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

BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Vocational Nurse	§
License Number 141585	§
issued to TINA BENDY HOFFPAUIR	§

ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 141585, issued to TINA BENDY HOFFPAUIR, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing.

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

FINDINGS OF FACT

1. Respondent is currently licensed to practice vocational nursing in the State of Texas.

2. Respondent waived representation by counsel, informal proceedings, notice and hearing.

3. Respondent received a Certificate in Vocational Nursing from Lamar University, Orange, Texas, on December 18, 1992. Respondent was licensed to practice vocational nursing in the State of Texas on May 25, 1993.

4. Respondent's vocational nursing employment history includes:

Unknown	LVN	Park Place Hospital Port Arthur, Texas
Unknown	LVN	Christus St. Mary's Hospital Port Arthur, Texas

Respondent's vocational nursing employment history continued:

Unknown	LVN	Oak Grove Nursing Home Groves, Texas
1998 - 1999	LVN	Christus St. Elizabeth Hospital Beaumont, Texas
08/199 - 07/2000	LVN	The Heart Hospital of South Texas Corpus Christi, Texas
08/2000 - 07/2001	LVN	Christus St. Mary's Hospital Port Arthur, Texas
08/2010 - 03/2002	LVN	Cantex Healthcare Port Arthur, Texas
04/2002 - 10/2003	LVN	Advantage Nursing Services Houston, Texas
11/2003 - 05/2004	LVN	Mariner Healthcare Houston, Texas
06/2004 - 06/2005	LVN	Brazos Presbyterian Home Houston, Texas
07/2005- Present	Not employed in nursing.	

5. On or about February 14, 2006, Respondent's license to practice vocational nursing was revoked. A copy of the Findings of Fact, Conclusions of Law and Order dated February 14, 2006, is attached and incorporated by reference as part of this Order.

6. On or about July 31, 2009, Respondent was issued a Reinstatement Agreed Order by the Board. A copy of the Findings of Fact, Conclusions of Law and Order dated July 31, 2009, is attached and incorporated by reference as part of this Order.

7. On August 5, 2010, Respondent submitted a notarized statement to the Board voluntarily surrendering the right to practice vocational nursing in Texas. A copy of Respondent's notarized statement, dated July 27, 2010, is attached and incorporated herein by reference as part of this Order.

6. On June 30, 2010, the Board received notice regarding the following allegations involving Respondent:

> On or about June 4, 2010, Respondent engaged in the intemperate use of Alcohol, in that she produced a specimen for a random drug screen requested by the Texas Peer Assistance Program for Nurses (TPAPN), which resulted positive for Alcohol
>
> On or about June 4, 2010, Respondent became non-compliant with the Reinstatement Agreed Order issued to her by the Texas Board of Nursing on July 31, 2009. Non-compliance is the result of her failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract. Stipulation number three (3) of the Order dated July 31, 2009, states:
>
> > (3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term.
>
> On June 21, 2010, Respondent was dismissed from TPAPN for non-compliance and referred to the Board.

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 a violation of Section 301.452(b)(1),(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(A),(4),(5),(9),(10)(A), (D) &(11)(B).

4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.

5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.

6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC§§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 141585, heretofore issued to TINA BENDY HOFFPAUIR, to practice vocational nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL immediately deliver the wallet-size license, heretofore issued to TINA BENDY HOFFPAUIR, to the office of the Texas Board of Nursing.

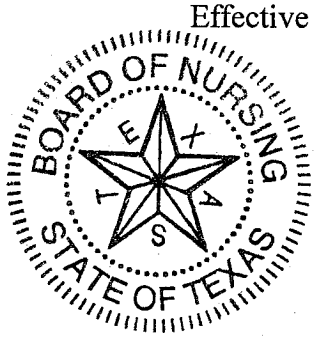
2. RESPONDENT SHALL NOT practice vocational nursing, use the title of vocational nurse or the abbreviation LVN or wear any insignia identifying herself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.

3. 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.

4. 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 vocational nursing in the State of Texas.

Effective this 20th day of August, 2010.



TEXAS BOARD OF NURSING

By: _____

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

TINA BENDY HOFFPAUIR
PO Box 296
Gilchrist, Texas 77617
Texas Vocational Nurse License #141585

Voluntary Surrender Statement

July 13, 2010

Dear Texas Board of Nursing:

I no longer desire to be licensed as a vocational nurse. Accordingly, I voluntarily surrender my license/licenses to practice in Texas. I waive representation by counsel and consent to the entry of an Order which outlines requirements for reinstatement of my license. I understand that I will be required to comply with the Board's Rules and Regulations in effect at the time I submit any petition for reinstatement.

