BEFORE THE TEXAS BOARD OF NURSING

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| In the Matter of | § |
| Vocational Nurse License Number 226766 | § |
| issued to RACHEL ANN BERTRAND | § |
| | § |

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

ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 226766, issued to RACHEL ANN BERTRAND, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing.

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

FINDINGS OF FACT

1. Respondent's license to practice vocational nursing in the State of Texas is in delinquent status.

2. Respondent waived representation by counsel, informal proceedings, notice and hearing.

3. Respondent received a Certificate in Vocational Nursing from Lamar University, Orange, Texas, on December 18, 2009. Respondent was licensed to practice vocational nursing in the State of Texas on February 9, 2010.

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

5. On or about April 28, 2011, Respondent was issued the sanction of a Reprimand with Stipulations through an Agreed Order by the Board. A copy of the April 28, 2011, Agreed Order, Finding of Fact, Conclusions of Law is attached and incorporated, herein by reference, as part of this Order.

6. On or about April 29, 2012, Respondent failed to comply with the Agreed Order issued to her on April 28, 2011, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number One (1) of the Order which states, in pertinent part:

> (1) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics....

7. On or about April 29, 2012, Respondent failed to comply with the Agreed Order issued to her on April 28, 2011, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Two (2) of the Order which states, in pertinent part:

> (2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in medication administration....

8. On or about April 29, 2012, Respondent failed to comply with the Agreed Order issued to her on April 28, 2011, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Three (3) of the Order which states, in pertinent part:

> (3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment....

9. On or about April 29, 2012, Respondent failed to comply with the Agreed Order issued to her on April 28, 2011, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Four (4) of the Order which states, in pertinent part:

> (4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation....

10. On January 30, 2013, the Board received a statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's statement, is attached and incorporated herein by reference as part of this Order.

## 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(s) of 22 TEX. ADMIN. CODE §217.12(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1) and (10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 226766, heretofore issued to RACHEL ANN BERTRAND, including revocation of Respondent's license(s) 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, the Board may impose conditions for reinstatement of licensure.

7. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC§§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

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## ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 226766, heretofore issued to RACHEL ANN BERTRAND, to practice nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice vocational nursing, use the title of vocational nurse or the abbreviation LVN or wear any insignia identifying herself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse during the period in which the license is surrendered.

2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order.

3. 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 nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

Effective this 30th day of January, 2013.

TEXAS BOARD OF NURSING

By: Katherine A. Thomas

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

BEFORE THE TEXAS BOARD OF NURSING

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| | | |
|---|---|---|
| In the Matter of Vocational Nurse | § | AGREED |
| License Number 226766 | § | |
| issued to RACHEL ANN BERTRAND | § | ORDER |

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of RACHEL ANN BERTRAND, Vocational Nurse License Number 226766, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(8),(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on February 28, 2011, 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(s).

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 Lamar University, Orange, Texas, on December 18, 2009. Respondent was licensed to practice vocational nursing in the State of Texas on February 9, 2010.

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

6. On or about October 15, 2010, the Louisiana State Board of Practical Nurse Examiners issued an Order denying Respondent licensure in the State of Louisiana. A copy of the Findings of Fact, Conclusions, and Order dated October 15, 2010 is attached and incorporated, by reference, as part of this Order.

## 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)(8),(10)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A)(B)(C)&(D), and 22 TEX. ADMIN. CODE §217.12(1)(B),(4),(5),(6)(A)&(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 226766, heretofore issued to RACHEL ANN BERTRAND, including revocation of Respondent's license(s) to practice 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 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(s) is/are

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, 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, within one (1) year of entry of this Order, successfully complete a course in medication administration. 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. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor 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.*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order

for the course to be approved, the target audience shall include Nurses. The didactic portion of this course shall be a minimum of six (6) hours in length. RESPONDENT SHALL perform physical assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The clinical component SHALL focus on tasks of physical assessment only and shall be provided by the same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. Performing assessments on mock patients or mannequins WILL NOT be accepted. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor 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.*

(4) 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.bon.state.tx.us/disciplinaryaction/stipscourses.html.*

(5) RESPONDENT SHALL pay a monetary fine in the amount of five hundred ($500) dollars. 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, SHOULD RESPONDENT PRACTICE AS A 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 TWO (2) YEAR(S) 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:**

(6) RESPONDENT SHALL notify each present employer in nursing of this Order

of the Board and the probation conditions 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 probation conditions 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.

(7) 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.

(8) For the first year of employment as a Nurse under this Order, RESPONDENT 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 RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). The 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.

(9) For the duration of the stipulation period, RESPONDENT SHALL be supervised by a Registered Nurse or 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.

(10) 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) month period for two (2) year(s) of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this _____ day of _____, 20____.

Rachel Ann Bertrand

RACHEL ANN BERTRAND, Respondent

Sworn to and subscribed before me this 18th day of March, 2011.

SEAL

dolores a. "dee" davis

Notary Public in and for the State of Louisiana

DOLORES A. "DEE" DAVIS
Notary Public
State of Louisiana
NOTARY ID NO. 2604
Calcasieu Parish

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 18th day of March, 2011, by RACHEL ANN BERTRAND, Vocational Nurse License Number 226766, and said Order is final.

Effective this 28th day of April, 2011.

