

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 116278
ISSUED TO
DOVIE CORNELIUS FOUNTAIN

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BEFORE THE ELIGIBILITY
AND DISCIPLINARY
COMMITTEE
OF THE TEXAS
BOARD OF NURSING



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

ORDER OF THE BOARD

TO: DOVIE CORNELIUS FOUNTAIN
481 CR 3796
CLEVELAND, TX 77328

During open meeting held in Austin, Texas, on June 14, 2011, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee of the Texas Board of Nursing 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 the Texas Occupations Code, for retention of Respondent's license to practice vocational 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 regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

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 for rehearing [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 116278, previously issued to DOVIE CORNELIUS FOUNTAIN, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice vocational nursing in the State of Texas.

Entered this 14th day of June, 2011.

TEXAS BOARD OF NURSING

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

Attachment: Formal Charge filed February 2, 2011.

Re: Permanent Certificate Number 116278
Issued to DOVIE CORNELIUS FOUNTAIN
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of June, 2011, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

DOVIE CORNELIUS FOUNTAIN
481 CR 3796
CLEVELAND, TX 77328

BY:


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

In the Matter of Permanent License § **BEFORE THE TEXAS**
Number 116278, Issued to §
DOVIE CORNELIUS FOUNTAIN, Respondent § **BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, DOVIE CORNELIUS FOUNTAIN, is a Vocational Nurse holding license number 116278, which is in delinquent 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.

On or about November 13, 2009, Respondent failed to comply with the Agreed Order issued to her on November 12, 2008, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Two (2) of the Order which states, in pertinent part:

(2) Respondent shall, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics....

A copy of the November 12, 2008, Agreed Order, Findings of Fact and Conclusions of Law, is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) and (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

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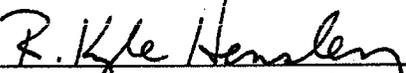
NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to revocation of Respondent's license to practice vocational nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.state.tx.us/disciplinaryaction/discp-matrix.html.

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 of the disposition recommended by staff: Agreed Order dated November 12, 2008.

Filed this 2nd day of February, 2011.


James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300
Jena Renee Koslan Abel, Assistant General Counsel
State Bar No. 24036103
Lance Robert Brenton, Assistant General Counsel
State Bar No. 24066924
Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847
Nikki Hopkins, Assistant General Counsel
State Bar No. 24052269
John F. Legris, Assistant General Counsel
State Bar No. 00785533
TEXAS BOARD OF NURSING
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6824
F: (512) 305-8101 or (512)305-7401

Attachments: Agreed Order dated November 12, 2008.

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 116278 §
issued to DOVIE CORNELIUS FOUNTAIN § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of DOVIE CORNELIUS FOUNTAIN, Vocational Nurse License Number 116278, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on August 5, 2008, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

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, informal conference, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice vocational nursing in the State of Texas.
4. Respondent received a Certificate in Nursing from South Plains College, Lubbock, Texas, on August 29, 1986. Respondent was licensed to practice vocational nursing in the State of Texas on November 22, 1986.
5. Respondent's vocational nursing employment history includes:

1996 - 1998

LVN
Alternative Home Health Care
Lubbock, Texas

Respondent's professional nursing employment history (continued):

| | |
|-------------|---|
| 1998 - 1999 | LVN Parkway Manor Lubbock, Texas |
| 1999 - 2000 | Not working as Nurse |
| 2000 - 2001 | Night Shift LVN Galaxy Manor Cleveland, Texas |
| 2001 - 2002 | LVN Lake Shore Village Waco, Texas |
| 2002 - 2003 | LVN Galaxy Manor Cleveland, Texas |

6. On or about May 13, 2008, Respondent submitted a renewal application to the Texas Board of Nursing in which she answered "Yes" to the following question:

"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

- A. been convicted of a misdemeanor?
- B. been convicted of a felony?
- C. pled nolo contendere, no contest, or guilty?
- D. received deferred adjudication?
- E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
- F. been sentenced to serve jail or prison time? court-ordered confinement?
- G. been granted pre-trial diversion?
- H. been arrested or any pending criminal charges?
- I. been cited or charged with any violation of the law?
- J. been subject of a court-martial; Article 15 violation; or received any form of military judgement/punishment/action?"