Signature Tina B Hoffpauir

Date 7-27-2010

Texas Nursing License Number/s 141585

The State of Texas

Before me, the undersigned authority, on this date personally appeared TINA ENDY HOFFPAUIR who, being duly sworn by me, stated that she executed the above for the purpose therein contained and that she understood same.

Sworn to before me the 27 day of July, 2010.

SEAL

Stormy H. Barrow
Notary Public in and for the State of Texas

STORMY H. BARROW
MY COMMISSION EXPIRES
June 9, 2013

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§	REINSTATEMENT
License Number 141585	§	
issued to TINA BENDY HOFFPAUIR	§	AGREED ORDER

On this day came to be considered by the Texas Board of Nursing, hereinafter referred to as the Board, the Petition for Reinstatement of Vocational Nurse License Number 141585, held by TINA BENDY HOFFPAUIR, hereinafter referred to as Petitioner.

An informal conference was held on June 2, 2009, at the office of the Texas Board of Nursing, in accordance with Section 301.464, Texas Occupations Code.

Petitioner appeared in person. Petitioner was notified of her right to be represented by legal counsel and elected to waive representation by counsel. In attendance were Mary Beth Thomas, PhD, RN, Director of Nursing, Executive Director's Designee; Robert Kyle Hensley, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director of Enforcement; and Carolyn Hudson, Investigator.

FINDINGS OF FACT

1. Prior to institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license.

2. Petitioner waived notice and hearing, and consented to the entry of this Order.

3. Petitioner received a Certificate in Vocational Nursing from Lamar University, Orange, Texas, on December 18, 1992. Petitioner was originally licensed to practice vocational nursing in the State of Texas on May 25, 1993.

4. Petitioner's vocational nursing employment history included:

Unknown	LVN	Park Place Hospital Port Arthur, Texas
Unknown	LVN	Christus St. Mary's Hospital Port Arthur, Texas
Unknown	LVN	Oak Grove Nursing Home Groves, Texas
1998 - 1999	LVN	Christus St. Elizabeth Hospital Beaumont, Texas
08/99 - 07/00	LVN	The Heart Hospital of South Texas Corpus Christi, Texas
08/00 - 07/01	LVN	Christus St. Mary's Hospital Port Arthur, Texas
08/01 - 03/02	LVN	Cantex Healthcare Port Arthur, Texas
04/02 - 10/03	LVN	Advantage Nursing Services Houston, Texas
11/03 - 05/04	LVN	Mariner Healthcare Houston, Texas
06/04 - 06/05	LVN	Brazos Presbyterian Home Houston, Texas
07/05 - Present	Not employed in nursing	

5. On February 14, 2006, Petitioner's license to practice vocational nursing in the State of Texas was revoked by the Board of Nurse Examiners for the State of Texas. A copy of the February 14, 2006, Order of the Board is attached and incorporated, by reference, as a part of this Order.

6. On or about December 18, 2008, Petitioner submitted a Petition for Reinstatement of License to practice vocational nursing in the State of Texas.

7. Petitioner presented the following in support of her petition:

7.1. Letter of support, dated April 10, 2007, written by James W. Lomax, M.D., Baylor College of Medicine, Houston, Texas, states that Petitioner was the charge nurse at Bayou Manor when his mother was a patient of the facility. Dr. Lomax stated that Petitioner performed in an entirely professional, capable, and congenial manner. Dr. Lomax recommends reinstatement of Petitioner's nursing license.

7.2. Letter of support, dated November 16, 2008, written by Mike O'Neill, O'Neill Design & Development, Gilchrist, Texas, states that Petitioner became his tenant in June 2006, and began working for him part time. Petitioner has been diligently working towards her recovery and sobriety. Mr. O'Neill states that Petitioner is very knowledgeable about the medical field and has a passion about it. Mr. O'Neill recommends reinstatement of Petitioner's nursing license.

7.3. Letter of support, dated April 10, 2007, written by Connie Riley, Assistant Director of Financial Aid, Lamar State College, Port Arthur, Texas, states that Petitioner has been employed as a work-study student since January 2007. Petitioner learned her job duties very quickly and she interacts with the students who come to the financial aid office by assisting them with financial aid questions.

7.4. Letter of support, dated March 23, 2007, written by Linda McGee, Director Human Resources, Lamar State College, Port Arthur, Texas, states that Petitioner is a student at Lamar State College and is employed in the Financial Aid office. Petitioner works twenty (20) hours or less each week. Petitioner works her schedule consistently and she is dependable.

