



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 P. Thomas*  
Executive Director of the Board

**DOCKET NUMBER 507-2099**

IN THE MATTER OF § BEFORE THE STATE OFFICE  
PERMANENT CERTIFICATE §  
NUMBER 194338 § OF  
ISSUED TO §  
**MICHELLE IGNACIA ALLEN** § ADMINISTRATIVE HEARINGS

**ORDER OF THE BOARD**

TO: Michelle Ignacia Allen  
c/o David Martinez  
The Law Offices of David Martinez  
1663 Broadway  
Lubbock, Texas 79401

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 194338, previously issued to MICHELLE IGNACIA ALLEN, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 194338, previously issued to MICHELLE IGNACIA ALLEN, 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 18th day of October, 2007.

BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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

# State Office of Administrative Hearings



Shelia Bailey Taylor  
Chief Administrative Law Judge

June 18, 2007

Katherine A. Thomas, M.N., R.N.  
Executive Director  
Board of Nurse Examiners for the State of Texas  
333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701

**HAND DELIVERY**

**RE: Docket No. 507-07-2099; In The Matter Of Permanent Certificate  
Number 194338 Issued To Michelle I. Allen**

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 § 155.59(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

A handwritten signature in black ink that reads "Anne K. Perez".

Anne K. Perez  
Administrative Law Judge

AKP/Ls  
Enclosures

XC: Docket Clerk, State Office of Administrative Hearings - **VIA HAND DELIVERY**  
Victoria Cox, Assistant General Counsel, BNE, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 - **VIA HAND DELIVERY**  
David Martinez, 1663 Broadway, Lubbock, TX 79401 - **VIA REGULAR MAIL**

**DOCKET NO. 507-07-2099**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>PERMANENT CERTIFICATE</b>	<b>§</b>	
<b>NUMBER 194338</b>	<b>§</b>	<b>OF</b>
<b>ISSUED TO</b>	<b>§</b>	
<b>MICHELLE I. ALLEN</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**PROPOSAL FOR DECISION**

Staff of the Texas State Board of Nurse Examiners (Staff/ Board) brought this case seeking disciplinary action against Michelle I. Allen (Respondent) for violating § 301.452 (b)(3) and (10) of the Nursing Practice Act (Act), TEX. OCC. CODE ANN., ch. 301. Despite being sent proper notice, Respondent failed to appear or be represented at the hearing. Based on Respondent's failure to appear, Staff's allegations were deemed true, establishing the violations. The Administrative Law Judge recommends that Respondent's license to practice professional nursing be suspended for a period of time to be determined by the Board.<sup>1</sup>

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

The hearing convened April 18, 2007, before Administrative Law Judge (ALJ) Anne K. Perez in the William P. Clements Building, 300 West 15<sup>th</sup> Street, Fourth Floor, Austin, Texas. Assistant General Counsel Victoria Cox represented Staff. Respondent did not appear and was not represented at the hearing. After Staff moved for a default based on Respondent's failure to appear, the record closed the same day.

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<sup>1</sup> Staff recommended revocation of Respondent's license to practice nursing, but Staff's Notice of Hearing pled § 301.4535(a)(1), which provides only for a license suspension or the denial of an application for a license. While § 301.4535(b) provides for license revocation if the licensee is convicted of an offense listed in § 301.4535(a), § 301.4535(b) was not formally pled by Staff. In any event, § 301.4535(b) would not apply here because that section limits license revocation to circumstances in which "... *the license holder did not previously disclose the conviction ... and the fifth anniversary of the date the person successfully completed community supervision ... has not occurred*" (emphasis supplied).

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 the 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 granted Staff's motion for default and recommends that Respondent's license be suspended.

