

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 155164  
ISSUED TO  
TERRI ANN SIMMONS

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BEFORE THE ELIGIBILITY  
AND DISCIPLINARY  
COMMITTEE  
OF THE 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.  
*Patricia A. Thomas*  
Executive Director of the Board

**ORDER OF THE BOARD**

TO: Terri Ann Simmons  
10573 CR 1292  
Flint, Texas 75762.

During open meeting held in Austin, Texas, on November 9, 2010, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case. This case was heard, and 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 § 213.2(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 155164, previously issued to TERRI ANN SIMMONS, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 155164, previously issued to TERRI ANN SIMMONS, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privilege, if any, to practice vocational nursing in the State of Texas.

Entered this 9<sup>th</sup> day of November, 2010.

TEXAS BOARD OF NURSING

BY:



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

In the Matter of Permanent License § BEFORE THE TEXAS  
Number 155164, Issued to §  
TERRI ANN SIMMONS, Respondent § BOARD OF NURSING

### FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, TERRI ANN SIMMONS, is a Vocational Nurse holding license number 155164, which is in current 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 April 12, 2010, Respondent failed to comply with the Agreed Order issued to her by the Texas Board of Nursing, on September 11, 2009. Respondent's noncompliance is the result of her failure to comply with Stipulation Number One (1) of the Order, which reads, in pertinent part:

- (1) "RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of the entry of this final Order, sign and execute the TPAPN participation agreement . . ."

Respondent was dismissed from the TPAPN program on April 12, 2010, for failure to submit her enrollment paperwork. Furthermore, Respondent stated that she was having financial problems and would not be able to register for drug testing.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(9)&(11)(B).

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. and TEX. OCC. CODE Ch. 53. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to § 301.461, TEX. OCC. CODE ANN. 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](http://www.bon.state.tx.us).

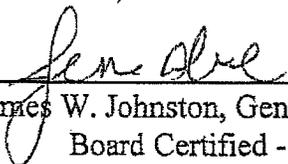
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, which can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

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](http://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: Agreed Order dated September 11, 2009.

Filed this 5<sup>th</sup> day of August, 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: Order of the Board dated September 11, 2009

0999/D

Re: Permanent Certificate Number 155164  
Issued to Terri Ann Simmons  
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 9 day of 11, 2010, 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):

Terri Ann Simmons  
10573 CR 1292  
Flint, Texas 75762



BY:

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



Respondent's vocational nursing employment history continued:

12/1998 - 05/2000	LVN	American Critical Care Services Richmond, Virginia
06/2000 - 11/2003	Employment history unknown.	
12/2003 - 05/2004	LVN	Preferred Staffing Tyler, Texas
06/2004 - 12/2004	Employment history unknown.	
01/2005 - 03/2006	LVN	Nurses Stat Garland, Texas
11/2005 - 03/2006	LVN	Trinity Mother Francis Hospital Jacksonville, Texas
04/2006 - 01/2008	Employment history unknown.	
02/2008 - 12/2008	LVN	Nurse Finders Tyler, Texas
11/2008 - Present	Employment history unknown.	

6. At the time of the incident, Respondent was employed as a Vocational Nurse with Nurse Finders, Tyler, Texas, and had been in this position for nine (9) months.
7. On or about November 14, 2008 through December 1, 2008, while employed as a Licensed Vocational Nurse with Nurse Finders, Tyler, Texas, and on assignment with Select Specialty Hospital, Longview, Texas, Respondent withdrew Morphine from the Medication Dispensing System for patients, but failed to document, or accurately document the administration of the medications in the patients' Medication Administration Records and/or nurse's notes. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patients which could result in an overdose.
8. In response to Finding of Fact Number Seven (7), Respondent states: "I did not follow policy to accurately document the administration of medication in the medication administration records and/or nurses notes."
9. On or about November 14, 2008 through December 1, 2008, while employed as a Licensed Vocational Nurse with Nurse Finders, Tyler, Texas, and on assignment with Select Specialty

Hospital, Longview, Texas, Respondent withdrew Morphine from the Medication Dispensing System for patients, but failed to follow the facility's policy and procedure for wastage of any of the unused portions of the medications. Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and safety Code (controlled Substances Act).

10. In response to Finding of Fact Number Nine (9), Respondent states: "I failed to waste Morphine as prescribed by the facility's policy and procedure. I did not intend to deceive the pharmacy nor hurt a patient. I was extremely careless and feel horrified at the mess I had made. I am truly grateful that no one was injured."
11. On or about November 14, 2008 through December 1, 2008, while employed as a Licensed Vocational Nurse with Nurse Finders, Tyler, Texas, and on assignment with Select Specialty Hospital, Longview, Texas, Respondent misappropriated Morphine from the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of medications.
12. In response to Finding of Fact Number Eleven (11), Respondent states: "I did not in any way divert or misappropriate any narcotic from patients or the facility."
13. In response to Findings of Fact Numbers Seven (7) through Eleven (11), Respondent states: "I have suffered from untreated depression and alcohol abuse. I look at the charges and feel overwhelmed with guilt and shame. During that time (11/14/08 - 12/1/08) I was trying to deal with a huge amount of marriage problems, financial problems and a recent death in our family. I was using alcohol and pain medications to deal with my very unmanageable life. I am so sorry that I did not reach out for help sooner. Since December 4, 2008, I have been attending AA. I have been trying to incorporate the 12 steps, I have a sponsor that I am in contact with. I am asking for the Board of Nursing to help me. I do not want to lose my license. I have not worked since December 1, 2008. I have been trying to learn how to live sober and I was extremely scared to return to nursing for fear that I could do harm. I hope that I can be enrolled in TPAPN. I am seeking formal inpatient treatment and will contact you immediately upon acceptance."
14. The Respondent's conduct described in the preceding Finding of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
15. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to chemical dependency.
16. Formal Charges were filed on July 9, 2009.
17. Formal Charges were mailed to Respondent on July 11, 2009.

18. Respondent's conduct described in Findings of Fact Numbers Seven (7), Nine (9) and Eleven (11) was significantly influenced by Respondent's impairment by dependency on chemicals.
19. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

#### CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, 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)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(A)&(D), and 22 TEX. ADMIN. CODE §217.12(4),(6)(G),(8)&(10)(C).
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 155164, heretofore issued to TERRI ANN SIMMONS, including revocation of Respondent's license to practice nursing in the State of Texas.
5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

#### ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

RESPONDENT SHALL deliver the wallet-sized license issued to TERRI ANN SIMMONS, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order.

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry

of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her license to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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 multistate licensure privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure 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, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result

in further disciplinary action including revocation of Respondent's license and multistate licensure privileges, if any, to practice nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

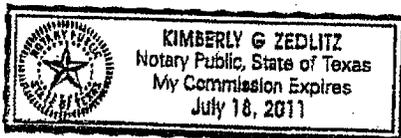
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, 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 to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 28 day of August, 2009.

TERRI ANN SIMMONS  
TERRI ANN SIMMONS, Respondent

Sworn to and subscribed before me this 28<sup>th</sup> day of August, 2009.

SEAL



Kimberly G. Zedlitz  
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 and enter the Agreed Order that was signed on 28th day of August, 2009, by TERRI ANN SIMMONS, Vocational Nurse License Number 155164, and said Order is final.



Entered and effective this 11th day of September, 2009.

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