IN THE MATTER OF	§	BEFORE THE ELIGIBILITY
	§	
PERMANENT CERTIFICATE	§	AND DISCIPLINARY
	§	
NUMBER 99482	§	COMMITTEE
	§	
ISSUED TO	§	OF THE TEXAS
	§	
RHONDA C. DESPAIN	§	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: Rhonda C. Despain
1325 Austin Road
Newbern, Tennessee 38059

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 99482, previously issued to RHONDA C. DESPAIN, 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

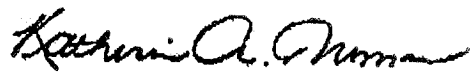
Attachment: Formal Charge filed November 10, 2010.

Re: Permanent Certificate Number 99482
Issued to Rhonda C. Despain
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 8th 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):

Rhonda C. Despain
1325 Austin Road
Newbern, Tennessee 38059



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

November 12, 2010

Certified Mail No. 91 7108 2133 3934 2582 5772
Return Receipt Requested

Rhonda C. Despain
1325 Austin Road
Newbern, Tennessee 38059

Dear Ms. Despain:

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

Bianca Rosa Garcia, PhD, RN **Richard Gibbs, LVN** **Kathy Leader-Horn, LVN** **Josefina Lujan, PhD, RN** **Beverley Jean Nutall, LVN** **Mary Jane Salgado, MEd**

In the Matter of Permanent License	§	**BEFORE THE TEXAS**
Number 99482, Issued to	§	
RHONDA C. DESPAIN, Respondent	§	**BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, RHONDA C. DESPAIN, is a Vocational Nurse holding license number 99482, 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 March 25, 2009, while holding a license as a Vocational Nurse in the State of Texas (Delinquent), Respondent entered into a Consent Order For Revocation before the Tennessee Department of Health, Bureau of Health Licensure & Regulation for unauthorized use or removal of narcotics, which resulted in the Revocation of Respondent's license to practice nursing in the State of Tennessee. A copy of the Consent Order For Revocation, issued by the Tennessee Department of Health, Bureau of Health Licensure & Regulation dated March 25, 2009 is attached and incorporated, by reference, as part of this pleading.

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).

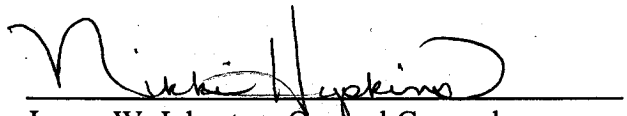
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that, 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.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Consent Order For Revocation, issued by the Tennessee Department of Health, Bureau of Health Licensure & Regulation dated March 25, 2009.

Filed this 10th day of November, 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

Attachments: Consent Order For Revocation, issued by the Tennessee Department of Health, Bureau of Health Licensure & Regulation dated March 25, 2009.

0999/D

Tennessee Department of Health
Bureau of Health Licensure & Regulation
Office of Investigations
Heritage Place MetroCenter
227 French Landing, Suite 201
Nashville, TN 37243
Toll Free 1-800-852-2187 or 615-532-3421 Facsimile 615-532-2499

April 30, 2009

I, Juanita K. Stone, Disciplinary Coordinator, do hereby certify that the attached Consent Order for Revocation on Rhonda A. Despain, L.P.N., license number, 27650 is a true and correct copy of the disciplinary order on file in this Office.

Juanita K. Stone
Disciplinary Coordinator
Tennessee Department of Health
Investigations Division

STATE OF TENNESSEE
DEPARTMENT OF HEALTH

IN THE MATTER OF:	)	**BEFORE THE BOARD OF NURSING**
	)	
Rhonda A. Despain, L.P.N. # 27650	)	**CASE NO. 200702199**
Newbern, Tennessee 38059	)	

CONSENT ORDER FOR REVOCATION

WHEREAS, Respondent, Rhonda A. Despain, L.P.N., executes this Consent Order for the purpose of avoiding further administrative action and cost with respect to this cause;

WHEREAS, at all times pertinent hereto, Respondent was licensed as a licensed practical nurse by the Tennessee Board of Nursing (hereinafter "the Board"), having been issued license number 27650 on May 22, 1981;

WHEREAS, in 2007, Respondent was employed as a licensed practical nurse at the State of Tennessee – Northwest Correctional Complex in Tiptonville, Tennessee;

WHEREAS, during Respondent's period of employment, she engaged in unprofessional conduct rendering her unfit or incompetent to engage in the practice of nursing by removing several Lortab tablets from a narcotics card when none of her assigned patients required the drug;

WHEREAS, the Board has the authority to revoke, suspend, or impose any other lawful disciplinary action against a licensee or registrant for any violation of any laws or rules relating to the practice of nursing pursuant to Tenn. Code Ann. § 63-7-115 and Tenn. Comp. R. & Regs. 1000-2-.13, specifically Tenn. Code Ann. § 63-7-115(a)(1)(c): Is unfit or incompetent by reason of negligence, habits or other cause, Tenn. Code Ann. § 63-7-115(a)(1)(f): Is guilty of unprofessional conduct, and Tenn. Comp. R. & Regs. 1000-2-.13(1)(e): Unauthorized use or removal of narcotics, drugs, supplies, or equipment from any health care facility, school, institution, or other work place location;

WHEREAS, Respondent admits that her acts and conduct as described above constitute a violation of the statutory provisions referenced above;

NOW THEREFORE, for the purpose of avoiding further administrative action with respect to this cause, Respondent agrees to the **REVOCATION** of her nursing license and to the **REVOCATION** of the multistate privilege to practice in any other party state;

FURTHERMORE, Respondent is aware of each of Respondent's rights, including the right to a hearing on the charges and allegations; the right to appear personally and by counsel; the right to confront and cross-examine witnesses who would testify against Respondent; the right to testify and present evidence on Respondent's own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to contest the charges and allegations; and other rights which are afforded Respondent pursuant to the Uniform Administrative Procedures Act and other applicable laws, including the right to seek reconsideration, review by the Chancery Court, and appellate review;

FURTHERMORE, Respondent freely and voluntarily waives each and every one of these rights set forth above;

FURTHERMORE, Respondent agrees that this Consent Order shall have no force or effect unless accepted by the Board. Respondent agrees that if this Consent Order is rejected by the Board that the presentation to and consideration of this Consent Order shall not unfairly or illegally prejudice the Board or any of its members from further participation in or resolution of these proceedings, including a formal disciplinary hearing.

This **CONSENT ORDER** has been approved by a majority of a quorum of the Board at a public meeting and signed this 25th day of March, 2009.

Tonne Rodgers Vice Cha

Chairperson, Tennessee Board of Nursing

AGREED TO AND APPROVED FOR ENTRY:

Rhonda A. Despain

Rhonda A. Despain, LPN #27650
Respondent

Feb. 20, 2009
Date

PREPARED FOR ENTRY:

Diona E. Layden

Diona E. Layden, B.P.R. #020746
Assistant General Counsel
Office of General Counsel
Tennessee Department of Health
220 Athens Way, Suite 210
Nashville, Tennessee 37243
(615) 741-1611

March 2, 2009
Date

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document as entered has been served upon the Respondent, Rhonda A. Despain, 1325 Austin Road Newbern, Tennessee 38059 by delivering same in the United States Mail, Certified Mail Number **7005 2570 0001 2271 8915**, return receipt requested, and United States First–Class Mail, Postage Pre-Paid, with sufficient postage thereon to reach its destination.

This 30th day of March, 2009

Diona E. Layden

Diona E. Layden
Assistant General Counsel