 2, 2004, from Mike Wood, LCDC. Mr. Wood states he first met Petitioner in March 2003, as a resident of the Billy Meeks Center, a transitional treatment facility, after she was discharged from SAFF. She successfully completed the program and was then transferred to Aftercare. Mr. Wood watched Petitioner change for the good and grow into a positive, healthy woman. Petitioner is a positive, active member of the day support group she attends regularly at the Center. She is always ready to share and help those still struggling. Mr. Wood believes Petitioner would be an asset to the medical field and the nursing profession in particular.
- 8.8. Letter of support, dated July 12, 2004, from Christine Pappas, RN, LNFA, Quality Assurance, Lubbock, Texas. Ms. Pappas states Petitioner was employed at Southern Manor Nursing Home, a 144 bed facility, in 1993, as a LVN in charge nurse capacity. Petitioner was in charge of up to 38 residents and supervised up to 6 to 8 nursing assistants, and was eventually promoted to Assistant Director of Nursing, at which time she supervised the care of the residents throughout the facility. Petitioner was very capable of performing all skills assigned to her as a supervising nurse. Her abilities were commendable and proficient without question. During Petitioner's years of employment, she went to school and completed her diploma for a registered nurse in 1998. Her performance as a registered nurse was exceptional. Prior to the time of her engaging in drug abuse, she notably was experiencing a lot of dental problems. In 1999, the company acquired Lakeridge Rehabilitation and Nursing Center and Micasita Care Center, both 96 bed facilities. Petitioner worked in both facilities as a registered nurse, and was efficient until she began experiencing the problem with drugs. After Petitioner's release, she was hired as a receptionist at Lakeridge Rehabilitation and Nursing Center in March of 2003. During the first year, Petitioner did not wish to be reinstated as a nurse and would express concerns about the temptation and jeopardy of her sobriety. It has been during the past few months that Petitioner has expressed more confidence and surety that she feels ready to take on the responsibilities and job duties of a registered nurse. It is Ms. Pappas' professional belief and opinion that Petitioner is ready to proceed, with caution, to reenter the nursing profession and meet the standards of nursing required in providing care to the ill.
- 8.9. Letter of support, dated August 4, 2004, from Terri Ruble, RN, BSN, Lubbock, Texas. Ms. Ruble states she has known Petitioner on a professional level since March 1993. Ms. Ruble can recognize the professionalism, integrity and nursing knowledge in Petitioner. Petitioner came to work for Ms. Ruble as a LVN in 1993. In August of 1998, while working full time in a long term care facility, Petitioner returned to school and obtained her Associates of Applied Science in Nursing. As an RN, Petitioner exhibited immaculate nursing judgment and skills which quickly promoted her to Director of Nursing in a 144 bed long-term care facility. Since Petitioner's release from drug rehabilitation treatment in March 2003, she has worked

in a 96-bed facility. She now holds the position of Assistant Administrator and exhibits and demonstrates, on a daily basis, her knowledge regarding nursing issues. It is Ms. Ruble's professional opinion that Petitioner is ready to reenter the nursing profession and is capable of taking on the responsibilities and duties of a registered nurse.

8.10. Letter of support, dated August 4, 2004, from Scott Bergfeld, MD, Lubbock, Texas. Dr. Bergfeld states he has known Petitioner since 1993 and can acknowledge her good work habits, discipline and friendliness on the job. Dr. Bergfeld sees no evidence of drug use at this time.

8.11. Documentation of twenty (20) Type 1 contact hours.

9. Petitioner gives December 2001, as her date of sobriety.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. 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.
3. Pursuant to Section 301.467, Texas Occupations Code, the Board may refuse to issue or renew a license, and may set a reasonable period that must lapse before reapplication. Pursuant to 22 TEX. ADMIN. CODE §213.26, the Board may impose reasonable conditions that a Petitioner must satisfy before reissuance of an unrestricted license.

ORDER

IT IS THEREFORE AGREED, subject to ratification by the Board of Nurse Examiners, that the petition of TAMMY COX, license number 651532, to practice professional nursing in the state of Texas, be and the same is hereby GRANTED SUBJECT TO THE FOLLOWING CONDITIONS SO LONG AS THE PETITIONER complies in all respects with the Nursing Practice Act, Texas Occupations Code, §301.001 *et seq.*, the Rules and Regulations

Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 et. seq.
and the stipulations contained in this Order:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Petitioner's multistate licensure privilege, if any, to practice professional nursing in the State of Texas

IT IS FURTHER AGREED and ORDERED that while Petitioner's license is encumbered by this Order, Petitioner may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas and the Board of Nursing in the party state where Petitioner wishes to work.

