

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 181856 §
issued to MARCIE DAWN POLK § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board considered the matter of MARCIE DAWN POLK, Vocational Nurse License Number 1818; hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(2)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on March 5, 2010, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.
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 South Plains College, Plainview, Texas, on August 16, 2001. Respondent was licensed to practice vocational nursing in the State of Texas on October 4, 2001.
5. Respondent's nursing employment history is unknown.



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.
Katherine A. Thomas
Executive Director of the Board

6. On or about October 18, 2007, Respondent was issued the sanction of WARNING WITH STIPULATIONS by the Board of Nurse Examiners for the State Texas. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated October 18, 2007, is attached and incorporated, by reference, as part of this Order.
7. On or about July 7, 2006, Respondent was arrested by the Potter County Sheriff's Department, Amarillo, Texas, and subsequently charged with THEFT OF PROPERTY OR SERVICE OF AT LEAST \$20.00 BUT LESS THAN \$500.00 (a Class B Misdemeanor offense). On or about July 7, 2006, Respondent entered a plea of Guilty and was convicted of ISSUANCE OF A BAD CHECK (a Class C Misdemeanor offense committed on August 20, 2003), in the County Court in and for Potter County, Texas, under Cause Number 107114-P. As a result of the conviction, Respondent was ordered to pay a fine and court costs.
8. On or about March 12, 2007, Respondent submitted a Texas Online Renewal Document Licensed Vocational Nurse to the Board of Nurse Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information, in that she answered "No" to the question:

"Have you ever been convicted, placed on community supervision whether or not adjudicated guilty, sentenced to serve jail or prison time or granted pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests (excluding minor Class C traffic violations)? This includes expunged offenses and deferred adjudication with or without a finding of guilt. Please note that DUIs, DWIs, and PI's must be reported and are not considered minor traffic violations. One time minor in possession [MIP] or minor in consumption [MIC] does not need to be disclosed; therefore, you may answer "No." If you have two or more MIPs or MICs, you must answer "Yes". You may answer "No" if you have previously disclosed a criminal matter otherwise responsive to this question in a renewal and/or licensure form."

Respondent failed to disclose that on or about July 7, 2006, Respondent entered a plea of Guilty and was convicted of ISSUANCE OF A BAD CHECK (a Class C Misdemeanor offense committed on August 20, 2003), in the County Court in and for Potter County, Texas, under Cause Number 107114-P.

9. In response to Findings of Fact Number Seven (7) and Eight (8), Respondent states that she was unaware that she had an unpaid check from 2003 and was notified in 2006 of the incident. She was advised that the charge was set as a warrant for her arrest. She went to the courthouse paid her fine and had to give her fingerprints only. She did not report it to the Board believing it was not on her record

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 violations of Section 301.452(b)(2)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(I).
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 181856, heretofore issued to MARCIE DAWN POLK, including revocation of Respondent's license to practice vocational nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a REPRIMAND WITH STIPULATIONS and RESPONDENT SHALL comply 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 this Order.

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.

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 nurse licensure compact 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 that:

- (1) RESPONDENT SHALL pay a monetary fine fee in the amount of five hundred

(\$500) dollars. RESPONDENT SHALL pay this fine within forty-five days of entry of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for re-licensure. *Board-approved courses may be found at the following Board website address: <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.*

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT's license to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order,
RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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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. 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 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 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 3rd day of June, 2010.

Marcie Dawn Polk
MARCIE DAWN POLK, Respondent

Sworn to and subscribed before me this 3rd day of June, 2010.

SEAL

Mary E. Brown

Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 3rd day of June, 2010, by MARCIE DAWN POLK, Vocational Nurse License Number 181856, and said Order is final.

Effective this 22nd day of July, 2010.



A handwritten signature in cursive script, appearing to read 'Katherine A. Thomas', is written over a horizontal line.

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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

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| In the Matter of Vocational Nurse | § | AGREED |
| License Number 181856 | § | |
| issued to MARCIE DAWN McHENRY | § | ORDER |

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of MARCIE DAWN McHENRY, Vocational Nurse License Number 181856, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on August 5, 2007, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Respondent waived representation by counsel, informal conference, 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 South Plains College, Plainview Extension, Plainview, Texas, on August 16, 2001. Respondent was licensed to practice vocational nursing in the State of Texas on October 4, 2001.

