BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Vocational Nurse	§	AGREED
License Number 69978	§	
issued to DELECIA JEAN MCCULLOUGH	§	ORDER

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.
Executive Director of the Board

On this day, the Texas Board of Nursing, hereinafter referred to as the Bo accepted the voluntary surrender of Vocational Nurse License Number 69978, issued to DELE JEAN MCCULLOUGH, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c) of the Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to 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 Jacksonville School of Vocational Nursing, Jacksonville, Texas on August 3, 1976. Respondent was licensed to practice vocational nursing in the State of Texas on November 19, 1976.

5. Respondent's vocational nursing employment history includes:

11/76 - 03/08	Unknown	
04/08 - 01/10	LVN	Village Creek Nursing Center Fort Worth, Texas

6. On July 13, 1989, Respondent's license to practice vocational nursing was revoked by the Board of Vocational Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law, and Order of the Board dated July 13, 1989, is attached and incorporated, by reference as part of this Order.

7. On June 22, 1993, Respondent's license to practice vocational nursing was reinstated suspended, with said suspension stayed and placed on probation for a period of one (1) year by the Board of Vocational Nurse Examiners for the State of Texas. A copy of the Order of the Board dated June 22, 1993, is attached and incorporated, by reference, as part of this Order.

8. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with Village Creek Nursing Center, Fort Worth, Texas, and had been in this position for one (1) year and nine (9) months.

9. On or about January 13, 2010, while employed with Village Creek Nursing Center, Fort Worth, Texas, Respondent engaged in the intemperate and/or unlawful use of cannabis, amphetamine, methamphetamine and opiates in that she submitted a specimen for a drug screen which resulted positive for cannabis, amphetamine, methamphetamine and opiates. Respondent also admitted to "smoking pot" the previous month. Possession of cannabis, amphetamine, methamphetamine and opiates is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of cannabis, amphetamine, methamphetamine and opiates by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

10. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license to practice nursing in the State of Texas.

11. 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.

12. 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 violation of Section 301.452(b)(9) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5), (10)(A)(D) & (11)(B).

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 69978, heretofore issued to DELECIA JEAN MCCULLOUGH, including revocation of Respondent's license 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 Nurse License Number 69978, heretofore issued to DELECIA JEAN MCCULLOUGH, 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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CONTINUED ON NEXT PAGE.

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 violation 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 19 day of Oct., 20 10

Delecia Jean McCullough

DELECIA JEAN MCCULLOUGH, Respondent

Sworn to and subscribed before me this ____ day of _____, 20____.

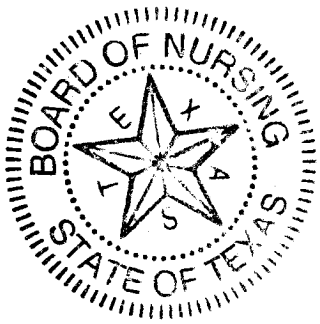
SEAL

_____

Notary Public in and for the State of _____

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 69978, previously issued to DELECIA JEAN MCCULLOUGH.

Effective this 12th day of November, 20 10 .



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

69978

BEFORE THE BOARD OF VOCATIONAL
NURSE EXAMINERS IN AND FOR THE
STATE OF TEXAS
****

In the matter of Permanent
License Number 69978
issued to
DELECIA JEAN MCCULLOUGH

ORDER OF THE BOARD

TO: Delecia Jean McCullough
107 Sims
Jacksonville, Texas 75766

The Board of Vocational Nurse Examiners in and for the State of Texas, held a scheduled hearing on the 11th day of July, 1989, to determine whether cause exists under Article 4528c, V.A.C.S., to suspend or revoke license number 69978, heretofore issued to DELECIA JEAN MCCULLOUGH.

At the Hearing, Mrs. Adelia D. Miller, R.N., President of the Board, presided and the following members were present:

Mrs. Charlotte J. Sifford, LVN
Mrs. Sharon Johnson, LVN
Mrs. Annie Mae Parker, LVN
Mr. Wayne L. Ogburn
Mrs. Virginia M. Bauman
Ms. Norma Jean Clark, LVN
Mrs. Sandra Underwood Knight, LVN

The Board of Vocational Nurse Examiners for the State of Texas was represented by Ms. Susan Henricks, Attorney at Law. Testimony and other evidence was received by the Board and, as a result thereof, the Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

Re: DELECIA JEAN MCCULLOUGH, hereinafter referred to as Respondent.

1. That Respondent is a vocational nurse licensed by the State of Texas and holds license number 69978.

69978

2. That a sworn complaint was filed with the Board of Vocational Nurse Examiners for the State of Texas in accordance with Article 4528c, Section 10 (d) of the Vocational Nurse Act.

3. That Notice of Hearing and Complaint were sent to Respondent in accordance with Article 6252-13a, of the Administrative Procedure Act, as amended.

