

BEFORE 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

In the Matter of Vocational Nurse § AGREED
License Number 152517 §
issued to DONNA ANN MILLER § ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 152517, issued to DONNA ANN MILLER, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Respondent waived representation by counsel, informal proceedings, 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 Vocational Nursing from Frank Phillips College, Borger, Texas on May 18, 1995. Respondent was licensed to practice vocational nursing in the State of Texas on June 20, 1995.
5. Respondent's employment history includes:

| | | |
|--------------------|-----------|---|
| 09/1995 to 06/2001 | Staff LVN | Hansford Hospital District Spearman, Texas |
|--------------------|-----------|---|

Respondent's employment history continued.

| | | |
|--------------------|-----------|---|
| 06/2001 to 06/2010 | Staff LVN | Memorial Hospital of Texas County Guymon, Oklahoma |
| 06/2010 to 08/2010 | Unknown | |
| 08/2010 to 11/2010 | Staff LVN | Hansford Hospital District Spearman, Texas |
| 12/2010 - present | Unknown | |

6. At the time of the incidents described in Findings of Fact Numbers Seven (7) through Number Ten (10), Respondent was employed as a Licensed Vocational Nurse with the Hansford Hospital District, Spearman, Texas and had been in this position for approximately three (3) months.
7. On or about September 28, 2010, while holding a license as a Vocational Nurse in the State of Texas, Respondent entered into a Stipulation, Settlement and Order with the Oklahoma Board of Nursing wherein her license to practice practical nursing, L0045281, in the State of Oklahoma was issued an Order to the Peer Assistance Program of the Oklahoma Board of Nursing due to a positive drug screen. Respondent failed to meet the required stipulations and on or about November 11, 2010, while holding a license as a Vocational Nurse in the State of Texas, Respondent's license to practice practical nursing, L0045281, in the State of Oklahoma was revoked for a period of two years. Oklahoma Board of Nursing Order dated September 28, 2010 is attached and incorporated, by reference, as part of this pleading.
8. On or about October 31, 2010, while employed as a Vocational Nurse with Hansford County Hospital District, Spearman, Texas, and on duty or call as a volunteer paramedic with the City of Gruver EMS, Respondent admitted to misappropriating four (4) 10ml vials of Morphine from an ambulance owned and operated by the City of Gruver EMS, Gruver, Texas. Respondent admitted that she had access to medications and replaced four (4) 10 mg vials of the Morphine with an unknown liquid in order to misappropriate Morphine for her own personal use. Possession of Morphine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). Respondent's conduct was likely to defraud the facility and patients of the cost of the medications and place patients in danger by not having access to the proper medications had the theft not been discovered prior to responding to emergency situations.
9. On or about November 2, 2010, while employed as a Vocational Nurse with Hansford County Hospital District, Spearman, Texas, Respondent engaged in the intemperate use of Opiates in that Respondent produced a specimen for a drug screen which resulted positive for Opiates. Possession of Opiates is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Opiates by a Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could

impair the nurse's 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 10, 2010, while holding a license as a Vocational Nurse in the State of Texas, Respondent was arrested by the Gruver Police Department, Gruver, Texas and charged with Possession of Controlled Substance, Penalty Group 1, greater than four (4) grams and less than two hundred (200) grams, a 2nd Degree Felony with charges referred to the Hansford County District Attorney's Office for prosecution. On January 25, 2011, Respondent was indicted by the Hansford County Grand Jury on the above criminal charges. Possession of Opiates is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act).
11. Charges were filed on February 24, 2011.
12. Charges were mailed to Respondent on February 25, 2011.
13. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license(s) to practice nursing in the State of Texas.
14. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
15. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

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)(8),(9),(10)&(13), Texas Occupations Code and 22 TEX. ADMIN. CODE §217.12(1)(A),(4),(6)(G),(10)(D)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 152517, heretofore issued to DONNA ANN MILLER, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.

6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Vocational Nurse License Number 152517, heretofore issued to DONNA ANN MILLER, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice vocational nursing, use the title "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying herself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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.

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CONTINUED ON NEXT PAGE.

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 becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 6th day of May, 2011.

Donna Ann Miller
DONNA ANN MILLER, Respondent

Sworn to and subscribed before me this 6th day of May, 2011.

SEAL

Pat Sutterfield

Notary Public in and for the State of Texas



PAT SUTTERFIELD
NOTARY PUBLIC
STATE OF TEXAS
My Commission Expires
OCTOBER 30, 2012

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Vocational Nurse License Number 152517, previously issued to DONNA ANN MILLER.