7.5. Verification of successful completion of twenty (20) Type I Continuing Education Contact Hours.

8. Petitioner gives December 2005, as her date of sobriety.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.

2. Pursuant to Section 301.467, Texas Occupations Code, the Board may refuse to issue or renew a license, and may set a reasonable period that must lapse before reapplication.

3. Pursuant to 22 TEX. ADMIN. CODE §213.26, the Board may impose reasonable conditions that a Petitioner must satisfy before reissuance of an unrestricted license.

ORDER

IT IS THEREFORE AGREED, subject to ratification by the Texas Board of Nursing, that the petition of TINA BENDY HOFFPAUIR, Vocational Nurse License Number 141585, to practice vocational nursing in the state of Texas, be and the same is hereby GRANTED SUBJECT TO THE FOLLOWING CONDITIONS SO LONG AS THE PETITIONER complies in all respects with the Nursing Practice Act, Texas Occupations Code, §301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 et. seq. and the stipulations contained in this Order:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Petitioner's multistate licensure privilege, if any, to practice vocational nursing in the State of Texas

IT IS FURTHER AGREED and ORDERED that while Petitioner's license is encumbered by this Order, Petitioner may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas and the Board of Nursing in the party state where Petitioner wishes to work.

(1) PETITIONER SHALL NOT seek employment or practice nursing for compensation until she has paid all re-registration fees and is issued a license to practice vocational or professional nursing in the State of Texas, which shall bear the appropriate notation. Said licenses issued to TINA BENDY HOFFPAUIR, shall be subject to the following agreed post-licensure stipulations:

(2) PETITIONER SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN, which 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.

(3) Upon acceptance into the TPAPN, PETITIONER SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Texas Board of Nursing.

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

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

IT IS FURTHER AGREED, SHOULD PETITIONER 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 Petitioner's license and multistate licensure privileges, if any, to practice vocational nursing in the State of Texas.

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PETITIONER'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Reinstatement Agreed Order. I waive representation by counsel. I certify that my past behavior, except as disclosed in my Petition for Reinstatement of Licensure, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of convictions, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

I have reviewed this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to reinstating my license to practice vocational nursing in the state of Texas. 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 2 day of July, 2009.

Tina B. Hoffpauir

TINA BENDY HOFFPAUIR, Petitioner

Sworn to and subscribed before me this 2 day of July, 2009.

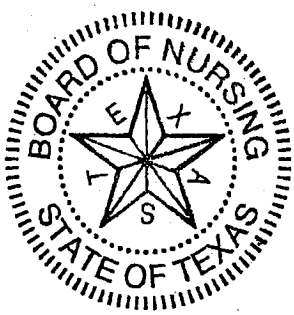
SEAL

ROSA PALACIOS
MY COMMISSION EXPIRES
January 20, 2012

Rosa Palacios

Notary Public in and for the State of TEXAS

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 2nd day of July, 2009, by TINA BENDY HOFFPAUIR, Vocational Nurse, License Number 141585, and said Order is final.



Effective this 31st day of July, 2009.

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

DOCKET NUMBER 507-06-0086

IN THE MATTER OF	§	BEFORE THE STATE OFFICE
PERMANENT CERTIFICATE	§	
NUMBER 141585	§	OF
ISSUED TO	§	
TINA BENDY HOFFPAUIR	§	ADMINISTRATIVE HEARINGS

ORDER OF THE BOARD

TO: Tina Bendy Hoffpauir
2801 Broadmead Drive #413
Houston, Texas 77025

During open meeting held in Austin, Texas, the Board of Nurse Examiners finds that after proper and timely notice was given, the above-styled case was heard by an Administrative Law Judge who made and filed a proposal for decision containing the Administrative Law Judge's findings of fact and conclusions of law. The proposal for decision was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein.

The Board of Nurse Examiners, after review and due consideration of the proposal for decision, and exceptions and replies filed, if any, adopts the findings of fact and conclusions of law of the Administrative Law Judge as if fully set out and separately stated herein. 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 141585, previously issued to TINA BENDY HOFFPAUIR, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 141585, previously issued to TINA BENDY HOFFPAUIR, upon receipt of this Order, be immediately delivered to the office of the Board of Nurse Examiners for the State of Texas.

