

DOCKET NUMBER 507-08-1568

IN THE MATTER OF	§	
PERMANENT CERTIFICATE	§	BEFORE THE TEXAS
NUMBER 91203	§	
ISSUED TO	§	BOARD OF NURSING
JEROME M. WILSON	§	

OPINION AND ORDER OF THE BOARD

TO: Jerome M. Wilson
11025 Larkwood #1204
Houston, TX 77096

During open meeting held in Austin, Texas, July 17-18, 2008, 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 with the exception of Conclusion of Law Number 10. All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

Conclusion of Law Number 10 is hereby re-designated as a Recommendation because it is a recommendation for a sanction and therefore not a proper conclusion of law. *Chalifoux Jr. V. State Bd. Of Medical Examiners*, 2006 S.W.3d (03-05-00320-CV) (Tex.App. – Austin 2006); *Grotti v. State Bd. Of Medical Examiners*, 2005 LEXIS 8279 (Tex.App. –Austin 2005, no pet.). The Board adopts the Recommended Sanction of REVOCATION.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 91203, previously issued to JEROME M. WILSON, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 91203, previously issued to JEROME M. WILSON, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing 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 vocational nursing in the State of Texas.

Entered this 17th day of July, 2008.

TEXAS BOARD OF NURSING

BY:


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

SOAH DOCKET NO. 507-08-1568

IN THE MATTER OF PERMANENT	§	BEFORE THE STATE OFFICE
	§	
CERTIFICATE NO. 91203	§	OF
	§	
ISSUED TO JEROME M. WILSON	§	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 Jerome M. Wilson (Respondent). Respondent was alleged to have engaged in unprofessional conduct injurious to the public by inappropriately returning to a patient's home after work hours and by inaccurately documenting and assessing a patient's health situation, in violation of the Nursing Practice Act. Despite being sent proper notice, Respondent failed to appear at the hearing on the merits. Based on Respondent's failure to appear, Staff's allegations were accepted as true, establishing the violations. The Administrative Law Judge (ALJ) agrees with Staff's recommendation that Respondent's license be revoked.

I. BACKGROUND AND RECOMMENDATION

The hearing convened on March 26, 2008, before ALJ Penny A. Wilkov in the William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas. Staff was represented by Assistant General Counsel Victoria Cox who moved for default based on Respondent's failure to appear.

Staff offered competent evidence establishing jurisdiction and that appropriate notice of the hearing was provided to 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, deems Staff's allegations to be true, and recommends that Respondent's license be revoked.

III. PROPOSED FINDINGS OF FACT

1. Jerome M. Wilson (Respondent), a vocational nurse licensed by the State of Texas, holds Permanent Certificate No. 91203 issued by the Texas Board of Nursing (Board).
2. On September 17, 2003, while employed at Loyal Home Healthcare Agency in Houston, Texas, Respondent returned to a patient's home after work hours and requested to watch television with the patient and to work on her car. The patient refused Respondent entry to her home and subsequently filed a complaint.
3. On January 20, 2004, and March 18, 2004, while employed at Loyal Home Healthcare Agency in Houston, Texas, Respondent failed to accurately assess and document that a patient had bedsores and was bedbound, but instead reported that the patient had no bedsores, was not bedbound, and could be transferred with assistance. When the patient died on April 26, 2004, an autopsy confirmed that the patient weighed 71.5 pounds, was contracted in the fetal position, and was bed bound since 1980.
4. On August 30, 2006, staff of the Board (Staff) filed formal charges against Respondent. Respondent was mailed a copy of the charges by certified mail, return receipt requested.
5. On October 11, 2006, Staff sent another copy of the charges to Respondent by regular mail.
6. On January 25, 2008, Staff provided Respondent with the Notice of Hearing that a hearing on the merits would be convened before the State Office of Administrative Hearings (SOAH) on March 26, 2008, to consider formal charges against him.
7. The Notice of Hearing was sent to Respondent's address of record at 11025 Larkwood #1204, Houston, Texas 77096, by U.S. certified mail, return receipt requested. This address is contained in the Board's official records as the last known address for Respondent provided to the Board.
8. 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.

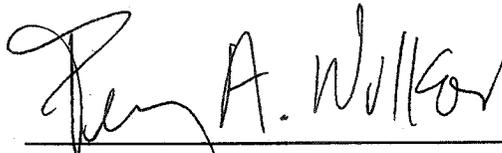
9. The notice of hearing contained the following language in capital letters in 12-point or larger boldface type: failure to appear at the hearing in person or by legal representative, regardless of whether an appearance has been entered, will result in the allegations contained in the formal charges being admitted as true and the proposed recommendation of staff shall be granted by default.
10. The hearing on the merits was convened pursuant to the Notice of Hearing at 9:00 a.m. on March 26, 2008, at the offices of the State Office of Administrative Hearings, William P. Clements Office Building, 300 West 15th Street, Austin, Texas. The record closed that day.
11. Staff made an appearance through its assistant general counsel, Victoria Cox. Respondent did not appear and was not represented. Respondent did not file a continuance or provide either prior or subsequent explanation for the failure to appear.
12. Staff's motion for default was granted, and its allegations were established as true.

IV. CONCLUSIONS OF LAW

1. The Texas Board of Nursing (Board) has jurisdiction over this matter pursuant to TEX. OCC. CODE ANN. §§ 301.452 and 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 TEX. OCC. CODE ANN. § 301.459.
3. The Board's rules authorize service of notice by sending it to Respondent's last known address. 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. Respondent's conduct as indicated in Finding of Fact No. 2, constituted unprofessional conduct that was likely to deceive, defraud, or injure the public, in violation of TEX. OCC. CODE ANN. § 302.402(a)(10) and 22 TEX. ADMIN. CODE § 239.11(27)(L).

6. Respondent's conduct as indicated in Finding of Fact No. 3, constituted unprofessional conduct that was likely to deceive, defraud, or injure the public, in violation of TEX. OCC. CODE ANN. §§ 302.402(a)(10) and 301.452(b)(10), as well as 22 TEX. ADMIN. CODE §§ 239.11(3) and (27)(A).
7. Based on the rule at 1 TEX. ADMIN. CODE § 155.45(f), default is authorized.
8. Based on the rule at 1 TEX. ADMIN. CODE § 155.55, Staff's allegations are deemed true.
9. Pursuant to TEX. OCC. CODE ANN. § 301.453, the Board is authorized to take disciplinary action against Respondent.
10. The Board should enter a default order against Respondent and should revoke Permanent Certificate No. 91203 as a vocational nurse.

SIGNED May 15, 2008.



**PENNY A. WILKOV
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**