(1) PETITIONER SHALL NOT seek employment or practice nursing for compensation until she has completed the following pre-licensure conditions and obtained a license to practice professional nursing from the Board.

(2) PETITIONER SHALL apply for a "Six-Month Clinical Permit" for the limited purpose of completing a refresher course. PETITIONER SHALL NOT, in any way, attempt to use this clinical permit for any purpose other than attending this course.

(3) PETITIONER SHALL successfully complete a nursing refresher course prior to returning to the practice of professional nursing in the State of Texas. PETITIONER SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. The course content shall include: 1) the role of the professional nurse; 2) a review of the nursing process to include assessment, planning, implementation and evaluation; 3) Pharmacology review; 4) medication administration review for all standard route of administration; 5) documentation, quality assurance and legal implications for nursing practice; and 6) current CPR certification. This course must contain

a minimum 24-hour clinical component, providing direct patient care, which is to be supervised by another registered nurse.

(4) Upon completion of the refresher course, PETITIONER SHALL return the clinical permit to the office of the Board, and PETITIONER SHALL CAUSE the sponsoring institution to notify the Board, on a form provided by the Board, of Petitioner's successful completion of the refresher course, including the required clinical component.

(5) Upon verification of successful completion of the agreed pre-licensure conditions of reinstatement, as set out in this Order, PETITIONER SHALL pay all re-registration fees and be issued a license to practice professional nursing in the State of Texas, which shall bear the appropriate notation. Said license issued to TAMMY COX, shall be subject to the following agreed post-licensure stipulations:

(6) PETITIONER SHALL, within one (1) year of relicensure, successfully complete a course in nursing jurisprudence. PETITIONER SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience must include registered nurses. It must be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, and documentation of care. Courses focusing on malpractice issues will not be accepted. PETITIONER SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify PETITIONER's successful completion of the course. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Board-approved courses can be found on the Board's website www.bne.state.tx.us (under BNE events).*

(7) PETITIONER SHALL, within one (1) year of relicensure, successfully complete a course in nursing ethics. PETITIONER SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. The course shall be a minimum of six (6) contact hours in length. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. PETITIONER SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify PETITIONER's successful completion of the course. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Board approved courses may be found on the Board's website, www.bne.state.tx.us (under BNE events).*

IT IS FURTHER AGREED, SHOULD PETITIONER PRACTICE AS A REGISTERED NURSE IN THE STATE OF TEXAS, PETITIONER WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(8) PETITIONER SHALL notify all future employers in professional nursing of this Order of the Board and the stipulations on PETITIONER's license. PETITIONER SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(9) PETITIONER SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the PETITIONER by the Board, to the Board's office within five (5) days of employment as a professional nurse.

(10) For the first year of employment as a professional nurse, PETITIONER SHALL be directly supervised by a Registered Nurse. Direct supervision requires another professional nurse to be working on the same unit as PETITIONER and immediately available to provide assistance and intervention. PETITIONER SHALL work only on regularly assigned, identified and predetermined unit(s). The PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(11) For the remainder of the stipulation period, PETITIONER SHALL be supervised by a Registered Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as PETITIONER, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the PETITIONER is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(12) PETITIONER SHALL NOT practice as a professional nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which PETITIONER is regularly assigned for one (1) year of employment as a professional nurse.

(13) PETITIONER SHALL NOT practice as a professional nurse in any critical care area for one (1) year of employment as a professional nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(14) PETITIONER SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a professional nurse.

(15) PETITIONER SHALL CAUSE each employer to submit, on forms provided to the PETITIONER by the Board, periodic reports as to PETITIONER's capability to practice professional nursing. These reports shall be completed by the Registered Nurse who supervises the PETITIONER. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) months for three (3) years of employment as a professional nurse.

(16) PETITIONER SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, PETITIONER SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or**

longer, the Board may require and PETITIONER SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.

(17) PETITIONER SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the second three (3) month period, random screens shall be performed at least once per month. For the remainder of the stipulation period, random screens shall be performed at least once every three (3) months.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the PETITIONER's place of employment at any time during the stipulation period and require PETITIONER to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. PETITIONER SHALL be responsible for the costs of all random drug screening during the stipulation period.

Any positive result for which the nurse does not have a valid prescription will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board.

(18) PETITIONER SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. PETITIONER SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the PETITIONER's progress in therapy, rehabilitation and capability to safely practice professional nursing. The report must indicate whether or not the PETITIONER's stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the stipulation period, or until PETITIONER is dismissed from therapy.