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 14th day of February, 2006.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

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

D7.r/1197

SOAH DOCKET NO. 507-06-0086

IN THE MATTER OF PERMANENT	§	BEFORE THE STATE OFFICE
	§	
CERTIFICATE NUMBER 141585	§	
	§	OF
ISSUED TO	§	
	§	
TINA BENDY HOFFPAUIR	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Board of Nurse Examiners for the State of Texas (Staff/Board) brought this case seeking revocation of the vocational nurse's license of Tina Bendy Hoffpauir (Respondent) for violating provisions of the Nursing Practice Act, TEX. OCC. CODE ANN. ch. 301, and the Board's rules.[1] Despite being sent proper notice, Respondent did not appear nor was she represented at the hearing. Based on Respondent's failure to appear, Staff's allegations were accepted as true, establishing the violations. The Administrative Law Judge (ALJ) recommends that Respondent's license be revoked.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The hearing convened December 7, 2005, before ALJ Georgie B. Cunningham in the William P. Clements Building, 300 West 15th Street, Austin, Texas. Staff was represented by Elizabeth L. Higginbotham, Assistant General Counsel. On November 23, 2005, Attorney William E. Hopkins filed a motion to withdraw as Respondent's counsel. After receiving no objection, the ALJ granted the motion.

After providing competent evidence establishing that the Board has jurisdiction and that appropriate notice of the hearing was provided, Staff moved for a default based on Respondent's

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[1] The Board of Vocational Nurse Examiners (BVNE) previously existed as a separate agency to regulate and supervise vocational nurses under the TEX. OCC. CODE ANN. ch. 302. However, effective February 1, 2004, ch. 302 was repealed, the BVNE was abolished, and all of its functions were transferred to the Board. Most of the underlying events that are the basis of this proceeding occurred prior to February 1, 2004, and the investigation of Respondent began at the BVNE in December 2002. Under the repealer and transition provisions of the act that abolished the BVNE, all investigations and proceedings that were pending before the BVNE on January 31, 2004, were transferred to the Board without change in status. Therefore, the now repealed TEX. OCC. CODE ANN. ch. 302 continues to apply to Respondent's actions that are the subject of this proceeding. Acts 2003, 78th Leg., ch. 553, § 3.003(4). Additionally, the BVNE's rules at 22 TEX. ADMIN. CODE ch. 239 were repealed after the underlying allegations in this case occurred, but the substantive provisions of those rules also apply to this case.

failure to appear. Those matters are set out in the Findings of Fact and Conclusions of Law. The hearing was closed on December 7, 2005.

II. RECOMMENDATION

Based upon the following Findings of Fact and Conclusions of Law and in accordance with 1 TEX. ADMIN. CODE § 155.55, the ALJ granted Staff's motion for default and deemed the allegations to be true. Carol Marshall, Board staff, presented testimony recommending revocation of Respondent's license to protect the public. According to Ms. Marshall, Respondent's conduct was likely to injure patients and defraud patients and the hospital's pharmacy. Ms. Marshall further testified that Respondent's unprofessional and dishonorable conduct demonstrates she is unfit to practice nursing. Accordingly, the ALJ recommends that Respondent's license as a vocational nurse be revoked.

III. FINDINGS OF FACT

1. Tina Bendy Hoffpauir (Respondent), holds Vocational Nurse License Number 141585, which was current on the date of the hearing.

2. On August 2, 2005, Staff of the Board of Nurse Examiners for the State of Texas (Staff/Board) sent Respondent its Second Amended Formal Charges by certified mail, return receipt requested, c/o William E. Hopkins, Attorney, Thompson & Knight, 98 San Jacinto Boulevard, Suite 1900, Austin, Texas 78701. USPS Form 3811, domestic return receipt, indicates that the certified mail was received on August 6, 2005.

3. On September 12, 2005, Staff sent its Notice of Hearing and charges to Respondent by certified mail, return receipt requested, c/o William E. Hopkins, Attorney, Thompson & Knight, 98 San Jacinto Boulevard, Suite 1900, Austin, Texas 78701. USPS Form 3811, domestic return receipt, indicates that the certified mail was received on September 14, 2005.

4. The hearing notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.

5. The hearing notice contained the following language in capital letters in large boldface type: **"FAILURE TO APPEAR AT THE HEARING IN PERSON OR BY LEGAL REPRESENTATIVE, REGARDLESS OF WHETHER AN APPEARANCE HAS BEEN ENTERED, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE**

FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF SHALL BE GRANTED BY DEFAULT."

6. Respondent did not appear at the hearing and was not represented by counsel whose motion to withdraw had been granted prior to the hearing. Staff was represented by an Assistant General Counsel, who moved for a default.

7. (a) On March 19, 2002, the County Criminal Court at Law No. 5 of Harris County, Texas, convicted Respondent of Driving While Intoxicated (a Class B misdemeanor offense committed on January 20, 2002), in Cause No. 1097257. The Court placed Respondent on probation for a period of nine (9) months, ordered her to pay a three hundred dollar ($300) fine, and assessed court costs and fees. The Court suspended Respondent's driver's license for a period of one (1) year and ordered her to perform thirty (30) hours of community service.