Effective this 11th day of May, 2011.




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

BEFORE THE OKLAHOMA BOARD OF NURSING

IN THE MATTER OF DONNA ANN WOOD MILLER, L.P.N.
LICENSE NO. L0045281

STIPULATION, SETTLEMENT AND ORDER

This matter comes on before the Informal Disposition Panel ("Panel") of the Oklahoma Board of Nursing ("Board") on the 14th day of September, 2010, in the Conference Room of the Board Office, 2915 North Classen Boulevard, Suite 524, Oklahoma City, Oklahoma.

Jan Sinclair, R.N., a Nurse Investigator with the Board, appears in person, and Donna Ann Wood Miller, L.P.N., (hereinafter, "Respondent") appears neither in person nor by counsel before the Panel on this date. Respondent and the Nurse Investigator participated in a telephonic conference on August 12, 2010, and subsequently consented to this Order.

STIPULATION

Respondent and the Panel hereby stipulate and agree to the following joint stipulation and proposed Order of the Board incorporating this stipulation and agreement in the above-styled matter.

1. Respondent is licensed to practice licensed practical nursing in the State of Oklahoma, and is the holder of License No. L0045281 issued by the Oklahoma Board of Nursing.
2. On or about June 11, 2010, Respondent, while employed with Memorial Hospital of Texas County in Guymon, Oklahoma, was selected for a random urine drug screen test. Respondent tested positive for opiates. Respondent requested reconfirmation testing of the specimen which also tested positive for opiates. Respondent was subsequently terminated per company policy. The drug screen and the reconfirmation are attached as Exhibit "A" and made a part hereof.

3. Respondent admits to having a problem with controlled dangerous substances/alcohol.

4. Respondent has requested a referral to the Peer Assistance Program.

5. No formal complaint has been filed as of the date of this stipulation charging Respondent with a violation of the Oklahoma Nursing Practice Act. Respondent understands that Respondent has a right to require that a formal complaint be filed and the right to a formal hearing before the Board at which time Respondent could confront the witnesses against Respondent, cross-examine those witnesses, and present evidence in Respondent's own behalf. Respondent understands that by signing and agreeing to this stipulation Respondent is waiving those rights.

6. This stipulation is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of this stipulation. Furthermore, should this joint stipulation not be accepted by the Board, it is agreed that presentation to and consideration of this stipulation and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

7. Respondent fully understands and agrees that this joint stipulation and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board against Respondent for acts or omissions not specifically made a part of this stipulation.

8. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of this joint stipulation of facts, conclusions of law and imposition of discipline, and the Final Order of the

Board incorporating said stipulation.

9. It is expressly understood that this stipulation is subject to approval of the Board and has no force and effect until approved and Ordered by the Board.

10. This Stipulation, Settlement, and Order does constitute formal disciplinary action.

STIPULATED DISPOSITION AND ORDER

IT IS THEREFORE ORDERED by the Oklahoma Board of Nursing that Respondent is referred to the Peer Assistance Program of the Oklahoma Board of Nursing on the following terms and conditions:

1. Respondent's license to practice licensed practical nursing is hereby **temporarily suspended** as of the date of this Order, which temporary suspension shall be set aside provided Respondent provides documentation, satisfactory to the Board, of Respondent's acceptance into the Peer Assistance Program by **November 11, 2010**.

2. If Respondent is not accepted into the Peer Assistance Program on or before **November 11, 2010**, or having been accepted is terminated from the Program for any reason other than successful completion of Respondent's contract and treatment plan, Respondent's license is hereby **revoked for a period of two (2) years**.

3. In the event Respondent's license is revoked as provided herein, any application to reinstate Respondent's license shall not be considered by the Board until Respondent presents evidence satisfactory to the Board of compliance with the Board's Guidelines For Individuals Requesting Reinstatement After Suspension, Surrender Or Revocation For Misappropriation Or Misuse Of Drugs/Alcohol, a copy of which is attached hereto and made a part

hereof. Respondent must also submit evidence of the continued qualifications for practice as set forth in the applicable Statutes and Rules of the Oklahoma Board of Nursing in effect at the time of Respondent's reinstatement.

4. In the event Respondent's license is revoked as provided herein, Respondent shall pay an administrative penalty payable to the Oklahoma Board of Nursing in the amount of Five Hundred Dollars (\$500.00). The administrative penalty shall be paid only by certified check, money order or cash. Any Application to Reinstate Respondent's license will not be considered until the administrative penalty is paid in full.