(19) PETITIONER SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and PETITIONER SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by PETITIONER. PETITIONER SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) months. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

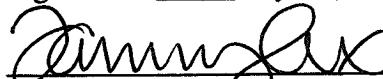
IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, PETITIONER SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

PETITIONER'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Reinstatement Agreed Order. I waive representation by counsel. I certify that my past behavior, except as disclosed in my Petition for Reinstatement of Licensure, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of convictions, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

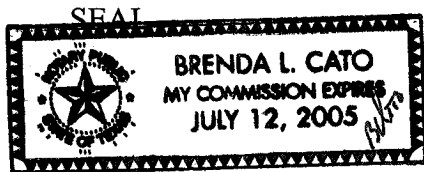
I have reviewed this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to reinstating my license to practice professional nursing in the state of Texas. I understand that if I fail to comply with all terms and conditions of this Order, my licenses to practice professional and vocational nursing in the State of Texas will be revoked, as a consequence of my noncompliance.

Signed this 14th day of MARCH, 2004.5



TAMMY COX, Petitioner

Sworn to and subscribed before me this 14th day of March, 2004.2005



Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 14th day of March, 2005, by TAMMY COX, license number 651532, and said Order is final.

Effective this 21st day of April, 2005.



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

DOCKET NUMBER 507-01-3044

IN THE MATTER OF	§	BEFORE THE STATE OFFICE
PERMANENT CERTIFICATE	§	
NUMBER 651532	§	OF
ISSUED TO	§	
TAMMY COX	§	ADMINISTRATIVE HEARINGS

ORDER OF THE BOARD

TO: Tammy Cox
c/o Bonner Smith
Attorney at Law
5220 80th Street
Lubbock, TX 79424

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 651532, previously issued to TAMMY COX, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 651532, previously issued to TAMMY COX, 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 11th day of October, 2001.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

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

SOAH DOCKET NOS.

507-01-2957, 507-01-2958, 507-01-2960, 507-01-2961, 507-01-2962, 507-01-2963,
507-01-2964, 507-01-2965, 507-01-2966, 507-01-2968, 507-01-2969, 507-01-2970,
507-01-2971, 507-01-2973, 507-01-2974, 507-01-2975, 507-01-2976, 507-01-2977,
507-01-2978, 507-01-3044, 507-01-3045 and 507-01-3097

TEXAS STATE BOARD OF NURSE § BEFORE THE STATE OFFICE
EXAMINERS, §
Petitioner §
V. § OF
CERTAIN LICENSEES OF THE §
BOARD, §
Respondents § ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Texas State Board of Nurse Examiners (Board) seeks discipline against several of the Board's licensees (Respondents) for violating various provisions of the Nursing Practice Act (Act), TEX. OCC. CODE ANN. ch. 301, and the Board's rules. Despite being sent proper notice, none of the Respondents appeared or were represented at the hearing. Based on the Respondents' failure to appear, Staff's allegations were accepted as true, establishing the asserted violations. The Administrative Law Judge agreed with Staff's recommendation that Respondents' nursing licenses be revoked.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The Board has jurisdiction to discipline its licensees for violations of the Act or its rules pursuant to § 301.453 of the Act. The State Office of Administrative Hearings (SOAH) has jurisdiction to hear the Board's disciplinary cases and issue proposals for decisions pursuant to TEX. GOV'T CODE ANN. ch. 2003 and § 301.454 of the Act.

On May 22, 25, and 31, 2001, Staff sent notices of hearing to the last known address in the Board's records for each Respondent listed on the Attachment. The notice of hearing stated the date, time, and location of the hearing, referenced the applicable rules and statutes, and contained a short, plain statement of the factual basis for the allegations.

On June 25, 2001, the hearing in this matter convened before SOAH Administrative Law Judge (ALJ) Mike Rogan in the SOAH Hearings Facility, 1700 N. Congress, Suite 1100, Austin, Texas. Staff was represented by Assistant General Counsel Phong Phan. The Respondents did not appear and were not represented at the hearing. After introducing evidence sufficient to establish jurisdiction and notice, Staff moved for a default pursuant to 1 TEX. ADMIN. CODE § 155.55. Based on the Respondents' failure to appear, the ALJ granted the default and deemed all Staff's factual allegations true.

II. RECOMMENDATION

The ALJ recommends a default be entered against all the Respondents listed on the Attachment, and that those Respondents' nursing licenses be revoked based on the deemed facts as set forth in the Findings of Fact and Conclusions of Law presented below.