   (b) On June 20, 2002, the County Criminal Court at Law No. 5 of Harris County, Texas, revoked Respondent's community supervision in Cause No. 1097257 based on findings that Respondent had violated the terms and conditions of her probation, to-wit: Respondent failed to avoid injurious or vicious habits and failed to pay her court-ordered supervision fees. The Court ordered Respondent to be confined in the Harris County Jail for thirty (30) days, to pay any unpaid portion of the three hundred dollar ($300) fine that she had been assessed previously, and to pay accrued court costs totaling three hundred thirty-six dollars ($336). Respondent was given four (4) days credit toward the fine and court costs.

8. On March 31, 2003, Respondent submitted her license renewal to the Board of Vocational Nurse Examiners for the State of Texas. On the renewal, Respondent answered "No" to the question: "Were you convicted of a misdemeanor other than a minor traffic violation since your last renewal?"

9. On April 27, 2003, Respondent, while employed as a Licensed Vocational Nurse (LVN) with Advantage Nursing Services, Houston, Texas, and on assignment at San Jacinto Methodist Hospital, Baytown, Texas, withdrew medications from the Medication Dispensing System (Pyxis) for patients, but failed to document, or accurately document the administration of the medications in patients' medical records, as follows:

Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Nurse's Notes
MM	Demerol 100mg with Vistaril 25mg IM prior to Physical Therapy and Q4H prn pain	Meperidine HCL 50mg/1ml CPJ 1711 Qty: 2	Not Documented	1600 Entry: Pt c/o pain. Medicated with Demerol. 1800 Entry: No complaints voiced
BF	Morphine Sulfate 5mg Q4-6H Prn Pain	Morphine 10mg/1ml CPJ 1633 Qty: 1	Not Documented	1600 Entry. No complaints voiced at this time.
DA	Butorphanol 1mg IM Q3H Prn Pain	Butorphanol 2mg/1ml Vial 1654 Qty: 1	Not Documented	1700 Entry. C/O pain and discomfort. Medicated for pain.
BS	Demerol 75mg with Vistaril 25mg IM Q4H Prn Pain	Meperidine HCL 75mg/1ml CPJ 1811 Qty: 1	Documented as Administered at 2015	1800 Entry. Discussed s/s of infection and what to report. Pt temp 101-0. Dr. paged awaiting return call. 2000 Entry. C/O pain. Medicated with Demerol.
BS	Ativan 1mg IV Q6H Prn Anxiety/Sleep	Lorazepam 2mg/1ml Vial 2222 Qty: 1	Documented as Administered at 2145	2200 Entry. Resting quietly. Resp even and unlabored. No s/s distress noted.

10. On April 27, 2003, Respondent, while employed as an LVN with Advantage Nursing Services, Houston, Texas, and on assignment at San Jacinto Methodist Hospital, Baytown, Texas, withdrew medications from the Medication Dispensing System (Pyxis) for patients, but failed to follow the facility's policy and procedure for wastage of the unused portions of these medications, as follows:

Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Wastage
MM	Demerol 100mg with Vistaril 25mg IM prior to Physical Therapy and Q4H prn pain	Meperidine HCL 50mg/1ml CPJ 1711 Qty: 2	Not Documented	None Documented

BF	Morphine Sulfate 5mg Q4-6H Prn Pain	Morphine 10mg/1ml CPJ 1633 Qty: 1	Not Documented	None Documented
DA	Butorphanol 1mg IM Q3H Prn Pain	Butorphanol 2mg/1ml Vial 1654 Qty: 1	Not Documented	None Documented

11. On April 27, 2003, Respondent, while employed as an LVN with Advantage Nursing Services, Houston, Texas, and on assignment at San Jacinto Methodist Hospital, Baytown, Texas, withdrew medications from the Medication Dispensing System (Pyxis) in excess frequency of the physician's order, as follows:

Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Comments
MM	Demerol 100mg with Vistaril 25mg IM prior to Physical Therapy and Q4H prn pain	Meperidine HCL 50mg/1ml CPJ 1711 Qty: 2	Not Documented as Administered and No Wastage.
MM	Demerol 100mg with Vistaril 25mg IM prior to Physical Therapy and Q4H prn pain	Meperidine HCL 50mg/1ml CPJ 1954 Qty: 2	Withdrawn in Excess Frequency.
BF	Morphine Sulfate 5mg Q4-6H Prn Pain	Morphine 10mg/1ml CPJ 1633 Qty: 1	Not Documented as Administered and No Wastage.
BF	Morphine Sulfate 5mg Q4-6H Prn Pain	Morphine 10mg/1ml CPJ 1816 Qty: 1	Withdrawn in Excess Frequency.

