

Respondent's vocational nursing employment history continued:

12/2002 - 08/2007	Not Employed in Nursing	
08/2007 - 11/2008	LVN	Huntsville Memorial Hospital Huntsville, Texas
12/2008 - Present	LVN	Avatar Home Health

6. At the time of the incident, Respondent was employed as a vocational nurse with Huntsville Memorial Hospital, Huntsville, Texas, and had been in this position for six (6) months.
7. On or about February 19, 2008, while employed as a Licensed Vocational Nurse with Huntsville Memorial Hospital, Huntsville, Texas, you engaged in the intemperate use of Marijuana, in that you produced a specimen for a drug screen which resulted positive for Marijuana. . Possession of Marijuana, is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Marijuana by a Vocational Nurse, while subject to call or duty, could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.
8. In response to Finding of Fact Number Seven (7), Respondent states: "My employer came to me and told me that she had been told that I smoke marijuana on my time off. She apologized for what she believed was a vindictive act. I, in the end, had to apologize to my employer for me irresponsible lapse in judgement, and was suspended from my job until further notice. To help me quit smoking marijuana, I exercised and joined the Right Step IOP and group meetings."
9. On or about March 18, 2008, you produced a specimen for a random drug screen by the Texas Peer Assistance Program for Nurses (TPAPN), which resulted positive for Cannabinoid. Possession of Cannabinoid, is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Cannabinoid by a Vocational Nurse, while subject to call or duty, could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.
10. In response to Finding of Fact Number Nine (9), Respondent states: "My TPAPN case manager called me to inform me that my drug screen was positive for marijuana. I informed her that I have not smoked marijuana since February 18, 2008. She then proceeded to ask if I had been exercising or anything else. She informed me that I needed to quit exercising due to something in marijuana being stored in fat cells and released from them when exercising. I was screened less than 30 days and I believe it had not worked its way out of my system yet."

11. On or about May 10, 2008, you failed to submit to a drug screen requested by the Texas Peer Assistance Program for Nurses (TPAPN).
12. In response to Finding of Fact Number Eleven (11), Respondent states: "On May 10, 2008, I forgot to call NCPS and did not realize that I was selected for testing. I started to set an alarm and never forgot to call NCPS again."
13. On or about June 19, 2008, you produced a specimen for a random drug screen by the Texas Peer Assistance Program for Nurses (TPAPN), which resulted positive for Tramadol. Subsequently, you failed to produce a valid prescription for the medication. Possession of Tramadol, is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Tramadol by a Vocational Nurse, while subject to call or duty, could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.
14. In response to Finding of Fact Number Thirteen (13), Respondent states: "I tested positive for Ultram. I was ignorant about the medication guidelines and forgot to inform TPAPN that my doctor placed me on Ultram for migraines. The RX was shown to my employer and my doctor faxed an RX to TPAPN."
15. On or about November 14, 2008, while employed as a Licensed Vocational Nurse with Huntsville Memorial Hospital, Huntsville, Texas, you engaged in the intemperate use of Alcohol, in that you a specimen for a random drug screen by the Texas Peer Assistance Program for Nurses (TPAPN), which resulted positive for EtG . Additionally, you admitted to using alcohol. The use of EtG by a Vocational Nurse, while subject to call or duty, could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.
16. In response to Finding of Fact Number Fifteen (15), Respondent states: "I had a glass of wine before bed which resulted in a positive EtG on November 14, 2008. I was discharged from TPAPN and as a result from being discharged from TPAPN my employer terminated me."
17. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Article 4525a, TEX. REV. STAT. ANN.
18. 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.
19. Respondent's conduct described in Findings of Fact Numbers Seven (7) through Sixteen (16) was significantly influenced by Respondent's impairment by dependency on chemicals.

20. 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)(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(A). and 22 TEX. ADMIN. CODE §217.12(4),(5),(10)(A),(D)&(11)(B).
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 184956, heretofore issued to CYNTHIA LINDSAY MASON, 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 CYNTHIA LINDSAY MASON, 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 five hundred dollars (\$500) 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. If RESPONDENT'S work release would permit work in home health, RESPONDENT may work in such environments provided she is not assigned patients who require narcotic or mind altering medications.

(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.

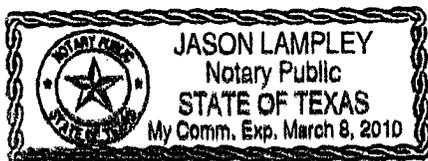
Signed this 14 day of August, 2009.

Cynthia Lindsay Mason

CYNTHIA LINDSAY MASON, Respondent

Sworn to and subscribed before me this 14 day of August, 2009.

SEAL

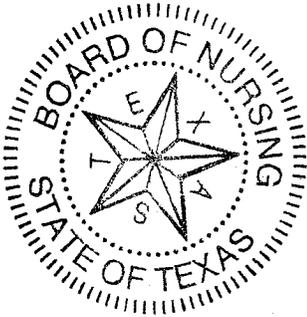


Jason Lampley

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 the 14th day of August, 2009, by CYNTHIA LINDSAY MASON, Vocational Nurse License Number 184956, and said Order is final.

Entered and effective this 18th day of August, 2009.




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