4. That Respondent was not present before the Board.

5. That Respondent was not represented by counsel.

6. That on or about October 19, 1988, Respondent was employed as a Licensed Vocational Nurse at Nan Travis Memorial Hospital in Jacksonville, Texas.

7. That while so employed, Respondent was observed by other nursing staff to have an impaired nursing practice. When confronted by her nursing supervisor, Respondent acknowledged that her inappropriate behavior was a result of her use of Cocaine.

CONCLUSIONS OF LAW

1. That Respondent has engaged in unprofessional or dishonorable conduct that, in the opinion of the Board, is likely to deceive, defraud, or injure the public, in violation of Article 4528c, Section 10 (a) (9), Revised Civil Statutes of Texas.

2. That Respondent has practiced as a vocational nurse while the ability to practice is impaired by alcohol, drugs or physical disability, in violation of Board Rule 231.81 (6) (f).

3. That Respondent has failed to conform to the minimal standards of acceptable prevailing practice, regardless of whether or not actual injury to a patient was sustained, in violation of Board Rule 231.81 (6) (k).

4. That Respondent has engaged in the intemperate use of alcohol or drugs, in violation of Article 4528c, Section 10 (a) (8), Revised Civil Statutes of Texas.

PROCEDURES FOR REVIEW

Pursuant to Section 231.90 and Subsection 231.92 of the Rules and Regulations of the Board of Vocational Nurse Examiners, **a motion for rehearing must be filed within 15 days after the date of rendition of a final decision or order.** Replies to a motion for rehearing must be filed with the agency within 25 days after the date of rendition of the final decision or order, and agency action on the motion must be taken within 45 days after the date of rendition of the final decision or order. If agency action is not taken within 45 days, the motion for rehearing is overruled by operation of law 45 days after the date of rendition of the final decision or order.

A decision is final, in the absence of a timely motion for rehearing, on the expiration of the period for filing a motion for rehearing, and is final and appealable on the date of rendition of the order overruling the motion for

69978

rehearing, or the date the motion is overruled by operation of law. Proceedings for review are instituted by filing a petition in the district court within 30 days after the service of final and appealable decision of the Board.

ORDER

NOW, THEREFORE, IT IS ORDERED that License Number 69978, heretofore issued to DELECIA JEAN MCCULLOUGH, to practice vocational nursing in the State of Texas be and same is hereby revoked.

Entered this the 13th day of July, 1989.

Marjorie A. Bronk, R.N.
Executive Director
Board of Vocational Nurse Examiners

SWORN AND SUBSCRIBED to before me, the undersigned authority, on this the 13th day of July, 1989.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
Linda Rae Kent
My Commission Expires 10-24-89.

69978

Certificate to Order of the Board
In the matter of Vocational Nurse
License No. 69978
Issued to DELECIA JEAN MCCULLOUGH

The aforementioned Findings of Fact, Conclusions of Law and Order of the Board represent a final decision or Order duly made by the Board of Vocational Nurse Examiners in and for the State of Texas on this the 11th day of July, 1989.

Adelia D. Miller, R.N.
Charlotte J. Sigford, Jr.
Norma Jean Clark, Jr.
Annie Mae Parker, Lou

Sandra U. Knight, W.N.
Virginia M. Bairman
Sharon L. Johnson
Wayne L. Ogburn

69978

BOARD OF VOCATIONAL NURSE EXAMINERS	*	STATE OF TEXAS
	*	
VS.	*	
	*	
DELECIA MCCULLOUGH	*	COUNTY OF TRAVIS

AGREED BOARD ORDER

On this day came to be considered by the Board of Vocational Nurse Examiners for the State of Texas, hereinafter referred to as the Board, the matter of vocational nurse license number 069978, previously held by Delecia McCullough, hereinafter called Applicant.

Applicant has submitted a written request for reinstatement of said previously held license. By Order dated July 11, 1989 the Board of Vocational Nurse Examiners found that Applicant had violated the Vocational Nurse Act, or a rule, regulation or Order issued under the Vocational Nurse Act, Texas Revised Civil Statutes Annotated, Article 4528c.

A prehearing conference was held on May 17, 1993, at the office of the Board of Vocational Nurse Examiners. The conference was conducted by Marjorie A. Bronk, R.N., Executive Director of the Board, assisted by Opal M. Robinson, member of the Board of Vocational Nurse Examiners. Applicant was present and was not represented by counsel.

The conference was attended by Kathleen S. Davies, Investigator for the Board, and Debbie Leach, Assistant Attorney General. By her notarized signature on this Order, Applicant does hereby waive the right to Notice of Formal Hearing and a Formal Hearing on the Application for Reinstatement before the Board, and to judicial review of this disciplinary action after this Order is endorsed by the Board.