12. (a) On August 17, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, falsified a Physician's Order Sheet, under the name of Patient FE, in order to obtain a fraudulent and unauthorized prescription for Demerol.

(b) On June 14, 2004, the County Criminal Court at Law No. 1 of Harris County, Texas, convicted Respondent in Cause No. 1207288 for forging/altering a prescription (a Class B misdemeanor offense committed on August 19, 2003). The Court sentenced Respondent to confinement in the Harris County Jail for a period of ten (10) days, with four (4) days credit given, and ordered her to pay court costs.

13. On August 19, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, altered a physician's order sheet, under the name of Patient VB, in order to obtain a fraudulent and unauthorized prescription for Percocet.

14. On August 20, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, falsified a physician's order sheet, under the name of Patient MM, in order to obtain a fraudulent and unauthorized prescription for Demerol.

15. On August 23, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, falsified a physician's order sheet, under the name of Patient LM, in order to obtain a fraudulent and unauthorized prescription for Demerol.

16. On August 23, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, falsified a physician's order sheet, under the name of Patient SH, in order to obtain a fraudulent and unauthorized prescription for Demerol.

17. On August 19, 2003 to August 24, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, withdrew medications from the Medication Dispensing System (Pyxis) for patients, without a valid physician's order, as follows:

Date	Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Nurse's Notes
08-19-03	FE	None	Demerol 50mg Inj 1900 Qty: 2	Documented as Lortab 7.5/325mg 1 PO Q6H Prn at 1900. No Demerol wastage.	Not Documented
08-19-03	FE	None	Demerol 50mg Inj 2300 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 0230 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 0500 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 0645 Qty: 1	Not Documented. No wastage.	Not Documented

Date	Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Nurse's Notes
08-20-03	FE	None	Demerol 50mg Inj Prior to 0800 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 1600 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 1910 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 2030 Qty: 2	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 2300 Qty: 2	Not Documented. No wastage.	Not Documented
08-20-03	VB	None	Percocet 0200 Qty: 2	Not Documented. No wastage.	Not Documented
08-20-03	VB	None	Demerol 50mg Inj 0530 Qty: 1	Not Documented. No wastage.	Not Documented
08-23-03	MM	None	Demerol 50mg Inj 1600 Qty: 1	Not Documented. No wastage.	Not Documented
08-23-03	MM	None	Demerol 50mg Inj 2100 Qty: 1	Demerol 50mg IM Q4-6H Prn Pain Documented as Administered at 1530. No wastage.	Not Documented
08-23-03	MM	None	Demerol 50mg Inj 2200 Qty: 1	Demerol 50mg IM Q4-6H Prn Pain Documented as Administered at 1945. No wastage.	Not Documented
08-23-03	LM	None	Demerol 50mg Inj 2000 Qty: 1	Demerol 50mg x 1 Now Documented as Administered at "18". No wastage.	Not Documented
08-23-03	SH	None	Demerol 50mg Inj 1945 Qty: 2	Demerol 50-75mg Q4-6H Documented as Administered at 1930 by Respondent. No wastage.	Not Available

Date	Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Nurse's Notes
08-24-03	SH	None	Demerol 50mg Inj 0030 Qty: 2	Demerol 50-75mg Q4-6H Documented as Administered at 0015 by Respondent. No wastage.	Not Available
08-24-03	SH	None	Demerol 50mg Inj 0420 Qty: 1	Demerol 50-75mg Q4-6H Documented as Administered at "04" by Respondent. No wastage.	Not Available
08-24-03	AG	None	Morphine 10mg 0435 Qty: 1	MS04 10mg IM x 1 Documented as Administered at 0430 by Respondent; then "drawn through." No wastage.	Not Documented

18. From August 17 to August 24, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, misappropriated Demerol, Percocet and Morphine from the hospital and patients thereof.

