IN THE MATTER OF	§	BEFORE THE ELIGIBILITY
	§	
PERMANENT CERTIFICATE	§	AND DISCIPLINARY
	§	
NUMBER 161285	§	COMMITTEE
	§	
ISSUED TO	§	OF THE TEXAS
	§	
EDWARD ANTHONY WELLS	§	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: Edward Anthony Wells
5306 Elise Way
Louisville, Kentucky 40219

During open meeting held in Austin, Texas, on February 8, 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 161285, previously issued to EDWARD ANTHONY WELLS, 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 8th day of February, 2011.

TEXAS BOARD OF NURSING

BY: _____

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

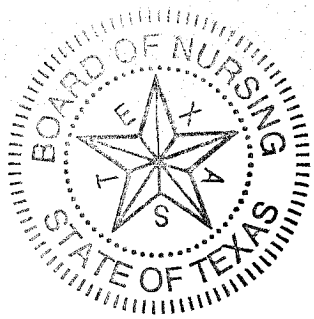
Attachment: Formal Charge filed September 16, 2010.

Re: Permanent Certificate Number 161285
Issued to Edward Anthony Wells
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of February, 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):

Edward Anthony Wells
5306 Elise Way
Louisville, Kentucky 40219



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

Texas Board of Nursing

333 Guadalupe Street, Ste. 3-460, Austin, Texas 78701
Phone: (512) 305-7400 Fax: (512) 305-7401 www.bon.state.tx.us

Katherine A. Thomas, MN, RN
Executive Director

September 16, 2010

Certified Mail No. 91 7108 2133 3938 2186 1657
Return Receipt Requested

Edward Anthony Wells
5306 Elise Way
Louisville, Kentucky 40219

Dear Mr. Wells:

Enclosed are Formal Charges which have been filed against you alleging one or more violations of Section 301.452(b) of the Nursing Practice Act, Texas Occupations Code. Within three weeks of the date of this letter, you must file a written answer to each charge admitting or denying each allegation. If you intend to deny only part of an allegation, you must specify so much of it as is true and deny only the remainder. Your answer shall also include any other matter, whether of law or fact, upon which you intend to rely for your defense. Please send your written answer to the attention of James S. Smelser, Investigator. You may obtain legal counsel at your own expense.

FAILURE TO FILE A WRITTEN ANSWER TO THE FORMAL CHARGES, EITHER PERSONALLY OR BY LEGAL REPRESENTATIVE, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF WILL BE GRANTED BY DEFAULT.

Please be advised that should you fail to file a written answer, the case will proceed on a default basis and it will be staff's recommendation that a default order be entered revoking your license(s) and/or nurse licensure compact privilege(s) to practice nursing in the State of Texas.

The results of any default order or formal disposition (Board Order) are public information. Results of informal and formal dispositions will appear in the Board's newsletter under the heading of "Disciplinary Action."

Should you desire to discuss this matter, you may contact James S. Smelser, Investigator, Enforcement Division, at the above address, or at (512) 305-6831.

Sincerely,

Katherine A. Thomas, MN, RN
Executive Director

KAT/jss

Enclosure: Formal Charges

09/99-DA

Members of the Board

Linda Rounds, PhD, FNP, RN
Galveston, *President*

Deborah Bell, CLU, ChFC Abilene | Kristin Benton, MSN, RN Austin | Patricia Clapp, BA Dallas | Tamara Cowen, MN, RN Harlingen | Sheri Crosby, JD, SPHR Dallas | Marilyn Davis, BSN, RN, MPA Sugar Land

In the Matter of Permanent License	§	**BEFORE THE TEXAS**
Number 161285, Issued to	§	
EDWARD ANTHONY WELLS, Respondent	§	**BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, EDWARD ANTHONY WELLS, is a Vocational Nurse holding license number 161285, which is in delinquent 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 June 24, 2010, while holding a license as a Vocational Nurse (Delinquent) in the State of Texas, Respondent entered into an Agreed Order with the Kentucky Board of Nursing. According to the terms of the Order, Respondent's license to practice practical nursing in the State of Kentucky, No. 2030472, was placed on Limited Probated Status for a period of five (5) years with a fine and stipulations for alcohol impairment. A copy of the June 24, 2010 Kentucky Board of Nursing Agreed Order is attached and incorporated, by reference, as part of this Order.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8), Texas Occupations Code.

