

5. Respondent's vocational nursing employment history includes:

5/2002 - 2/2003	CNA	Alma Healthcare/Rehabilitation Alma, Arkansas
3/2003 - 3/2004	CNA	Preferred Medical Staffing Fayetteville, Arkansas
5/2004 - 8/2005	LVN	Silver Creek Manor San Antonio, Texas
8/2005 - 12/2005	LVN	Medical Staffing Network San Antonio, Texas
12/2005 - Unknown	LVN	Nursefinders San Antonio, Texas
11/2006 - 7/2008	LVN	VistaCare Hospice San Antonio, Texas
7/2008 - Present	Unknown	

6. On or about October 4, 2004, Respondent was issued an Eligibility Agreed Order by the Board of Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law, and Order dated October 4, 2004, is attached and incorporated, by reference, as part of this Order.
7. On or about December 2, 2010, Respondent was issued a Letter of Reprimand by the Arkansas State Board of Nursing. A copy of the Letter of Reprimand dated December 2, 2010 is attached and incorporated, by reference, as part of this Order.
8. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with VistaCare Hospice, San Antonio, Texas, and had been in this position for one (1) year and eight (8) months.
9. On or about July 15, 2008, while employed with VistaCare Hospice, San Antonio, Texas, and on assignment with Huebner Creek LTCF, San Antonio, Texas, Respondent lacked fitness to practice vocational nursing in that she was found sleeping at the bedside of Patient Medical Record Number 119090. Furthermore, Respondent required LTCF staff to shake her awake to inform her that the patient expired. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patient's conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

10. On or about December 2, 2010, Respondent was issued a Letter of Reprimand by the Arkansas State Board of Nursing. A copy of the Letter of Reprimand dated December 2, 2010 is attached and incorporated, by reference, as part of this Order.
11. In response to the incident in Finding of Fact Number Nine (9) Respondent states that she does not deny that she fell asleep while taking care of an assigned patient on July 15, 2008. She was exhausted and still feels horrible about the lapse in her own standards as a nurse and the emotional trauma that she caused the patient's family. Respondent adds that she no longer holds a Texas LVN license. She allowed the license to expire in September of 2009 after moving back to Arkansas. In response to the incident in Finding of Fact Number Ten (10) Respondent states that one of the questions on the Arkansas State Nursing License application asked, "Have you received any discipline against your nursing license since your last renewal?" Respondent answered "No" because her Arkansas license expired and she had not received disciplinary action in Texas since her last renewal in September of 2009. Respondent was informed that she falsified her Arkansas application because the Texas BON required that she take an Ethics and Jurisprudence class after disclosing charges for bad checks on the application. Respondent states that she did not know the class was considered "disciplinary action" as it was just a requirement to get her Compact License, and she had done nothing wrong while holding any nursing license. Respondent further states that she answered this question truthfully and in good faith. Respondent believes that the Arkansas Board of Nursing was incorrect in issuing the Letter of Reprimand. Respondent is currently appealing the decision and has asked for a hearing before the Arkansas BON. She is currently waiting for an appearance date.

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 violation of Section 301.452(b)(8),(10)& (13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(A),(B)&(T) and 217.12(1)(A),(B),(4)&(5).
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 195816, heretofore issued to MELISSA MAREE CUTLIP, including revocation of Respondent's license to practice 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 REPRIMAND 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 nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

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 nurse licensure compact 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, 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) 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>.*

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address: <http://learningext.com/hives/a0f6f3e8a0/summary>.*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A 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:**

(3) RESPONDENT SHALL notify each present employer 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 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.

(4) 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.

(5) 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.

(6) 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.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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RESPONDENT'S CERTIFICATION

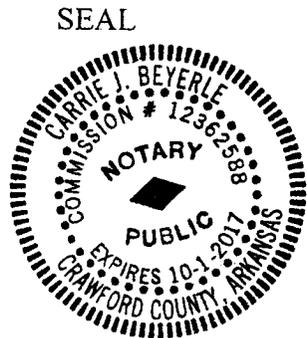
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and 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 nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 19th day of April, 20 11.

Melissa Maree Cutlip
MELISSA MAREE CUTLIP, Respondent

Sworn to and subscribed before me this 19th day of April, 20 11.

Carrie J. Beyerle
Notary Public in and for the State of Arkansas



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 19th day of April, 2011, by MELISSA MAREE CUTLIP, Vocational Nurse License Number 195816, and said Order is final.

Effective this 14th day of June, 2011.



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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of	§	ELIGIBILITY
MELISSA MAREE WARD	§	
APPLICANT for Eligibility for Licensure	§	AGREED ORDER

On the date entered below, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the Application for Licensure by Endorsement and supporting documents filed by MELISSA MAREE WARD, hereinafter referred to as APPLICANT, together with any documents and information gathered by staff and APPLICANT's Certificate contained herein. Information received by the Board produced evidence that APPLICANT may have violated Section 301.452(b)(3), Texas Occupations Code.