III. FINDINGS OF FACT

1. The persons listed on the Attachment hereto (Respondents) hold licenses to practice professional nursing issued by the Texas State Board of Nurse Examiners (Board).
2. By notices of hearing sent May 22, 25, and 31, 2001, the Board's Staff (Staff) notified the Respondents that formal charges had been filed and a disciplinary hearing had been scheduled in this matter. The notices of hearing were sent by first class mail and by certified mail, return receipt requested, to each Respondent's last known address as contained in the Board's records.
3. The notices of hearing informed each Respondent of the allegations, the right to appear and be represented by counsel, the time and place of the hearing, the statutes and rules involved, and the factual basis for the allegations. The notice further provided in 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."
4. The Respondents did not appear and were not represented at the hearing held June 25, 2001.
5. Based on the Respondents' failure to appear at the hearing, Staff moved for default as authorized by 1 TEX. ADMIN. CODE § 155.55.
6. Staff's motion for default was granted and its allegations against each Respondent were deemed true.
7. Each Respondent violated certain provisions of the Act and the Board's rules as listed in the Attachment hereto.
8. Staff recommended each Respondent's license be revoked.

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 (Vernon 2000).

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 (Vernon 2000) and § 301.454 of the Act.
3. Based on Findings of Fact Nos. 2 and 3, each Respondent listed on the Attachment hereto received proper and timely notice of the intention to institute disciplinary action and of the hearing, pursuant to TEX. GOV'T. CODE ANN. §§ 2001.051 and 2001.054(c) (Vernon 2000).
4. Based on Finding of Fact No. 7, each Respondent violated certain provisions of the Act and the Board's rules as set out in the Attachment hereto.
5. Based on the Findings of Fact Nos. 2 - 4 and Conclusion of Law No. 3, a default should be entered against each Respondent pursuant to 1 TEX. ADMIN. CODE § 155.55 (2001).
6. Based on Conclusions of Law Nos. 4 and 5, the license to practice professional nursing of each Respondent should be revoked, pursuant to § 301.453 of the Act.

SIGNED this 9th day of July, 2001.

Mike Rogan

MIKE ROGAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

SOAH DOCKET No. RESPONDENT and PERMANENT CERTIFICATE No.	SUMMARY OF VIOLATION(S)	STATUTE AND/OR RULE VIOLATED	DISCIPLINARY ACTION
507-01-3044 TAMMY COX Certificate No. 651532	<p style="text-align: center;">CHARGE I.</p> <p>On or about December 1999 through January 2000, while employed with Lakeridge Rehabilitation and Nursing Center, Lubbock, Texas, Respondent passed or attempted to pass unauthorized prescriptions for Hydrocodone (Lorab-10) at Walgreens Pharmacies in Lubbock, Texas. Possession of Hydrocodone through the use of unauthorized prescriptions is prohibited by Chapter 481 of the Texas Health and Safety Code (Texas Controlled Substances Act). Respondent's conduct was likely to deceive the pharmacies.</p> <p style="text-align: center;">CHARGE II.</p> <p>On or about March 2, 2000, while employed at White Dove Rehabilitation, Littlefield, Texas, Respondent misappropriated 1 tab of Lorab belonging to patient L.S. Respondent's conduct was likely to defraud the patient.</p> <p style="text-align: center;">CHARGE III.</p> <p>On or about February 2000 through May 2000, while employed with Slaton Care Center, Slaton, Texas, Respondent accessed the pyxis machine to obtain narcotics for patients without a physician's order and failed to document the administration of the narcotics on the patient's Medication Administration Record (MAR).</p> <p style="text-align: center;">CHARGE I.</p>	<p>TEX. OCC. CODE ANN. § 301.452(b)(10) and 22 TEX. ADMIN. CODE §§ 217.12 (1), (3), (4)(D) and (E), (19) and (21).</p>	<p style="text-align: center;">Revocation</p>
507-01-3045 GARY D. ETHRIDGE Certificate No. 594520	<p>On or about May 1, 2000, Respondent failed to comply with the Agreed Order issued to him by the Board of Nurse Examiners for the State of Texas on March 15, 2000. Non-compliance is the result of Respondent's failure to apply and be accepted into the TPAFN within 45 days of entry of the Order issued March 15, 2000.</p> <p style="text-align: center;">CHARGE I.</p>	<p>TEX. OCC. CODE ANN. § 301.452(b)(1).</p>	<p style="text-align: center;">Revocation</p>