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| IN THE MATTER OF | § | BEFORE THE ELIGIBILITY |
| | § | |
| PERMANENT CERTIFICATE | § | AND DISCIPLINARY |
| | § | |
| NUMBER 94075 | § | COMMITTEE |
| | § | |
| ISSUED TO | § | OF THE TEXAS |
| | § | |
| ELZA DYMOND | § | BOARD OF NURSING |

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.
Executive Director of the Board

**ORDER OF THE BOARD**

TO: ELZA DYMOND
3735 E. COMMERCE BLDG O, #1
SAN ANTONIO, TX 78219

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 94075, previously issued to ELZA DYMOND, 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 94075
Issued to ELZA DYMOND
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):

ELZA DYMOND
3735 E. COMMERCE BLDG O, #1
SAN ANTONIO, TX 78219

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

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| **In the Matter of Permanent License** | § | **BEFORE THE TEXAS** |
| **Number 94075, Issued to** | § | |
| **ELZA DYMOND, Respondent** | § | **BOARD OF NURSING** |

## FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, ELZA DYMOND, is a Vocational Nurse holding license number 94075, which is in current 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 4, 2009, Respondent failed to comply with the Agreed Order issued to her on November 3, 2008, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Three (3) of the Order which states, in pertinent part:

> (3) 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 3, 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 3, 2008.

Filed this 2nd day of February, 2011.

R. Kyle Hensley

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 3, 2008.

BEFORE THE TEXAS BOARD OF NURSING

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| In the Matter of Vocational Nurse License Number 94075 issued to ELZA DYMOND | §<br>§<br>§ | AGREED<br><br>ORDER |

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of ELZA DYMOND, Vocational Nurse License Number 94075, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(2)&(10), Texas Occupations Code. Respondent waived informal conference, notice and hearing, and agreed to the entry of this Order offered on September 1, 2008, by Katherine A. Thomas, MN, RN, Executive Director.

## 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 Texas School of Vocational Nursing on September 10, 1980. Respondent was licensed to practice vocational nursing in the State of Texas on December 11, 1981.

5. Respondent's complete vocational nursing employment history is unknown.

6. On or about February 27, 2005, Respondent submitted a renewal application to the Texas Board of Nurse Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information, in that she answered "No" to the following question:

*"**Have you ever** been convicted, adjudicated guilty by a court, plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests (excluding minor traffic violations) since your last renewal? This includes expunged offenses and deferred adjudications with or without prejudice of guilt. Please note that DUIs, DWIs, and PI's must be reported and are not considered minor traffic violations. (One time minor in possession [MIP] or minor in consumption [MIC] does not need to be disclosed; therefore, you may answer "No." If you have two or more MIPs or MICs, you must answer "Yes".)"*

7. On or about November 25, 2006, Respondent was requested to comply with a random criminal background audit check. The results revealed the following non disclosed criminal history.

8. On or about September 9, 2002, Respondent was convicted of the misdemeanor offense of Theft of Property >=$20 <$500 by Check, in the County Court at Law #2 San Antonio, Texas. Respondent received a Deferred Adjudication with a final plea of No contest or Nolo Contendere 5/16/2003, two (2) years probation, and a five hundred dollar ($500.00) fine. Sentence was modified on 5/10/2005 with probation being extended. Sentence was again modified on 11/05/2008 with probation again extended. On 9-12-2006 sentence was again modified and probation extended. No fines were assessed for the extended probation. Respondent was Terminated from Community Supervision which states the order was terminated unsatisfactory and the cause is thereby dismissed singed and dated February 21, 2007.

## 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)(2)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(I).

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 94075, heretofore issued to ELZA DYMOND, 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 REMEDIAL EDUCATION WITH A FINE, 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 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 multistate licensure privilege without the written permission of the State of Texas 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 ELZA DYMOND to the office of the Texas Board of Nursing within ten (10) days of the date of ratification of this Order for appropriate notation.

(2) RESPONDENT SHALL pay a monetary fine in the amount of two hundred and 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.

(3) 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.*

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 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 when this Order becomes final and the terms of this Order become effective, 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 28th day of October, 2008.

Elza Dymond

ELZA DYMOND, Respondent

Sworn to and subscribed before me this 28th day of October, 2008.

SEAL

Amadi G. Bell

Notary Public in and for the State of Texas

AMADI G. BELL
Notary Public, State of Texas
My Commission Expires
July 29, 2011

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby ratify and adopt the Agreed Order that was signed on the 28 day of October, 2008, by ELZA DYMOND, Vocational Nurse License Number 94075, and said Order is final.

Effective this 3 day of November, 2008.

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