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to revocation of Respondent's license to practice nursing in the State of Texas pursuant to 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).

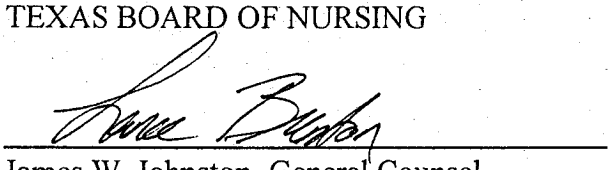
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder which 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.

Filed this 16th day of September, 2010.

TEXAS BOARD OF NURSING



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

0999/D

Date 7-7-10
I certify this to be a true copy of the record(s) on file with the Kentucky Board of Nursing
Pamela Valentine

KENTUCKY BOARD OF NURSING

AGREED ORDER
CASE # 2009-1083

IN RE: EDWARD ANTHONY WELLS **LPN LICENSE # 2030472**

The Kentucky Board of Nursing, hereinafter referred to as the Board, has probable cause to believe that Edward Anthony Wells has violated KRS Chapter 314. Edward Anthony Wells, hereinafter referred to as Mr. Wells, desiring to avoid a formal administrative hearing, enters into this Agreed Order with the Board.

The Board acknowledges receipt of a complaint from Franciscan Health Care Center, Louisville, Kentucky; a letter of explanation; a Chemical Dependency evaluation from Baptist Hospital East, Louisville, Kentucky which was positive for alcohol dependency; a copy of his discharge summary from JADAC, Seven Counties Services, Inc., Louisville, Kentucky; a letter from Mr. Wells' sponsor; documentation of weekly attendance at 12-step meetings from November 3, 2009 through January 17, 2010; an evaluation from his current employer; and, three (3) letters of recommendation.

Mr. Wells agrees and stipulates to the following facts for the limited purpose of this Agreed Order:

On March 16, 2009 Mr. Wells reported for work at Franciscan Health Care Center. He was noted by staff to have slurred speech, and he was staggering and unable to focus. He was also noted to have a strong smell of alcohol on his breath. The ADON spoke with Mr. Wells who stated that he had only one (1) hour of sleep. He was administered a drug and alcohol test at BaptistWorxs with the result of 0.3 (three times the legal limit). Mr. Wells stated that he consumed at least a fifth of whiskey every night. He was suspended on March 16, 2009, and his employment was terminated on March 17, 2009.

Mr. Wells acknowledges these actions are in violation of KRS 314.091(1):

The board shall have the power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter or the privilege to practice as a nurse recognized by the board in accordance with this chapter, or to otherwise discipline a licensee, credential holder, privilege holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:

(d) has negligently or willfully acted in a manner inconsistent with the practice of nursing;
(e) is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;
(f) abuses use of controlled substances, prescription medications, illegal substances, or alcohol;

(j) has violated any of the provisions of this chapter, including 314.021 (2).

He has read and reviewed this Agreed Order and has had the opportunity to consult with legal counsel, if desired. He understands and agrees to the following conditions for the limited purpose of this Agreed Order:

1. By entering into this Agreed Order, he waives the full panoply of rights of hearing and appeal as authorized by statute, regulation, or court decision. These rights include the right to be present with counsel, to subpoena witnesses, to confront those against him, and the right to an administrative hearing or appeal on the violation or non-compliance with any of the conditions or provisions of this Order.

2. When this Agreed Order becomes effective, Mr. Wells' nursing license/privilege to practice nursing will be placed on limited/probated status for a period of at least five (5) years of employment as a licensed practical nurse.

3. All terms of this Agreed Order will begin immediately upon notification that the Board has entered this Order.

4. The period of limitation/probation will continue until he has been employed as a licensed practical nurse for a period of at least five (5) years, and until all terms of this Order are met.