19. On September 11, 2003 to September 12, 2003, Respondent, while employed as an LVN with Advantage Nursing Services, Houston, Texas, and on assignment at Methodist Sugar Land Hospital, Sugar Land, Texas, withdrew medications from the Medication Dispensing System (Pyxis) for patients, but failed to document, or accurately document the administration of these medications in the patients' medical records, as follows:

Date	Medical Record #	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Qty Withdrawn	MAR	Nurse's Notes
09-11-03	15114028	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Butorphanol 2mg/1ml Vial 2015 Qty: 1	Not Documented	Not Documented (See Note 1 Also)

Date	Medical Record #	Physician's Order	Medication Dispensing System Record (Pyxis) *Time and Qty* Withdrawn	MAR	Nurse's Notes
09-11-03	15114028	None	Meperidine 25mg/1ml SYRD 2015 Qty: 2	Not Documented	Not Documented
09-11-03	15114028	Ketorolac 30mg slow IVP q6h (Prn/Round the Clock) x 3 days maximum	Ketorolac 30mg/1ml Vial 2106 Qty: 1	Not Documented	Not Documented
09-11-03	15114028	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Nalbuphine 10mg/1ml Amp 2116 Qty: 1	Not Documented	Not Documented (See Note 1 Below Also)
09-11-03	15114028	Oxycodone 5mg/Acetaminophen 325mg 1-2 tabs PO q3-4h Prn Pain	Oxycodone + Acetaminop 5mg/1 Tab 2123 Qty: 2	Not Documented	(See Note 2 Below)
09-12-03	15114028	None	Meperidine 50mg/1ml SYRD 0011 Qty: 1	Not Documented	Not Documented
09-12-03	15114028	Diphenhydramine 25-50mg IV or IM or PO q4h Prn itching.	Diphenhydramine 50mg/1ml Vial 0627 Qty: 1	Not Documented	Not Documented
09-12-03	15114028	None	Meperidine 50mg/1ml SYRD 0628 Qty: 1	Not Documented	Not Documented
09-11-03	432299381	Ondansetron 4mg IVP q6h prn. If *Zofran ineffective*, give Promethazine 12.5mg IVP. May repeat x 1.	Promethazine 25mg/1ml Amp 2348 Qty: 1	Not Documented	(See Note 3 Below)
09-11-03	432299381	None	Meperidine 50mg/1ml SYRD 2348 Qty: 1	Not Documented	(See Note 3 Below)

Date	Medical Record #	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Qty Withdrawn	MAR	Nurse's Notes
09-12-03	432299381	Oxycodone 5mg/Acetaminophen 325mg 1-2 tabs PO q3-4h Prn Pain	Hydrocodon-Acet 5mg/500mg 5mg/1 Tab 0117 Qty: 2	Not Documented	Not Documented
09-12-03	432299381	None	Meperidine 50mg/1ml SYRD 0341 Qty: 1	Not Documented	Not Documented
09-12-03	432299381	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Butorphanol 2mg/1ml Vial 0615 Qty: 1	Not Documented	Not Documented (See Note 1 Below Also)
09-11-03	16126211	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Butorphanol 2mg/1ml Vial 2041 Qty: 1	Not Documented	Not Documented (See Note 1 and Note 4 Below Also)
09-11-03	16126211	None	Meperidine 25mg/1ml SYRD 2041 Qty: 2	Not Documented	Not Documented
09-11-03	16126211	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Butorphanol 2mg/1ml Vial 2123 Qty: 1	Not Documented	Not Documented (See Note 1 and Note 4 Below Also)
09-11-03	16126211	Oxycodone 5mg/Acetaminophen 325mg 1-2 tabs PO q3-4h prn pain.	Oxycodone + Acetaminop 5mg/1 Tab 2201 Qty: 2	Not Documented	Not Documented (See Note 5 Below Also)

Date	Medical Record #	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Qty Withdrawn	MAR	Nurse's Notes
09-11-03	16126211	None	Meperidine 50mg/1ml SYRD 2201 Qty: 1	Not Documented	Not Documented (See Note 5 Below Also)
09-12-03	16126211	None	Meperidine 50mg/1ml SYRD 0114 Qty: 1	Not Documented	Not Documented (See Note 5 Below Also)
09-12-03	16126211	None	Meperidine 50mg/1ml SYRD 0616 Qty: 1	Not Documented	Not Documented
09-12-03	16126211	Ondansetron 4mg IVP q6h prn. If Zofran ineffective, give Promethazine 12.5mg IVP. May repeat x 1.	Promethazine 25mg/1ml Amp 0627 Qty: 1	Not Documented	Not Documented
09-12-03	16126211	Oxycodone 5mg/Acetaminophe n 325mg 1-2 tabs PO q3-4h prn pain.	Oxycodone + Acetaminop 5mg/1 Tab 0715 Qty: 2	Not Documented	Not Documented
09-12-03	16126211	None	Meperidine 100mg/1ml SYRD 0715 Qty: 1	Not Documented	Not Documented

Note 1: Although there was technically an order for the Stadol and Talwin, it was for itching related to the epidural, and was ordered as q4h only if the Revex did not work. None of the patients that had Stadol or Talwin withdrawn for them were given Revex for itching. In addition, there was no documentation of itching, or that the medications were given at all.