5. Upon Reinstatement, Respondent's license will be immediately placed in *temporary suspension pending readmission to the Peer Assistance Program*. Respondent shall provide documentation, satisfactory to the Board, of Respondent's acceptance into the Peer Assistance Program within sixty (60) days of reinstatement.

6. The parties agree that both (all) parties have participated in the drafting of this Stipulation, Settlement and Order and that no presumption or construction against any party as the drafter of this **Stipulation, Settlement and Order**, shall apply or be applied in the event of a claim of ambiguity of the document or a provision thereof.

7. This stipulation shall not be effective until the fully executed Order is received in the Board office.

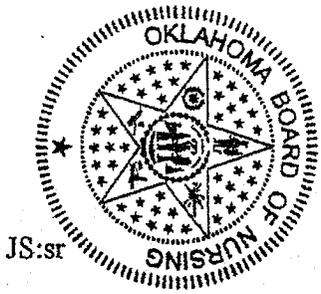
8. Upon successful completion by Respondent of Respondent's Contract, Amended Contract(s), and treatment plan with the Peer Assistance Program, no further Order of the Board shall be deemed necessary.

9. This Order constitutes disciplinary action by the Board and may be used in any subsequent hearings by the Board. In the event other misconduct is reported to the Board, this

Order may be used as evidence against Respondent to establish a pattern of behavior and for the purpose of proving additional acts of misconduct.

Donna Miller
Respondent *see attached letters*

Approved and ordered this 20 day of September, 2010.



OKLAHOMA BOARD OF NURSING

By: Francine Weathers
President



LexisNexis Screening Solutions, Inc.

480 Quadrangle Drive Suite D

Bolingbrook, IL 60440

Phone: 800-939-4782

Fax: 630-679-5635

RECEIVED

JUL 15 2010

OBN

Controlled Substance Test Report

Attn: Susanna Ritter

520 Medical Drive

Guyton, OK 73942

Phone: 580-338-6515

Donor Name: Donna Miller

Donor ID:

Client Name: Memorial Hospital Of Texas
County

Account Number: 123757-00000

Employee ID 1:

Employee ID 2:

Emp Category: UNKNOWN

Test Result: Positive

Result Description: Positive

Substances Found: Opiates

MRO Verified Comment:

Specimen ID: 3537811

Collection Date: 6/7/2010 5:00:00 PM

Testing Panel: 7 PANEL

CCF Received: 6/11/2010

Verified Date: 6/14/2010

Reported Date: 6/14/2010 9:59:00 AM

Collection Site:

Test Reason: Random

Test Type: Non-DOT

Lab Account #: 20315839

Lab Name: Quest Diagnostics

Test Account #: 123757-00000

Client Name: Memorial Hospital Of Texas County

Cost Center:

Location ID:

Comments:

Certified Medical Review Officer:

S. B. Hoffman, M.D. FACP

(Signature on File)

MRO Phone:

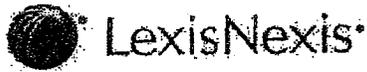
888-794-6574

RUDET

Positive tests confirmed using gas chromatography/mass spectrometry

6/16/2010 3:44 PM

EXHIBIT
A-1



LexisNexis Screening Solutions, Inc.

480 Quadrangle Drive Suite-D
Bolingbrook, IL 60440
Phone: 800-939-4782
Fax: 630-679-5635

RECEIVED

JUL 15 2010

OBN

Controlled Substance Test Report

Attn: Susanna Ritter

Client Name: Memorial Hospital Of Texas
County

520 Medical Drive

Account Number: 123757-00000

Guymon, OK 73942

Phone: 580-338-6515

Employee ID 1:

Donor Name: Donna Miller

Employee ID 2:

Donor ID:

Emp Category: UNKNOWN

Test Result: Positive
Result Description: Positive
Substances Found: Opiates
MRO Verified Comment:

Specimen ID: 3537811retest

Test Reason: Retest

Collection Date: 6/7/2010 5:00:00 PM

Test Type: Non-DOT

Testing Panel:

Lab Account #: 20315839

CCF Received:

Lab Name: Medtox Laboratories, Inc.

Verified Date: 6/30/2010

Test Account #: 123757-00000

Reported Date: 6/30/2010 4:00 PM

Client Name: Memorial Hospital Of Texas County

Collection Site:

Cost Center:

Location ID:

Comments: Reconfirmed Positive for Opiates.

Certified Medical Review Officer:

MRO Phone:

S. B. Hoffman, M.D. FACP

888-794-6574

(Signature on File)

RUDET

Positive tests confirmed using gas chromatography/mass spectrometry

7/2/2010 8:59 AM

EXHIBIT
A-2