5. Periods of time in which Mr. Wells is <u>not</u> employed as a nurse will be excluded from the computation of probationary time.

6. Employment in fields other than nursing or a period of unemployment does <u>not</u> relieve him of compliance with all other terms and conditions of this Order.

7. If he has <u>not</u> obtained employment as a nurse within one (1) year of the date of the entry of this order, the Board may consider the matter for re-evaluation or amendment of this Order. A report form will be made available for this purpose. Mr. Wells agrees to abide by the Board-directed determination.

8. While on limitation/probation Mr. Wells:

   a) agrees to maintain a current nursing license/privilege to practice nursing in Kentucky or another jurisdiction while under the terms of this Order; and acknowledges that the inability to obtain a license or privilege to practice in another jurisdiction may subject Mr. Wells to additional disciplinary action;

b) agrees not to practice nursing in any other state which is a party state to the Nurse Licensure Compact without prior written authorization by the Board and the nursing regulatory authority in the party state in which he wishes to practice;

c) may not be employed in a nursing position that requires him to provide direct patient care in the following settings: nurse registry, temporary nurse employment agency, or home health care; an exception to this term is an agreement between Nurse Staffing, Central State ICF/MR, Louisville, Kentucky and the Board in which Mr. Wells will work exclusively at Central State ICR/MR and will not be scheduled assignments at any other facility during his employment with Nurse Staffing. Also, Central State ICF/MR will provide supervision of Mr. Wells while employed at Central State ICR/MR.

d) may not work overnight hours without onsite supervision or be scheduled to work more than eighty-eight (88) hours per two-week period. The nursing position may be a full-time or a part-time position but must require him to work at least thirty-two (32) hours per month;

e) will provide a complete copy of this Order to all potential nursing employers including, but not limited to, nursing recruiters or human resources staff during the interview process;

f) will provide a complete copy of this Order to his immediate nursing manager and will have the manager acknowledge to Board staff in writing that he has provided them a copy of this Order within fourteen (14) days. He will have the nursing manager discuss the terms of this Order with Board staff, within fourteen (14) days of employment. He will notify Board staff in writing if there is a change of nursing managers;

g) will provide a complete copy of this Order immediately to the program of nursing administration, if enrolled in such, and will have the program acknowledge to Board staff in writing that he has provided the school with a complete copy of the Order;

h) will provide any and all patient care only under the direct, continuous, on-site observation, and supervision of a physician or nurse with an unencumbered license, during the first (1) year of practice on limited/probated status;

i) will provide patient care only under the supervision of a physician or nurse with an unencumbered license, who is physically present on the facility grounds and readily available to provide assistance and intervention if necessary, during the remaining four (4) years of practice on limited/probated status;

j) may not be employed in a managerial or supervisory position, during the five (5) years of practice on limited/probated status;

k) will have written reports submitted as determined by Board staff by his nursing employer(s). Report forms will be made available for this purpose. The employer will verify Mr. Wells' compliance with each practice limitation on each report;

l) agrees that an employer report of substantiated unsafe nursing practice, noncompliance with any of the limitations placed on his practice, or evidence of substance abuse constitutes evidence of a violation of the terms of this Order;

m) will submit written verification as determined by Board staff of continued twice (2) weekly participation in a 12-step support group;

n) agrees to have at least twice (2) weekly contact with his sponsor;

o) will submit random body fluid samples for drug/alcohol testing utilizing the drug screen program designated by the Board and as requested by his employer(s), Board staff, counselor(s), or therapist(s). He will comply with all requirements of the drug screen program concerning random alcohol and drug testing. All testing will be at Mr. Wells' expense. A GC/MS (gas chromatography/mass spectrometry) or LC/MS (liquid chromatography/mass spectrometry) confirmed drug screen indicating the use of alcohol or any unprescribed mood-altering substance constitutes evidence of violation of the terms of this Order;