## III. FINDINGS OF FACT

1. Michelle I. Allen (Respondent), a nurse licensed by the Board of Nurse Examiners for the State of Texas, holds permanent certificate number 194338.
2. On January 9, 2006, written notice of the facts and conduct alleged to warrant adverse licensure action was sent by certified mail, return receipt requested, to Respondent at 6000 Private Road 3011, Beeville, Texas 78102; the return receipt reflects that Respondent received the letter on January 11, 2006. The correspondence establishes that 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 February 13, 2006, attorney David Martinez at 1663 Broadway, Lubbock, Texas 79401, notified the Board that he would be representing Respondent in the licensing matter.
4. Board Staff (Staff) filed formal charges against Respondent on January 10, 2007.
5. On January 10, 2007, Staff mailed a copy of the charges to Respondent's attorney by certified mail, return receipt requested, to his address set forth in Finding of Fact No. 3. The return receipt reflects that Mr. Martinez's office received the correspondence on January 16, 2007.
6. On March 14, 2007, Staff mailed notice of the hearing to Respondent's attorney by certified mail, return receipt requested, to his address set forth in Finding of Fact No. 3. The return receipt reflects that Mr. Martinez's office received the correspondence on March 19, 2007.
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.

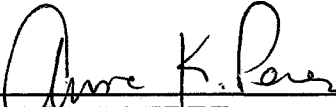
8. The notice of hearing contained the following language in capital letters in 12-point boldface type: **“FAILURE TO APPEAR AT THE HEARING IN PERSON OR BY LEGAL REPRESENTATIVE, REGARDLESS OF WHETHER AN APPEARANCE HAS BEEN ENTERED, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING 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. Staff’s motion for default was granted, and all allegations in the notice of hearing were deemed admitted pursuant to 1 TEX. ADMIN. CODE (TAC) § 155.55.
11. On January 5, 2007, Respondent entered a plea of guilty and was convicted of manslaughter, a 2<sup>nd</sup> degree felony offense.
12. As a result of the conviction, Respondent was sentenced to confinement in prison for ten years but the sentence was suspended, and Respondent was placed on community supervision for ten years, until January 7, 2017. Respondent was further ordered to pay court costs, a fine, and restitution, in addition to performing 240 hours of community service.
13. Manslaughter is a crime directed against persons and is a serious crime.
14. Staff has recommended that Respondent’s license to practice professional nursing in this state 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.
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. Based on the Findings of Fact Nos. 5 - 9 and Conclusion of Law No. 3, a default judgment should be entered against Respondent pursuant to 1 TAC § 155.55.

5. Based on Findings of Fact Nos. 11 and 13, Respondent's criminal conviction is directly related to the occupation of nursing, as required by TEX. OCC. CODE ANN. § 53.022.
6. Based on Findings of Fact Nos. 11 and 13 and Conclusion of Law No. 5, Respondent is subject to discipline under TEX. OCC. CODE ANN. § 301.452(b)(3) and (b)(10) of the Act.
7. Based on Findings of Fact Nos. 11-13 and Conclusions of Law Nos. 5 and 6, Respondent is subject to discipline under 22 TAC § 213.27(c)(3).
8. Based on Conclusions of Law Nos. 5-7, Respondent's license to practice professional nursing in the State of Texas should be suspended, pursuant to § 301.4535(a)(1) of the Act.
9. Based on Finding of Fact Nos. 11 and 12, Respondent's license to practice professional nursing may not be reinstated before January 7, 2022 (the fifth anniversary after the date that Respondent's ten-year community supervision term will be completed), pursuant to § 301.4535(c).

**SIGNED June 18, 2007.**

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

# State Office of Administrative Hearings



Shelia Bailey Taylor  
Chief Administrative Law Judge

August 22, 2007

Katherine A. Thomas, M.N., R.N.  
Executive Director  
Board of Nurse Examiners for the State of Texas  
333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701

**HAND DELIVERY**

**RE: Docket No. 507-07-2099; In The Matter Of Permanent Certificate  
Number 194338 Issued To Michelle I. Allen**

Dear Ms. Thomas:

Please find enclosed an Amended 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 § 155.59(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

A handwritten signature in cursive script that reads "Anne K. Perez".

