

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 167278 §
issued to DALE ROSS MCKENZIE § ORDER



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

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of DALE ROSS MCKENZIE, Vocational Nurse License Number 167278 hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated TEX. REV. CIV. STAT 4528c. Sec. 10(2)&(9), (eff. 9/1/1997). Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on September 28, 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 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 Schreiner College, Kerrville, Texas, on February 20, 1998. Respondent was licensed to practice nursing in the State of Texas on April 22, 1998.
5. Respondent's nursing employment history is unknown.
6. On or about January 20, 1998, Respondent submitted an Application for Licensure by Examination to the Board of Vocational Nurse Examiners for the State of Texas, in which he provided false, deceptive, and/or misleading information, in that he answered "No" to the question: "Have you ever been convicted of a felony?"

- A. Respondent failed to disclose that on or about October 14, 1982, Respondent entered a plea of Guilty and was convicted of UNAUTHORIZED USE OF A VEHICLE (a 3rd Degree felony offense committed on April 24, 1982), in the 290th Judicial District Court, Bexar County, Texas, under Cause No.82-CR-1765. As a result of the conviction, Respondent was sentenced to confinement in the Texas Department of Corrections for a period of two (2) years; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay court costs.
7. In response to Finding of Fact Number Six (6), Respondent states that he should have disclosed his 1982 conviction for the unauthorized use of a motor vehicle; however, he was under the mistaken belief that it had been removed from his record upon his completion of community supervision.
8. On or about January 20, 1998, Respondent submitted an Application for Licensure by Examination to the Board of Vocational Nurse Examiners for the State of Texas, in which he provided false, deceptive, and/or misleading information, in that he answered "No" to the question: "Have you ever been convicted of a misdemeanor?"
- A. Respondent failed to disclose that on or about March 3, 1981, Respondent was convicted of THEFT (a Class B misdemeanor offense committed on October 6, 1980), in the County Court at Law No. 4, Bexar County, Texas, under Cause No. 278,483. As a result of the conviction, Respondent was sentenced to confinement in the Bexar County Jail for a period of ten (10) days; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of one hundred eighty (180) days. Additionally, Respondent was ordered to pay a fine and court costs.
- B. Respondent failed to disclose that on or about August 12, 1987, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED (a misdemeanor offense committed on June 20, 1987), in the County Court at Law of Kerr County, Texas, under Cause No. CR87-824. As a result of the conviction, Respondent was sentenced to confinement in the Kerr County Jail for a period of one (1) year; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay a fine and court costs.
9. In response to Finding of Fact Number Eight (8), Respondent states he does not recall being convicted of the 1981 misdemeanor Theft charge. Respondent admits he was responsible for disclosing his 1987 DWI on his original application. He was under the mistaken belief that it had been removed from his criminal record when he completed probation.

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 TEX. REV. CIV. STAT 4528c. Sec. 10(2)&(9), (eff. 9/1/1997), TEX. REV. CIV. STAT. ANN. and 22 TEX. ADMIN. CODE §239.11(8)&(29).
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 167278, heretofore issued to DALE ROSS MCKENZIE, 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 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 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, 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 pay a monetary fine in the amount of five hundred dollars (\$500). 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.

(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>

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 ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION 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 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 CAUSE each employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.

(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 one (1) year 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(s) to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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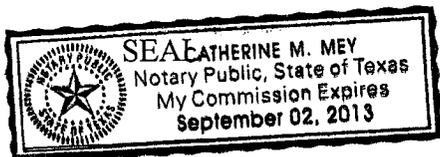
RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I 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 18th day of March, 2011.

Dale Ross McKenzie
DALE ROSS MCKENZIE, Respondent

Sworn to and subscribed before me this 18th day of March, 2011.



Catherine M. Mey
Notary Public in and for the State of Texas

Approved as to form and substance.

Louis Leichter
Louis Leichter, Attorney for Respondent

Signed this 21 day of March, 2011.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 18th day of March, 2011, by DALE ROSS MCKENZIE, Vocational Nurse License Number 167278, and said Order is final.

Effective this 28th day of April, 2011.



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