p) will remain free of alcohol and all mood-altering substances, including over-the-counter medications containing alcohol or mood-altering substances, including poppy seeds. If Mr. Wells is prescribed any mood-altering medications, it is his responsibility to assure the prescribing practitioner has full knowledge of his history of chemical/alcohol use. He must obtain from the prescribing practitioner written verification of any prescription medication and submit to Board staff within five (5) days if there is a continued need for the medication on a monthly basis. Report forms will be made available for this purpose. A consultation with an advanced registered nurse practitioner who specializes in chemical dependency, a physician who specializes in chemical dependency, or a physician addictionologist may be required;

q) will submit a list of the health practitioners who are providing health care to him and who are prescribing any medication for his use;

r) will meet with Board staff in the Kentucky Board of Nursing office or at a designated location as requested. The Board staff will determine the frequency of the meetings and Mr. Wells will abide by that determination;

s) will provide evidence of successful completion of at least thirty (30) contact hours on Substance Abuse by May 28, 2011. The thirty (30) contact hours are to be in addition

to the continuing education requirement for reinstatement or renewal of the nursing license/privilege to practice nursing;

t) will pay a civil penalty of three thousand dollars ($3,000) to the Board by May 27, 2014;

u) will notify Board staff in writing of any change of name, address, nursing employment, termination, or disciplinary action as a nurse in another jurisdiction within fifteen (15) days of the event; and

v) will notify Board staff in writing of any criminal arrest, charge, pretrial diversion, indictment, or conviction within fifteen (15) days of the event.

9. Submission of fraudulent documents or reports; misrepresentation of facts relating to the terms and conditions of this Order; or failure or inability to comply with any requirement of this Order will constitute violation of the Order.

10. Mr. Wells agrees and acknowledges that he may make a written request for voluntary surrender of the nursing license/privilege to practice nursing during the period of time he is under the terms of the Order, indicating that he is unable to comply with the terms of the Order. Any written request for voluntary surrender will subject Mr. Wells to additional disciplinary action pursuant to the terms of this Order.

11. Mr. Wells agrees and acknowledges that his failure or inability to comply with any of the conditions and provisions of this Agreed Order will result in immediate suspension or voluntary surrender if applicable, of the nursing license/privilege to practice nursing or denial of reinstatement of a lapsed, invalidated, or expired license, with notification by mail. The suspension, voluntary surrender, or denial of reinstatement will begin on the date of the notification letter and will continue for a period of at least five (5) years. Implementation of the suspension, voluntary surrender, or denied reinstatement will result in an additional civil penalty of six hundred dollars ($600). Reinstatement of the nursing license/privilege to practice nursing after such a suspension, voluntary surrender, or denial of reinstatement will be in accordance with the Board's Guidelines for Reinstatement that may include but not be limited to the terms and conditions as set out in this Order.

12. Removal of the nursing license/privilege to practice nursing from limitation/probation will depend on compliance with all terms stated in this Order. If all terms are met, and if he has not committed any act during the limited/probated period that would be grounds for

disciplinary action pursuant to KRS Chapter 314, no hearing will be required for removal of the nursing license/privilege to practice nursing from limitation/probation after five (5) years.

13. This Agreed Order, when signed by Mr. Wells and an authorized agent for the Kentucky Board of Nursing, shall be public information and can be disseminated according to the regulations of the Board, the Kentucky Open Records Act, and any other state or federal law as required.

14. Mr. Wells, hereby releases the Kentucky Board of Nursing, its members, employees, agents, and officers, jointly and severally, from any and all liability arising from the within matter.

15. All provisions and conditions of this Order shall carry over to any license or privilege to practice nursing in Kentucky that he receives, including pursuant to any multi-state nursing licensure compact with the Board.

16. This Agreed Order shall be effective and binding immediately on Mr. Wells and the Kentucky Board of Nursing when signed by both parties.

Ed Wells
Edward Anthony Wells

Subscribed and Sworn to before me this 15th day of June, 2010 by Edward Anthony Wells.

Notary Public

SEAL

State of Kentucky

My Commission expires February 27, 2011

(BOARD SEAL)

CHARLOTTE F. BEASON, Ed.D., RN, NEA
EXECUTIVE DIRECTOR,
KENTUCKY BOARD OF NURSING

Agreed to and entered by the Board on June 24, 2010