Note 2: Respondent withdrew two (2) tablets of Percocet UD from the Medication Dispensing System, on 09-11-03, at 2123, for Medical Record # 15114028. The administration of the Percocet was not documented on the Medication Administration Record for Medical Record # 15114028. There are no Nursing Note entries made by Respondent at or around 2123, on 09-11-03, pertaining to the Percocet. There was a shift assessment by Respondent at 2241, on 09-11-03, reading: "moderate incisional pain, mild perineum pain, no uterine cramping, mild breast pain." There was a Nursing Note entry made by Respondent at 23:28, on 09-11-03, that read: "c/o pain medicated with percocet" and another Nursing Note entry made by Respondent at 0134, on 09-12-03, that read: "medicated with percocet." There is no evidence which would suggest that Respondent withdrew Percocet for Medical Record # 15114028, at or around 0134, on 09-12-03.

Note 3: Respondent assessed Medical Record # 432299381 and documents no nausea or pain.

Note 4: On 09-11-03, Respondent withdrew one (1) Stadol at 2041, and another Stadol at 2123, for Medical Record # 16126211. The Stadol was ordered q4h, if the Revex was ineffective.

Note 5: On 09-11-03 at 2239, Respondent assessed Medical Record # 16126211 with no pain. On 09-12-03, at 0136 and 0137, Respondent assessed Medical Record # 16126211 with no pain and noted as asleep, respectively.

20. On June 13, 2005, Respondent, while employed as an LVN with Brazos Presbyterian Home, d/b/a Isla Carroll Turner Health Care Facility, Houston, Texas, lacked fitness to practice vocational nursing, in that she had a flushed face, slurred speech, and poor eye focus and her affect and demeanor were unusual. Furthermore, Respondent opted to resign her position "on-the-spot" at Isla Carroll Turner Health Care Facility, when she was requested to submit to a reasonable suspicion drug and alcohol test.

IV. CONCLUSIONS OF LAW

1. The Board of Nurse Examiners for the State of Texas (Board) has jurisdiction over this matter pursuant to the Nursing Practice Act, TEX. OCC. CODE ANN. § 301.453.

2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this matter, including the authority to issue a proposal for decision with findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003 and TEX. OCC. CODE ANN. § 301.454.

3. Proper and timely notice was effected upon Respondent pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and 22 TEX. ADMIN. CODE (TAC) §§ 213.10 and 213.22.

4. The allegations stated in Findings of Fact Nos. 7 - 20 are deemed admitted as true. 1 TAC § 155.55.

5. Based on Findings of Fact Nos. 7-19, Respondent violated TEX. OCC. CODE ANN. § 302.402(a)(10).

6. Based on Finding of Fact No. 12, Respondent violated TEX. OCC. CODE ANN. § 301.452(b)(3).

7. Based on Findings of Fact Nos. 12 and 20, Respondent violated TEX. OCC. CODE ANN. § 301.452(b)(10).

8. Based on Findings of Fact Nos. 9-11, 17 and 19, Respondent violated the Controlled Substances Act, TEX. HEALTH AND SAFETY CODE ANN. ch. 481.

9. Based on Findings of Fact Nos. 7 and 12, Respondent violated 22 TAC § 239.11(29)(A)(iv).

10. Based on Finding of Fact No. 8, Respondent violated 22 TAC § 239.11(8).

11. Based on Findings of Fact Nos. 9-11, 17, and 19, Respondent violated 22 TAC § 239.11(2) and (4).

12. Based on Findings of Fact Nos. 9-11 and 19, Respondent violated 22 TAC § 239.11(3).

13. Based on Findings of Fact Nos. 9 and 12-19, Respondent violated 22 TAC § 239.11(28).

14. Based on Findings of Fact Nos. 10 and 11, Respondent violated 22 TAC § 239.11(27)(G) and (K).

15. Based on Findings of Fact Nos. 12-16, Respondent violated 22 TAC § 239.11(5) and (7).

16. Based on Findings of Fact Nos. 12-16, and 18, Respondent violated 22 TAC § 239.11(6).

17. Based on Finding of Fact No. 18, Respondent violated 22 TAC § 239.11(1).

18. Based on Finding of Fact No. 20, Respondent violated 22 TAC § 217.12(1)(B) and (E), (4) and (5).

19. Based on the foregoing findings of fact and conclusions of law, the Board should revoke Permanent License No. 141585 issued to Respondent pursuant to TEX. OCC. CODE ANN § 301.453.

SIGNED January 13, 2006.

GEORGIE B. CUNNINGHAM
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS