BEFORE THE TEXAS BOARD OF NURSING
****

In the Matter of Vocational Nurse License Number 56937 issued to MARILEE M. DENSON	§ § §	REINSTATEMENT AGREED ORDER

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

On this day came to be considered by the Texas Board of Nursing, herein referred to as the Board, the Petition for Reinstatement of Vocational Nurse License Nun 56937, held by MARILEE M. DENSON, hereinafter referred to as Petitioner.

An informal conference was held on March 25, 2008, 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 Denise Benbow, MSN, RN, Nurse Consultant, Executive Director's Designee; Carol Marshall, MSN, RN, Nurse Consultant; Victoria Cox, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director of Enforcement; Scott Torres, Investigator; Nancy Krause, RN, Investigator; 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 representation by counsel, notice and hearing, and consented to the entry of this Order.

3. Petitioner received a Certificate in Vocational Nursing from South Plains College, Lubbock, Texas, on April 19, 1973. Petitioner was originally licensed to practice vocational nursing in the State of Texas on July 19, 1973.

4. Petitioner's vocational nursing employment history includes:

1973 - 1993	LVN	Stamford Memorial Hospital Stamford, Texas
1993 - 1999	LVN	Mabee Clinic Stamford, Texas
2000 - 2002	LVN	TDC - Robertson Unit Hamby, Texas
2002 - 2004	LVN	Emerald Correctional Facility Haskell, Texas
2005 - Present	Not employed in nursing	

5. On September 14, 2004, was issued an Agreed Order by the Board of Nurse Examiners for the State of Texas which required her to participate in and successfully complete the Texas Peer Assistance Program for Nurses. A copy of the Findings of Fact, Conclusions of Law, and September 14, 2004, Order is attached and incorporated, by reference, as a part of this Order.

6. On January 28, 2005, the Board of Nurse Examiners for the State of Texas accepted the voluntary surrender of Petitioner's license to practice vocational nursing in the State of Texas. A copy of the Findings of Fact, Conclusions of Law, and January 28, 2005, Order is attached and incorporated, by reference, as a part of this Order.

7. On January 12, 2005, Petitioner plead guilty to the offense of Fraud, Third Degree Felony, under Cause No. 6049, in the 39th Judicial District Court of Haskell County, Texas. An adjudication of guilt was deferred, and Petitioner was placed on community supervision for a period of two (2) years. On January 12, 2007, Petitioner was discharged from probation.

8. On or about October 4, 2007, Petitioner submitted a Petition for Reinstatement of her License to practice vocational nursing in the State of Texas.

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

9.1. Letter of support, dated February 10, 2007, from Ryan Peacock, Community Supervision Officer, 39th Judicial district CSCD, Haskell, Texas, states that Petitioner was on community supervision from January 12, 2005 to January 12, 2007. Petitioner complied with each and every condition set by the court in a timely manner. Mr. Peacock stated that Petitioner worked very hard to complete her term and did so successfully.

9.2. Letter of support from Douglas Stanley, LBSW, Facility Director, Sagebrush Living Center, Stamford, Texas, states that Petitioner has worked for Sagebrush Living Center for the past two (2) years, and has proven to be a very reliable employee. Petitioner is currently in charge of teaching a group of individuals who are mentally handicapped skills that will assist them in obtaining employment. Mr. Stanley states that Petitioner has demonstrated the ability to perform her job at a very high level.

9.3. Letter of support, dated March 2, 2007, from Karla Brewer, states that she has worked with Petitioner for the past two (2) years at Sagebrush Living Center, Stamford, Texas, and she is very caring and loving to the residents. Petitioner would be an asset to the medical field with her strong nursing skills and compassionate nature.

9.4. Letter of support, dated February 2, 2007, from Kay M. Dalbert, Program Director, Sagebrush Living Center, Stamford, Texas, states that she has worked with Petitioner for the past two (2) years. Ms. Dalbert states that Petitioner is a diligent and loyal employee and has been an asset to the residents and her co-workers. Petitioner displays a strong work ethic and performs duties above and beyond the call of duty. Ms. Dalbert recommends reinstatement of Petitioner's nursing license.

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

10. Petitioner gives December 2004, 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. 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 MARILEE M. DENSON, Vocational Nurse License Number 56937, to practice vocational nursing in the state of Texas, be and the same is hereby DENIED, WITH THE DENIAL STAYED, AND 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 §211.01 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 nursing in the State of Texas, which shall bear the appropriate notation. Said license issued to MARILEE M. DENSON, shall be subject to the following agreed post-licensure stipulations:

(2) PETITIONER SHALL pay a monetary fine in the amount of three hundred fifty dollars ($350.00). PETITIONER SHALL pay this fine within forty-five (45) days of re-licensure. 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.

(3) PETITIONER SHALL, within one (1) year of relicensure, successfully complete a course in nursing jurisprudence and ethics. PETITIONER 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 Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. PETITIONER 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 PETITIONER's successful completion of the course. This course is to be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board may have for relicensure. *Board-approved courses may be found at the following Board website address: http://www.bon.state.tx.us/disciplinary action*.

IT IS FURTHER AGREED, SHOULD PETITIONER PRACTICE AS A VOCATIONAL NURSE IN THE STATE OF TEXAS, PETITIONER WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) 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:

(4) PETITIONER SHALL notify all future employers in vocational nursing of this Order of the Board and the stipulations on PETITIONER's license. PETITIONER 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.

(5) PETITIONER SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Petitioner by the Board, to the Board's office within five (5) days of employment as a vocational nurse.

(6) For the first year of employment as a vocational nurse under this Order, PETITIONER SHALL be directly supervised by a Registered Nurse or a Licensed Vocational Nurse. Direct supervision requires another professional or vocational nurse to be working on the same unit as PETITIONER and immediately available to provide assistance and

intervention. PETITIONER SHALL work only on regularly assigned, identified and predetermined unit(s). The PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(7) For the remainder of the stipulation period, PETITIONER 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 PETITIONER, 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 Petitioner is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(8) PETITIONER SHALL NOT practice as a vocational nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Petitioner is regularly assigned for one (1) year of employment as a vocational nurse.

(9) PETITIONER SHALL NOT practice as a vocational nurse in any critical care area for one (1) year of employment as a vocational nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(10) PETITIONER SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a vocational nurse.

(11) PETITIONER SHALL CAUSE each employer to submit, on forms provided to the Petitioner by the Board, periodic reports as to Petitioner's capability to practice vocational nursing. These reports shall be completed by the Registered Nurse or Licensed Vocational Nurse who supervises the PETITIONER. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) months for two (2) years of employment as a vocational nurse.

(12) PETITIONER SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, PETITIONER SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and PETITIONER SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.**

(13) PETITIONER SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the second three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the stipulation period, random screens shall be performed at least once every three (3) months.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the PETITIONER's place of employment at any time during the stipulation period and require PETITIONER to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. PETITIONER SHALL be responsible for the costs of all random drug screening during the stipulation period.

Any positive result for which the nurse does not have a valid prescription will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board. Failure to report for a drug screen may be considered the same as a positive result and may result in further disciplinary action by this Board.

(14) PETITIONER SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and PETITIONER SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by PETITIONER. PETITIONER SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) months. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, PETITIONER 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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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.

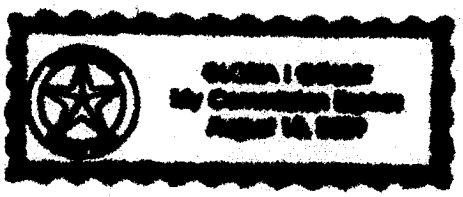
Signed this 7 day of May, 2008.

Marilee M. Denson

MARILEE M. DENSON, Petitioner

Sworn to and subscribed before me this 7th day of May, 2008.

SEAL



Gloria L. Goulet

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 7th day of May, 2008, by MARILEE M. DENSON, Vocational Nurse License Number 056937, and said Order is final.

Effective this 10th day of June, 2008.

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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

****

In the Matter of License Number 056937	§	AGREED
issued to MARILEE M. DENSON	§	ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of MARILEE M. DENSON, Vocational Nurse License Number 056937, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 302.402 (a) (9) & (10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on July 19, 2004, by Katherine A. Thomas, MN, RN, Executive Director.

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, Lubbock, Texas, on July 19, 1973. Respondent was licensed to practice vocational nursing in the State of Texas on July 19, 1973.

5. Respondent's complete vocational nursing employment history is unknown.

6. At the time of the incident, Respondent was employed as a Staff Nurse with Hendrick Medical Center, Abilene, Texas.

7. On or about October 2003, through November 2003, while employed with Hendrick Medical Center, Abilene, Texas, Respondent misappropriated Darvocet and narcotics belonging to the facility and/or the patients thereof, or failed to take precautions to prevent such misappropriation. Respondent admitted that she misappropriated Darvocet and substituted placebos. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

8. On or about October 2003, through November 2003, while employed with Hendrick Medical Center, Abilene, Texas, Respondent engaged in the intemperate use of Darvocet (Propoxyphene Napsylate). Possession of Propoxyphene Napsylate is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Propoxyphene Napsylate by a Licensed Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

9. On or about October 2003, through November 2003, while employed with Hendrick Medical Center, Abilene, Texas, Respondent made false entries in the patients' Medication Administration Record (MAR) and/or nurses notes regarding the administration of narcotics. Respondent admitted to substituting alternative pain medications. Respondent's conduct was likely to injure the patient in that failure to administer medications as ordered by the physician could have resulted in nonefficacious treatment.

10. Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.

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.

12. Respondent's conduct described in Findings Seven (7) through nine (9) was significantly influenced by Respondent's impairment by dependency on chemicals.

13. 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 302.402 (a) (9) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE § 239.11 (1), (2), (3), (4), (27) & (28).