Anne K. Perez  
Administrative Law Judge

AKP/Ls  
Enclosures

XC: Docket Clerk, State Office of Administrative Hearings - **VIA HAND DELIVERY**  
Victoria Cox, Assistant General Counsel, BNE, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 - **VIA HAND DELIVERY**  
David Martinez, 1663 Broadway, Lubbock, TX 79401 - **VIA REGULAR MAIL**



**DOCKET NO. 507-07-2099**

**IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 194338  
ISSUED TO  
MICHELLE I. ALLEN**

§  
§  
§  
§  
§

**BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS**

**AMENDED PROPOSAL FOR DECISION**

Staff of the Texas State Board of Nurse Examiners (Staff/ Board) brought this case seeking disciplinary action against Michelle I. Allen (Respondent) for violating § 301.452 (b)(3) and (10) of the Nursing Practice Act (Act), TEX. OCC. CODE ANN., ch. 301. Despite being sent proper notice, Respondent failed to appear or be represented at the hearing. Based on Respondent's failure to appear, Staff's allegations were deemed true, establishing the violations. The Administrative Law Judge agrees with Staff's original recommendation that Respondent's license to practice professional nursing be revoked.<sup>1</sup>

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

The hearing convened April 18, 2007, before Administrative Law Judge (ALJ) Anne K. Perez in the William P. Clements Building, 300 West 15<sup>th</sup> Street, Fourth Floor, Austin, Texas. Assistant General Counsel Victoria Cox represented Staff. Respondent did not appear and was not represented at the hearing. After Staff moved for a default based on Respondent's failure to appear, the record closed the same day.

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 the Respondent. Those matters are set out in the Findings of Fact and Conclusions of Law.

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<sup>1</sup> The original Proposal for Decision in the captioned matter was issued on June 18, 2007. Timely exceptions were filed by Staff on July 3, 2007. No replies were filed by Respondent or Respondent's counsel of record.

## 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 granted Staff's motion for default and recommends that Respondent's license be revoked.

## III. FINDINGS OF FACT

1. Michelle I. Allen (Respondent), a nurse licensed by the Board of Nurse Examiners for the State of Texas, holds permanent certificate number 194338.
2. On January 9, 2006, written notice of the facts and conduct alleged to warrant adverse licensure action was sent by certified mail, return receipt requested, to Respondent at 6000 Private Road 3011, Beeville, Texas 78102; the return receipt reflects that Respondent received the letter on January 11, 2006. The correspondence establishes that 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.
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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.”**

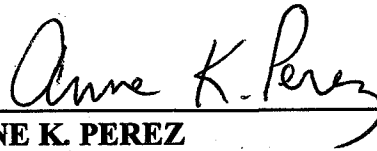
9. Respondent did not appear and was not represented at the hearing.
10. Staff's motion for default was granted, and all allegations in the notice of hearing were deemed admitted pursuant to 1 TEX. ADMIN. CODE (TAC) § 155.55.
11. On January 5, 2007, Respondent entered a plea of guilty and was convicted of manslaughter, a 2<sup>nd</sup> degree felony offense.
12. As a result of the conviction, Respondent was sentenced to confinement in prison for ten years but the sentence was suspended, and Respondent was placed on community supervision for ten years, until January 7, 2017. Respondent was further ordered to pay court costs, a fine, and restitution, in addition to performing 240 hours of community service.
13. Manslaughter is a crime directed against persons and is a serious crime.
14. Staff has recommended that Respondent's license to practice professional nursing in this state 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.
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. Based on the Findings of Fact Nos. 5 - 9 and Conclusion of Law No. 3, a default judgment should be entered against Respondent pursuant to 1 TAC § 155.55.
5. Based on Findings of Fact Nos. 11 and 13, Respondent's criminal conviction is directly related to the occupation of nursing, as required by TEX. OCC. CODE ANN. § 53.022.
6. Based on Findings of Fact Nos. 11 and 13 and Conclusion of Law No. 5, Respondent is subject to discipline under TEX. OCC. CODE ANN. § 301.452(b)(3) and (b)(10) of the Act.

7. Based on Findings of Fact Nos. 11-13 and Conclusions of Law Nos. 5 and 6, Respondent is subject to discipline under 22 TAC § 213.27(c)(3).
8. Based on Conclusions of Law Nos. 5-7, Respondent's license to practice professional nursing in the State of Texas should be revoked, pursuant to §§ 301.453(a)(6) and 301.4535(a)(1) of the Act.

**SIGNED August 22, 2007.**



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