5. Respondent's vocational nursing employment history includes:

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|--------------------|--|
| 10/01 to 6/02 | Licensed Vocational Nurse (LVN) Covenant Hospital Plainview Plainview, Texas |
| 6/02 to Unknown | LVN TTHSC Clements Unit Amarillo, Texas |
| 2/2/04 to 11/23/04 | LVN Covenant Hospital Plainview Plainview, Texas |
| 12/04 | Unknown |
| 2005 to Present | LVN Medical Office of David Wright, D.O. Plainview, Texas |

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as a LVN with Covenant Hospital Plainview, Plainview, Texas, and had been in this position for nine (9) months.

7. On or about November 20, 2004, while employed as a LVN with Covenant Hospital Plainview, Plainview, Texas, Respondent failed to obtain vital signs on newborn infants, as follows:

- Medical Record Number 2027259, who had physician's orders for vital signs every eight hours, and there were no vital signs from 1500 on November 19, 2004, until 0600 on November 20, 2004, a total of fifteen (15) hours. Respondent was assigned care of the patient for seven (7) of those fifteen (15) hours; and
- Medical Record Number 2027276, who had physician's orders for vital signs routinely. No vital signs were recorded in the patient medical record from 1500 on November 19, 2004, until 0800 on November 20, 2004, a total of seventeen (17) hours. Respondent was assigned care of the patient three (3) hours and thirty (30) minutes of those seventeen (17) hours.

Respondent's conduct was likely to injure the newborn patients from failure to assess for any changes in their medical status which could result in delays in any needed medical interventions.

8. On or about November 20, 2004, while employed as a LVN with Covenant Hospital Plainview, Plainview, Texas, Respondent falsely documented the 0600 vital signs of several newborn infants in that Respondent did not obtain the vital signs at that time. All of the patients had another set of vital signs documented by 0800, by the next shift. Respondent's conduct resulted in inaccurate medical records, and was likely to injure patients in that subsequent caregivers would have relied on her documentation while providing further care to the patients.

9. On or about November 20, 2004, while employed as a LVN with Covenant Hospital Plainview, Plainview, Texas, Respondent disclosed confidential patient information, including the Human Immunodeficiency Virus (HIV) status of a patient, to her husband. Respondent's conduct violated § 81.103, Texas Health and Safety Code, and was likely to injure the patient from disclosure of confidential information to the public.
10. In response to the incidents in Findings of Fact Numbers Eight (8) through Nine (9), Respondent states that she obtained the vital signs of the patients at midnight, that the shift was very busy, and that there was only herself and a LVN orientee on duty. Respondent states she reported to the next shift that she did not obtain 0600 vital signs, and asserts that the vital signs were scheduled to be obtained at 0600 per unit policy, and not by a specific physician's order. In contrast, Respondent indicates that routine vital signs were to be obtained every 12 hours. Regarding the HIV disclosure, Respondent states that she knew the patient as a friend and that her husband is a minister. When the patient's "significant other," who also knew Respondent's husband, asked Respondent to contact her husband to pray for them, Respondent answered that she could not disclose patient information but that she would contact her husband. Respondent states she did not disclose any confidential medical information.

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 violations of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§ 217.11(1)(D),(1)(E)&(2)(A) and 217.12(1)(A),(4)&(6)(A).
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 181856, heretofore issued to MARCIE DAWN McHENRY, including revocation of Respondent's license to practice vocational nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Vocational Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice vocational nursing in compact states.

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 State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to MARCIE DAWN McHENRY, to the office of the Board of Nurse Examiners within ten (10) days from the date of ratification of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding Sexual Misconduct, Fraud, Theft and Deception, Nurses with Chemical Dependency, and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bne.state.tx.us/about/stipscourses.html>.*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bne.state.tx.us/about/stipscourses.html>.*

(4) RESPONDENT SHALL pay a monetary fine in the amount of eight hundred dollars (\$800.00). RESPONDENT SHALL pay this fine within ninety (90) days of entry of this Order. Payment is to be made directly to the Board of Nurse Examiners in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A LICENSED VOCATIONAL NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE

STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(6) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(7) RESPONDENT SHALL be supervised by a Registered Nurse or a Licensed Vocational Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse

employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(8) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT's capability to practice nursing. These reports shall be completed by the Registered Nurse or Licensed Vocational Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) months for one (1) year of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice vocational 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. 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 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 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 5th day of September, 2007.

Marcie Dawn McHenry WN
MARCIE DAWN McHENRY, Respondent

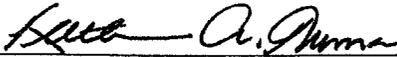
Sworn to and subscribed before me this 5th day of September, 2007.

Mary Lu Rangel
Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 5th day of September, 2007, by MARCIE DAWN McHENRY, Vocational Nurse License Number 181856, and said Order is final.

Effective this 18th day of October, 2007.



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