4. The evidence received is sufficient cause pursuant to Section 301.452 (b), Texas Occupations Code, to take disciplinary action against License Number 056937, heretofore issued to MARILEE M. DENSON, including revocation of Respondent's vocational 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):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to and be accepted into the TPAPN, 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 contract to the Board of Nurse Examiners.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§ 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 privileges, if any, to practice vocational 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 State of Texas 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 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. 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 Board of Nurse Examiners, 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 10 day of September, 2004.

Marilee Denson

MARILEE M. DENSON, Respondent

Sworn to and subscribed before me this 10 day of September, 2004.

SEAL

Patricia Annette Daniel

Notary Public in and for the State of Texas

PATRICIA ANNETTE DANIEL
Notary Public State of Texas
My Commission Expires
03-13-08

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby accept and enter the Agreed Order that was signed on the 10th day of September, 2004, by MARILEE M. DENSON, License Number 056937, and said Order is final.

Entered and effective this 14th day of September, 2004.

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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS
****

In the Matter of License Number 056937	§	AGREED
issued to MARILEE M. DENSON	§	ORDER

On this day, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, accepted the voluntary surrender of License Number 056937, issued to MARILEE M. DENSON, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453 (c) of the Texas Occupations Code.

Respondent waived representation by counsel, informal conference and hearing, and agreed to the entry of this Order.

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

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to 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, notice and hearing, and agreed to the entry of this Order.

3. Respondent is currently licensed to practice professional nursing in the State of Texas.

4. Respondent received a Certificate in Vocational Nursing from South Plains College, Lubbock, Texas, on July 19, 1973. Respondent was licensed to practice vocational nursing in the State of Texas on July 19, 1973.

5. Respondent's complete vocational nursing employment history is unknown.

6. On or about September 14, 2004, Respondent was issued an Agreed Order by the Board of Nurse Examiners for the State of Texas which required her to apply and be accepted into the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Findings fo Fact, conclusions of Law, and Agreed Order dated September 14, 2004, is attached and incorporated by reference as part of this Order.

7. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with Emerald Healthcare - Rolling Plains Regional Jail and Detention Center, Haskell, Texas, and had been in this position for seven (7) months.

8. On or about October 30 - 31, 2004, while employed with Emerald Healthcare - Rolling Plains Regional Jail and Detention Center, Haskell, Texas, Respondent misappropriated sixty (60) Darvocet N100 tablets, including the control sheet, belonging to the facility and the patients thereof, and/or failed to take precautions to prevent such misappropriation. When confronted by the Deputy Sheriff, Respondent admitted to misappropriating sixty (60) Darvocet N100 and previously misappropriating thirty (30) Tylenol #3 tablets from the facility. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

9. On or about October 30 - 31, 2004, while employed with Emerald Healthcare - Rolling Plains Regional Jail and Detention Center, Haskell, Texas, Respondent engaged in the intemperate use of Darvocet N100 and Tylenol #3. Possession of Darvocet N100 and Tylenol #3 is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Darvocet N100 and Tylenol #3 by a Licensed Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

10. On or about October 29, 2004, Respondent failed to comply with the Agreed Order issued on September 14, 2004, by the Board of Nurse Examiners for the State of Texas. Non-compliance is the result of Respondent's failure to enroll and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). Stipulation number one (1) of the Agreed Order dated September 14, 2004, states in pertinent part that: (1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to and be accepted into the TPAPN.

11. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license to practice professional nursing in the State of Texas.

12. 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.

13. 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 violation of Section 301.452 (b) (1), (9) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE § 217.12 (5), (6) (G), (10) (A), (11) (B).

4. The evidence received is sufficient cause pursuant to Section 301.453 (d), Texas Occupations Code, to take disciplinary action against License Number 056937, heretofore issued to MARILEE M. DENSON, including revocation of Respondent's vocational license to practice nursing in the State of Texas.

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

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

7. Any subsequent reinstatement of this license will be controlled by Section 301.453 (d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of License Number 056937, heretofore issued to MARILEE M. DENSON, to practice vocational nursing in the State of Texas, is accepted by the Board of Nurse Examiners. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL immediately deliver the wallet-sized license, heretofore issued to MARILEE M. DENSON, to the office of the Board of Nurse Examiners.

2. RESPONDENT SHALL NOT practice vocational nursing, use the title "licensed vocational nurse" or the abbreviation "LVN" or wear any insignia identifying herself as a licensed vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a licensed vocational 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 multistate privilege, 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 becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 21 day of January, 20 05.

Marilee M Denson

MARILEE M. DENSON, Respondent

Sworn to and subscribed before me this 21 day of January, 20 05.

Patricia Annette Daniel

Notary Public in and for the State of Texas

SEAL

PATRICIA ANNETTE DANIEL
Notary Public State of Texas
My Commission Expires
03-13-08

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Board of Nurse Examiners for the State of Texas does hereby accept the voluntary surrender of License Number 056937, previously issued to MARILEE M. DENSON.

Effective this 28th day of January, 2005.

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