

6. On or about June 25, 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 the following:

On or about October 28, 2005, Respondent was arrested by the Coke County Sheriff's Office, Coke County, Texas, and subsequently charged under Cause Number 05-4084 with DRIVING WHILE INTOXICATED (a Class B Misdemeanor offense committed on July 9, 2005). On or about December 9, 2005, Respondent entered into an agreement in the County Court of Coke County, Texas, under Cause Number 05-4084, to participate in the Pre-trial Intervention Program of Coke County for a period of one (1) year.

On or about August 16, 2006, Respondent entered a plea of Guilty and was convicted of DRIVING OR OPERATING A MOTOR VEHICLE IN A PUBLIC PLACE WHILE INTOXICATED (a Class B Misdemeanor offense committed on July 9, 2005), in the County Court of Coke County, Texas, under Cause Number 05-4084. As a result of the conviction, Respondent was sentenced to confinement in the Coke County Jail for a period of ninety (90) days; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of twelve (12) months. Additionally, Respondent was ordered to pay a fine and court costs.

On or about July 26, 2006, Respondent entered a plea of Nolo Contendere and was convicted of DRIVING WHILE INTOXICATED (a Class B Misdemeanor offense committed on May 21, 2006), in the County Court of Sterling County, Texas, under Cause Number 3568-06. As a result of the conviction, Respondent was sentenced to confinement in the Sterling County Jail for a period of sixty (60) days; however, the imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of twelve (12) months. Additionally, Respondent was ordered to pay a fine and court costs.

On or about February 8, 2007, Respondent entered a plea of No Contest to THEFTS (CHECKS-INSUFFICIENT) (a Class B Misdemeanor offense committed on October 22, 2005), in the County Court at Law No. 2 of Tom Green County, Texas, under Cause Number 06-01014L2. 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. On or about July 20, 2007, the probation granted under Cause Number 06-01014L2 was amended to one (1) year. On March 6, 2008, probation was completed.

7. On or about August 18, 2009, Respondent submitted a License Renewal Form Licensed Vocational Nurse to the Texas Board of Nursing in which she answered "Yes" to the question:

"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

- A. been convicted of a misdemeanor?
- B. been convicted of a felony?
- C. pled nolo contendere, no contest, or guilty?
- D. received deferred adjudication?
- E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
- F. been sentenced to serve jail or prison time? court-ordered confinement?
- G. been granted pre-trial diversion?
- H. been arrested or have any pending criminal charges?
- I. been cited or charged with any violation of the law?
- J. been subject of a court-martial; Article 15 violation; or received any form of military judgement/punishment/action?"

Respondent disclosed that on or about October 14, 2008, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED 3RD OR MORE (a 3rd Degree Felony offense committed on September 27, 2007), in the 391st District Court of Tom Green County, Texas, under Cause Number D-08-0428-SA. As a result of the conviction, Respondent was sentenced to confinement in the Institutional Division of the Texas Department of Criminal Justice for a period of six (6) years; however, the imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of six (6) years. Additionally, Respondent was ordered to pay a fine and court costs.

8. In response to Findings of Fact Numbers Six (6) and Seven (7), Respondent states: She has made some mistakes in the past few years and she is hoping that we will not revoke her nursing license. She has been convicted of a felony DWI. She's currently paying her fines and reporting to a probation officer once a month for drug testing and review. She has attended two DWI intervention classes and will be attending a third in July or August, when the class is available. She has been sober since September 2007. She's on probation for six

years. If she messes up in any fashion she will go directly to jail for the duration of her probation. She can't think of an excuse for her actions, or at least a justifiable one. Because there is no excuse for what she's done. It was idiotic, juvenile and absolutely irresponsible.

9. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license(s) to practice nursing in the State of Texas.
10. 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.
11. 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)(3)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(13).
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 192465, heretofore issued to WHITNEY BLANE MONTGOMERY, 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 License Number 192465, heretofore issued to WHITNEY BLANE MONTGOMERY, 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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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.

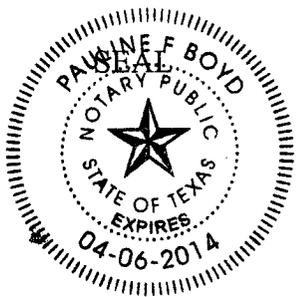
Signed this 24 day of April, 2011.

Whitney Blane Montgomery
WHITNEY BLANE MONTGOMERY, Respondent

Sworn to and subscribed before me this 24th day of April, 2011.

Pauline G. Boyd

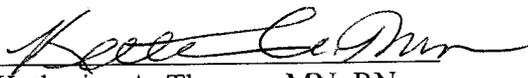
Notary Public in and for the State of Texas



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 192465, previously issued to WHITNEY BLANE MONTGOMERY.



Effective this 29th day of April, 2011.


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