

6. On or about January 16, 2005, Respondent was arrested by Fort Worth Police Department, Fort Worth, Texas for DRIVING WHILE INTOXICATED (a Class B misdemeanor offense).

On or about August 26, 2005, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED (a Class B Misdemeanor offense committed on January 16, 2005), in the County Criminal Court Number Nine Tarrant County, Texas under Case No. 0963193. As a result of the conviction, Respondent was sentenced to confinement in the Tarrant County Jail for a period of one hundred eighty (180) days; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of twenty-four (24) months. Additionally, Respondent was ordered to pay a fine and court costs.

7. In response to Finding of Fact Number Six (6), Respondent states that she had gone to a club with some of her friends. After leaving the club, she was pulled over and arrested for DWI. She spent the night in jail and was released the next morning on bond. She states that she learned her lesson and that she dutifully met all the provisions of her probation and was released from probation August 24, 2007. She has informed all her employers of her offense.
8. On or about September 3, 2005, Respondent submitted a License Renewal Form to the Board of Nurse Examiners for the State of Texas in which she answered "No" to the question:

"Have you been convicted, adjudged guilty by a court, 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 traffic violations) since your last renewal? This includes expunged offenses and deferred adjudications with or without prejudice 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".)" Respondent failed to disclose the following conviction:

On or about August 26, 2005, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED (a Class B Misdemeanor offense committed on January 16, 2005), in the County Criminal Court Number Nine Tarrant County, Texas under Case No. 0963193. As a result of the conviction, Respondent was sentenced to confinement in the Tarrant County Jail for a period of 180 Days; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of twenty-four (24) months. Additionally, Respondent was ordered to pay a fine and court costs.

9. In response to Finding of Fact Number Eight (8), Respondent states she has informed all her employers of her offense but has "no reason for non-disclosure." She relies on the job as a means of financial support and would never jeopardize her career.

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 158964, heretofore issued to SHERRY KATRINA ASBURY, 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 REMEDIAL EDUCATION WITH A FINE, 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 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, 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 relicensure. *Board-approved courses may be found at the following Board website address:* <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.

(2) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars (\$250.00). RESPONDENT SHALL pay this fine within forty-five (45) 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.

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.

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 when this Order becomes final and the terms of this Order become effective, 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 2 day of June, 2010.

Sherry Katrina Asbury
SHERRY KATRINA ASBURY, Respondent

Sworn to and subscribed before me this 7 day of June, 2010.

Betty Winkelman

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 ratify and adopt the Agreed Order that was signed on the 9 day of June, 2010, by SHERRY KATRINA ASBURY Vocational Nurse License Number 158964, and said Order is final.



Effective this 29 day of June, 2010.

Katherine A. Thomas

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