

Respondent's vocational nursing employment history continued:

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|-------------------|-----------------------------|--------------------------------------------------------|
| 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

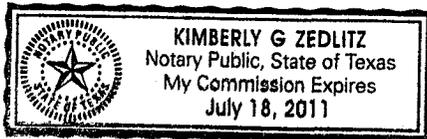
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer 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 28th 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