7. On or about May 28, 2008, Respondent entered a plea of Guilty to POSSESS GAMBLING DEVICE, (a Class A misdemeanor offense committed on January 12, 2007), in the County Court at Law No. 4 of Montgomery County, Texas, under Cause No. 07-233491. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on probation for a period of one (1) year to run concurrent with Cause No. 07-233518. Additionally, Respondent was ordered to pay a fine and court costs. Further, Respondent must complete eighty (80) hours of community service.

8. On or about May 28, 2008, Respondent entered a plea of Guilty to GAMBLING PROMOTION, (a Class A misdemeanor offense committed on January 12, 2007), in the County Court at Law No. 4 of Montgomery County, Texas, under Cause No. 07-233518. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on probation for a period of one (1) year. Additionally, Respondent was ordered to pay a fine and court costs. Further, Respondent must complete eighty (80) hours of community service.

9. On or about July 8, 2008, Respondent submitted a written statement related to Findings of Fact numbers Seven (7) and Eight (8), in which she stated "In 1997, I cared for my husband who died of AIDS. In 2000, I was taking care of my mother who has Alzheimer's, and cared for my brother who had a kidney transplant and bladder cancer, until he died in 2008. In 2005, my son developed lung cancer and died that same year. During these times I was unemployed and gave them total patient care. When my son was ill, my sister-in-law took care of my home and my bills without being asked. She did not ask to be paid back, but did ask me to help out at her game room a few days a week. It gave her a break and me a break. I did not know I was breaking the law. She had been open four years without any problems. In 2006, I quit working for her and devoted all my time to my mother. Also in 2006, my sister-in-law opened a second game room and hired more people. In June of 2007, I put my mother in a group home, which lasted for two weeks. In this two week period I worked at the game room while looking for a job. After I brought my mom back home I didn't work there at all. On July 9, 2007, I was arrested at my home for a felony charge. When my sister-in-law opened the second room and was employing more than three people, this became organized crime. She and everyone that had ever worked there were charged. In January of 2008, three Class A misdemeanor were filed against us to warrant the felony charge. In May of 2008, the felony charge and one misdemeanor were dropped. I received one year probation, eighty hours fo community service and a fine for each charge.."

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violations of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 116278, heretofore issued to DOVIE CORNELIUS FOUNTAIN, including revocation of Respondent's license to practice vocational nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and RESPONDENT SHALL comply 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 §211.1 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice vocational nursing in compact states.

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

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to DOVIE CORNELIUS FOUNTAIN, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT 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. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice,

documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT 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 RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.*

(3) RESPONDENT SHALL pay a monetary fine in the amount of TWO HUNDRED FIFTY DOLLARS (\$250.00). RESPONDENT SHALL pay this fine within forty-five (45) days of entry of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A LICENSED VOCATIONAL NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT

**THAT DO NOT REQUIRE THE USE OF A VOCATIONAL NURSE (LVN) LICENSE
WILL NOT APPLY TO THIS STIPULATION PERIOD:**

(4) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations conditions on RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT 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.

(5) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(6) RESPONDENT SHALL be supervised by a Registered Nurse or a Licensed Vocational Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, 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 Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse

employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(7) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT's capability to practice nursing. These reports shall be completed by the Registered Nurse or Licensed Vocational Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for two (2) years of employment as a nurse.

(8) RESPONDENT SHALL CAUSE her probation officer to submit written reports on forms provided to the Respondent by the Board. The reports shall indicate the RESPONDENT's compliance with the court ordered probation. The reports shall be furnished each and every three (3) month period until RESPONDENT is released from probation.

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

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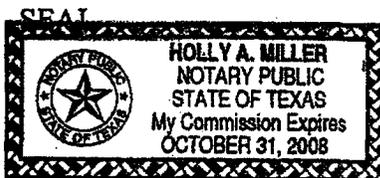
RESPONDENT'S CERTIFICATION

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 violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. 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 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 01 day of Oct, 2008.

Dovie Fountain
DOVIE CORNELIUS FOUNTAIN, Respondent

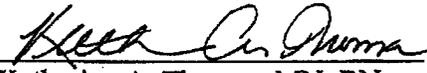
Sworn to and subscribed before me this 1 day of October, 2008.



Holly Miller
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 1st day of October, 2008, by DOVIE CORNELIUS FOUNTAIN, Vocational Nurse License Number 116278, and said Order is final.

Effective this 12th day of November, 2008.


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

