

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.
Katherine A. Thomas
Executive Director of the Board

In the Matter of Vocational Nurse § AGREED
License Number 152523 §
issued to MELANIE ROSE JOYAL § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MELANIE ROSE JOYAL, Vocational Nurse License Number 152523 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 representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on December 3, 2010, 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(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 Temple Junior College, Temple, Texas, on May 10, 1995. Respondent was licensed to practice vocational nursing in the State of Texas on June 20, 1995.
5. Respondent's nursing employment history is unknown.

6. On or about August 18, 2005, Respondent submitted a Texas Online Renewal Document Licensed Vocational Nurse to the 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 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".)"

Respondent failed to disclose that on or about June 15, 2004, Respondent entered a plea of Guilty to RESISTING ARREST OR SEARCH (a Class A Misdemeanor offense committed on December 24, 2003), in the County Court at Law No. 2 of Bell County, Texas, under Cause Number MR2C0400247. 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 six (6) months. Additionally, Respondent was ordered to pay a fine and court costs.

7. In response to Findings of Fact Number Six (6), Respondent states that the offense dated 12/24/2003 stemmed from an incident involving her brother and his girlfriend at the time. The two of them were involved in an argument, she told him to leave and then called the police. Her brother left the apartment on foot without taking his car keys with him. The vehicle he was driving belonged to her father so he called her to help him get the vehicle. She retrieved a spare set of keys and drove to the apartment to get her father's vehicle. The police were on site when she arrived. She entered the vehicle, a police officer asked what she was doing and she explained why she was there. The officer then instructed her to get out of the vehicle and she refused. The officer removed her from the vehicle, pinned her to the ground and cuffed her. She was charged with interfering with the duties of a Public Servant and Resisting Arrest. The charge of interfering was dismissed and she was placed on probation for six months for the resisting arrest charge. She failed to report this incident to the nursing board because she felt the incident had no bearing on her profession as an LVN and therefore did not warrant reporting.

8. On or about August 29, 2007, Respondent submitted a Texas Online Renewal Document Licensed Vocational Nurse to the 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 question:

"Have you ever been convicted, placed on community supervision whether or not adjudicated

guilty, sentenced to serve jail or prison time or granted pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country, received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests whether or not on appeal (excluding minor Class C traffic violations)? This includes expunged offenses and deferred adjudication with or without a finding 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". you may answer "No" if you have previously disclosed a criminal matter otherwise responsive to this question in a renewal and/or licensure form."

Respondent failed to disclose that on or about April 13, 2007, Respondent entered a plea of Guilty and was convicted of THEFT BY CHECK >=\$20 <\$500(a Class B Misdemeanor offense committed on March 11, 2006), in the County Court at Law No. 2 of Bell County, Texas, under Cause Number CC06-04540. As a result of the conviction, Respondent was ordered to pay restitution in the amount of nine hundred and ninety two (\$992) dollars, along with a fine and court costs.

9. In response to Findings of Fact Number Seven (7), Respondent states: the second incident stemmed from her writing multiple checks to merchants. The checks were not paid by her bank due to insufficient funds. She did not repay the merchants in a timely manner, so she was arrested for theft by check. She was fined and put on a payment plan to repay the debt. She failed to report this incident to the nursing board because she felt it had no bearing on her profession as an LVN. She sincerely apologizes for her non-disclosure of these incidents.
10. Respondent is currently in default and has failed to repay her Texas Guaranteed Student Loan as required by Texas Education Code §57.491. Respondent exhibited unprofessional conduct in her failure to repay a Texas Guaranteed Student Loan, which may have deprived other students of funds necessary for their educational programs.

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 a violations of Section 301.452(b)(2)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(I)&(7).
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 152523,

heretofore issued to MELANIE ROSE JOYAL, including revocation of Respondent's license(s) 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 Vocational Nurse License Number 152523, previously issued to MELANIE ROSE JOYAL, to practice nursing in Texas is hereby SUSPENDED and said suspension is ENFORCED until Respondent completes the following requirements:

(1) RESPONDENT SHALL initiate contact with the Texas Guaranteed Student Loan Corporation and make arrangements to repay the student loan within forty-five (45) days from the date of this Order. Upon approval of a repayment contract with the Texas Guaranteed Student Loan Corporation, RESPONDENT SHALL CAUSE the Texas Guaranteed Student Loan Corporation to submit verification of the defaulted loan's repayment status directly to the Board.

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(s) is/are encumbered by this order the 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, upon verification of successful completion of the above requirements, the Suspension will be STAYED, and RESPONDENT will be placed on PROBATION for one (1) year with the following agreed terms of probation:

(2) 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.

(3) RESPONDENT SHALL pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.

(4) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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>

(5) RESPONDENT SHALL pay a monetary fine in the amount of five hundred (\$500) dollars. 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 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 PROBATION CONDITIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) 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 PROBATIONARY PERIOD:

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

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

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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 1st day of April, 2011.

Melanie Rose Joyal
MELANIE ROSE JOYAL Respondent

Sworn to and subscribed before me this 1st day of April, 2011.

Brigitte Unnasch

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 April, 2011, by MELANIE ROSE JOYAL, Vocational Nurse License Number 152523, and said Order is final.

Effective this 10th day of May, 2011.



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