APPLICANT waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on July 25, 2004, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about May 17, 2004, Applicant submitted an Application for Licensure by Endorsement as a vocational nurse in the State of Texas in compliance with Section 301.260 *et seq.*, of the Texas Occupations Code.
2. Applicant waived representation by counsel, informal conference, notice and hearing, and consented to the entry of this Order.
3. Applicant received a Diploma in Vocational Nursing from Arkansas Technical University - Ozark, Ozark Arizona, in March 2004.
4. Applicant disclosed the following criminal history, to wit:
 - A. In July 1999, Applicant was charged with the misdemeanor offense of Overdraft in the Van Buren District Court of Arkansas. Applicant was convicted and assessed a fine.

- B. In July 2000, Applicant was charged with the misdemeanor offense of Overdraft in the Sebastian County District Court of Arkansas. Applicant was convicted and assessed a fine.
 - C. In July 2002, Applicant was charged with the misdemeanor offense of Overdraft in the Van Buren District Court of Arkansas. Applicant was convicted and assessed a fine.
5. There is no evidence of any subsequent criminal conduct.
 6. Applicant has sworn that her past behavior conforms to the Board's professional character requirements. Petitioner presented no evidence of behavior which is inconsistent with good professional character.
 7. On July 25, 2004, the Executive Director considered evidence of Petitioner's past behavior in light of the character factors set out in 22 Texas Administrative Code §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character.
 8. Licensure of Applicant poses no direct threat to the health and safety of patients or the public.
 9. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Applicant's disclosures.
 10. Applicant has been advised by the Board that any information found to be incomplete, incorrect or misleading to the Board or a subsequent discovery of a basis of ineligibility will be considered by the Board and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through fraud or deceit.

CONCLUSIONS OF LAW

1. The Board of Nurse Examiners (Board) has jurisdiction over this matter pursuant to Section 301.453 *et seq.*, Texas Occupations Code.
2. Applicant has submitted an application in compliance with Section 301.260, Texas Occupations Code.
3. The Board may probate the denial of a license under conditions for a specified term pursuant to Section 301.453, Texas Occupations Code.

4. This Order is conditioned upon the accuracy and completeness of Applicant's disclosures. Any subsequently discovered discrepancies will result in investigation and disciplinary action.
5. The Board may license an individual who has been previously convicted, adjudged guilty by a court, pled guilty or pled nolo contendere to any crime whether or not a sentence was imposed upon consideration of the factors set out in 22 Texas Administrative Code §213.28 and evaluating the direct relationship to nursing according to Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.
6. Applicant shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452 *et seq.*, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED that the application of MELISSA MAREE WARD, APPLICANT, is hereby conditionally GRANTED and shall be subject to the following conditions:

(1) APPLICANT SHALL obtain and read the Texas Nursing Practice Act, and the Rules and Regulations Relating to Vocational Nurse Education, Licensure and Practice.

(2) Upon payment of the necessary fees, APPLICANT SHALL be issued a license to practice vocational nursing in the State of Texas, which shall bear the appropriate notation.

(3) APPLICANT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

(4) IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to APPLICANT's multistate licensure privilege, if any, to practice vocational nursing in the State of Texas.

(5) IT IS FURTHER AGREED and ORDERED that while APPLICANT's license is encumbered by this Order the APPLICANT 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 APPLICANT wishes to work.

(6) APPLICANT SHALL, within one (1) year of licensure in the State of Texas, successfully complete a course in Texas nursing jurisprudence. APPLICANT 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 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, and documentation of care. Courses focusing on malpractice issues will not be accepted. APPLICANT 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 APPLICANT'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 on the Board's website, www.bne.state.tx.us (under BNE events).*

(7) APPLICANT SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in nursing ethics. APPLICANT SHALL obtain Board approval of the course prior to enrollment. 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. APPLICANT

SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify APPLICANT'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, that upon full compliance with the terms of this Order, APPLICANT 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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APPLICANT'S CERTIFICATION

I am the Applicant in this matter. I have fully and truthfully disclosed all of my past criminal conduct, and I have caused a complete and accurate criminal history to be submitted to the Board of Nurse Examiners from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. I certify that my past behavior, except as disclosed in my Application for Licensure by Endorsement, has been in conformity with the Board's 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 conviction, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

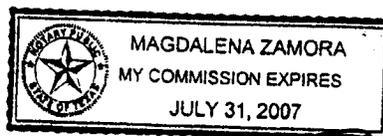
In connection with my application, I acknowledge that I have read and I understand Section 301.257, Texas Occupations Code, Section 301.452(a), (b) and (c), Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and Board Rules 213.27, 213.28, and 213.29 at 22 Texas Administrative Code. I agree with all terms of this Order, including the Findings of Fact and Conclusions of Law and any stipulations as set out in this Order. I acknowledge that this Order is stipulated and I understand that I am not eligible to receive a Temporary Permit to practice. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to accepting any permit or license from the Board of Nurse Examiners.