069978

After reviewing the matters relative to the Application for Reinstatement at the prehearing conference, Applicant agrees to the entry of an Order dispensing with the need for further action on this application. By Applicant's signature on this Order, Applicant acknowledges that she has read and understood this Order and has approved it for consideration by the Board. Notice of this disciplinary action will appear in the Board's newsletter sent to Texas Employers.

ORDER OF THE BOARD

THEREFORE, PREMISES CONSIDERED, the Board of Vocational Nurse Examiners does hereby order that license number 069978, previously issued to Delecia McCullough be reinstated suspended, with said suspension stayed and placed on probation for a period of one (1) year.

The probation of said license is subject to the following stipulation, to wit:

1. That by copy of this Board Order, Applicant shall provide notice of Board disciplinary action to her nursing employer(s) throughout the term of probation.

2. That Applicant shall cause her nursing employer(s) to submit satisfactory reports to the Board office on a quarterly basis throughout the term of probation.

3. That Applicant shall work only under the direct supervision of a licensed medical professional throughout the term of probation.

4. That Applicant shall not be employed by a nurse registry/temporary nurse agency throughout the term of probation. However, Applicant may continue in home health with her current patient Ms. Hudgins.

5. That Applicant shall attend monthly meetings with a Chemical Dependency Support Group and cause her program sponsor/counselor to submit satisfactory reports to the Board office on a quarterly basis throughout the term of probation.

69978

6. That Applicant shall submit to random periodic blood alcohol and urine drug screen(s) upon demand of the Board staff throughout the term of probation. Said screen(s) shall be properly monitored with adherence to chain of custody procedures. The results of said screen(s) shall be submitted to the board office by the laboratory. The expense of said sreen(s) shall be borne by Applicant.

7. That Applicant shall obtain counseling and cause her counselor to submit satisfactory reports to the Board office on a quarterly basis throughout the term of probation. The expense of said counseling shall be borne by Applicant.

8. That Applicant shall enroll in or audit and successfully complete a nursing program course encompassing the following area of study: six (6) weeks Pharmacology Refresher Course and submit documentation of successful course completion to the Board office prior to the end of probation.

9. That Applicant shall be responsible for locating said course and obtaining approval of Board staff prior to enrollment or audit. Said courses shall be in house at a community college, university or nursing program, tutored by a state a

10. That any period(s) of unemployment must be documented in writing by Applicant and submitted directly to the Board office on a quarterly basis throughout the term of probation.

11. Further, that if Applicant's place of employment, name, address or telephone number changes, Applicant is to notify the Board office immediately.

12. It is also ordered that Delecia McCullough shall comply with all the provisions of Article 4528c, Revised Civil Statutes of Texas.

This Agreed Order shall not be effective or take effect and become enforceable in accordance with its terms until endorsed by a majority of the Board present and voting, at its next regularly called session.

Agreed to this the 17th day of May, 1993

Delecia McCullough
Signature of Applicant

5200 E. Lancaster Apt. 221
Current Address

Ft. Worth, Tx. 76112
City, State and Zip

817, 446-6521
Area Code and Telephone Number

69978

The State of Texas
County of Travis

Before me, the undersigned authority, on this day personally appeared Delecia McCullough who being duly sworn by me stated that he or she executed the above for the purpose therein contained, and that he or she understood same.

SWORN TO AND SUBSCRIBED before me this the 17th day of May, 1993

JANA D. WALP
NOTARY PUBLIC
State of Texas
Comm. Exp. 04-23-95

Jana D Walp
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My Commission Expires 4-23-95

Marjorie A Bronk, RN
Marjorie A. Bronk, R.N.
Agent for the Board of
Vocational Nurse Examiners

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the 4th day of May, 1993.

Linda Lee Best
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

69978

ENDORSEMENT OF THE BOARD
To The Agreed Board Order
in the matter of Vocational Nurse
License No. 069978
Issued to Delecia Jean McCullough

At its regularly called session, 22nd day of June, 1993, came on to be considered the indicated Agreed Board Order pertaining to Delecia Jean McCullough. The Board having reviewed the contents of said Order, the Order should be, and is hereby, endorsed as an Order of the Board and made an official act of the Board of Vocational Nurse Examiners for the State of Texas.

Said Order is rendered this the 22nd day of June, 1993.

Sandra U. Knight LVN
Virginia M. Bauman
Rizzie Myers
Melba Lee Hosey LVN
Pat Robinson
Ann Speck
Charlotte J. Sepperdeen
Vicki Lenfield
Betty Fox McLemore
Norma Jean Clark
Carrie M. Dolly

69978

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of June, 1993, a true and correct copy of the foregoing Order was served by placement in the U.S. Mail, first class, and addressed to the following person(s):

DELECIA JEAN MCCULLOUGH
5200 E. LANCASTER, APT. 221
FT. WORTH, TEXAS 76112

Marjorie H Bronk, RN

Marjorie Bronk, R.N.
Executive Director
Agent for the Board of Vocational Nurse Examiners