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.

I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Executive Director of the Board of Nurse Examiners enter this Order.

Signed this 9th day of September 2004.

Melissa Maree Ward
MELISSA MAREE WARD, APPLICANT



Magdalena Zamora

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Eligibility Agreed Order that was signed on the 9th day of September, 2004, by MELISSA MAREE WARD, APPLICANT, for Application for Licensure by Endorsement, and said Order is final.

Effective this 4th day of October, 2004.



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



ARKANSAS STATE BOARD OF NURSING

1123 S. University Avenue, Suite 800, University Tower Building, Little Rock, AR 72204
Phone: (501) 686-2700 Fax: (501) 686-2714 www.arsbn.org

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Searcy

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Greenbrier

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 2250 0004 1559 5167**

December 2, 2010

Melissa Maree Ward Cutlip
1890 Fieldstone TR
Alma, AR 72921

**RE: LETTER OF REPRIMAND
LPN LICENSE # L42654**

Dear Ms. Cutlip:

The Arkansas State Board of Nursing has determined that you falsified your renewal application on September 30, 2010. In addition to the false application it was determined that you violated the provisions of the interstate compact rules. This Letter of Reprimand is being issued for violations of the Nurse Practice Act and Rules.

The Nurse Practice Act of the State of Arkansas, July 28, 1995, ACA §17-87-309 (Amended 1999) states:

- (a) The board shall have sole authority to deny, suspend, revoke or limit any license to practice nursing or certificate of prescriptive authority issued by the board or applied for in accordance with the provisions of this chapter or to otherwise discipline a licensee upon proof that the person:
 - (1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing or engaged in the practice of nursing without a valid license

Furthermore, the Arkansas State Board of Nursing Rules, Chapter Two, Section III, (B) (6), Issuance of a License by a Compact Party State:

A nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed thirty (30) days.

- On September 30, 2010 the Respondent submitted a renewal application to the ASBN. Respondent answered "No" to the question "Since your last renewal has any disciplinary action been taken against you, or has your authority to practice been restricted by any federal or state agency, including but not limited to Medicare or Medicaid"
- On September 9, 2004 the respondent was placed under a board order with the TX BON while seeking endorsement into the state of TX.
- Respondent listed as her employer from July 2010 through September 24, 2010 Preferred Medical Staffing, Fayetteville, AR on her work history submitted to the board with her current application.
- In a written statement to the ASBN she stated "I am an agency staffing nurse and I only work PRN. I usually work 2-12 hr shifts when I do work, but I do not work every week. The 3rd week in July is an estimate as I don't know the exact day. The last shift I worked was 7P-7A on Friday September, 24th, 2010"
- Respondents' privilege to practice nursing in Arkansas based upon her multi-state Practical Nurse license in Texas became inactive after working a thirty (30) day period with an Arkansas primary state of residence.

The Arkansas State Board of Nursing therefore orders that the license of Melissa Maree Ward Cutlip is reprimanded and the following conditions are to be met:

Respondent is to provide evidence of completion of the Board approved course the Nurse and Professional Behaviors. The course is to be completed within 6 months of receipt of this Letter of Reprimand. Upon completion of the course Respondent is to submit a two -page summary as specified in the direction for Board Ordered courses.

This letter of reprimand is:

- public information
- made a part of your record
- scheduled to be reported in the ASBN newsletter following the disciplinary hearings
- reported to the National Council of State Boards of Nursing Disciplinary Data Bank and
- reported to the federal Healthcare Integrity and Protection Data Bank.

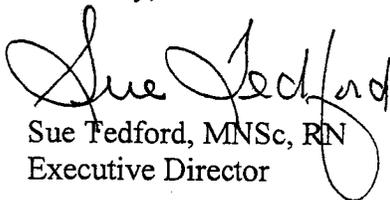
Letter of Reprimand
Melissa Maree Ward Cutlip
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December 2, 2010

You should understand that evidence of a prior violation of the Nurse Practice Act may be used for purposes of determining sanctions in any future disciplinary matters.

You may request a hearing before the full Board in lieu of this Letter of Reprimand. You have thirty (30) days upon receipt of this letter to request a formal hearing before the Arkansas State Board of Nursing.

You are responsible and accountable for your own practice. Please review the enclosed Grounds for Discipline.

Sincerely,


Sue Fedford, MNSc, RN
Executive Director

ST/pd
Enclosure