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

LOUISIANA STATE BOARD OF PRACTICAL NURSE EXAMINERS
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METAIRIE, LOUISIANA 70002-3715
(504) 838-5791
FAX (504) 838-5279
www.lsbpne.com

**IN RE:** **Rachel Bertrand, Applicant for Licensure**
**S.S. # ending in - 4430**
**D.O.B. 9/19/1977**

This cause having come to be heard at a formal hearing conducted at the Board on September 16, 2010 at 9:00 A.M. upon the complaint filed in this matter.

## FINDINGS OF FACT

During the Formal Hearing Process, the following facts were confirmed:

1. On May 18, 2010, the respondent, Rachel Bertrand, Applicant for Licensure applied for endorsement to the State of Louisiana to obtain her practical nursing license. The respondent was originally licensed as a practical nurse in the State of Texas. Please refer to Exhibit B-1 through B-2.

2. On May 20, 2010 the respondent was terminated from Jennings Guest House after it was substantiated that she was negligent and insubordinate in her nursing duties. Please refer to Exhibits C-2, D-2, D-5 and D-6.

3. The respondent ***is guilty*** of failing to practice practical nursing in accordance with standards normally expected, patient neglect, and intentionally committing any act that adversely affects the physical or psychosocial welfare of a patient. The respondent failed to give a resident, M. Byrd her tube feedings and medications as ordered by the physician that were due during the respondent's shift. The MAR reflects that the respondent did administer the medications and feedings. Please refer to Exhibits C-2, D-6 through D-22.

   Please refer to the sworn testimony of Ms. Alison Dietz, RN, DON, Jennings Guest House recorded on page 4 through page 23 line 20 of the Hearing Transcript.

   Ms. Deitz, RN, DON, testified that an investigation was conducted after she was informed by the respondent's CNA and the licensed practical nurse who worked the shift prior to the respondent that resident M. Byrd's weight had dropped. Ms. Deitz testified that she couldn't understand why the resident was losing weight because she had an order for four cans of Jevity a day.
   Please refer to page 7 line 24 through page 8 line11 of the Hearing Transcript and to Exhibits D-7 and D-17.

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Both the LPN on the shift previous to the respondent and the CNA who worked with the respondent informed Ms. Dietz that the respondent was not giving resident, M. Byrd, her ordered tube feeding and medications. They also reported to Ms. Deitz that on April 29, 2010, and April 30, 2010, while working the 6:00 p.m. - 6:00 a.m. shift, the respondent did not enter Ms. Byrd's room her entire shift.
Please refer to pages 8- 10 of the Hearing Transcript.

Ms. Deitz, testified that she, Nicole Laborde, ADON and Theresa Benoit, CNA Supervisor reviewed the video tape of the respondent's last shift of April 29, 2010/April 30, 2010 6p-6a. Please refer to Page 11 line 14 - 20. She testified: "And that's when we saw that she went down the hall, and then she would come back up, and she never went to Ms. Byrd's room." Please refer to page 12 line 24 through page 13 line 1 and to Exhibit D-6.

When asked by Mr. Mulhall, Board Attorney: "So you were able to see what she did for that entire shift?", she replied: "Yes, sir. And it helped because the camera was right by Ms. Byrd's room." Please refer to page 13 line 8 - line 11 of the Hearing Transcript. "We observed her that the times she would go down the hall -- and she did stop her cart two or three times around Ms. Byrd's room but never entered Ms. Byrd's room, never even opened the door to peek in. ...Not even once."
Please refer to page 13 line 19 - line 25 of the Hearing Transcript.

She testified that she considered this to be "patient abuse, because this poor little lady would cry all the time. And she was getting four cans of Jevity a day -- or she was supposed to be -- and three of them on the night shift, so she was only getting one. And she cried all the time. She whined all the time."
Please refer to page 16 line 6 through line 12 of the Hearing Transcript and refer to Exhibit D-17.

When asked by Mr. Mulhall, Board Attorney: "Did you consider her to be a danger to the residents based on what you had seen?", she replied: Yes, she considered it patient neglect.

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She stated that there were two times that night that the resident's blood sugar was supposed to be checked, but since the respondent had not entered the room, she did not check the levels. She stated the respondent documented that she checked Ms. Byrd's blood sugar and "wrote down a number of what the blood -- what she, I guess, thought the blood sugar would have been; didn't give any of her medicine; signed out a narcotic and didn't give it to her. She didn't go into the room."
Please refer to page 15 lines 5-19 of the Hearing Transcript and to Exhibit D-22.

The Hearing Officer found Ms. Alison Dietz, RN, DON to be a competent witness whose presentations of above facts were well organized, knowledgeable, and well documented. The Hearing Officer further found the facts presented by this witness invalidated the written response of the respondent.

Please refer to the sworn testimony of Ms. Nicole Laborde, ADON, Jennings Guest House on pages 23 - page 40 of the Hearing Transcript.

Ms. Laborde testified that after receiving information that the resident's weight had dropped, she and Ms. Dietz, DON viewed the videotape of the respondents' last shift of April 29, 2010/April 30, 2010. "We observed that Ms. Rachel Bertrand did not enter Marjorie Byrd's room during her 12 hour shift." Please refer to page 28 line 3 through page 29 line 10 of the Hearing Transcript.

When asked by Mr. Mulhall, Board Attorney: "And from this videotape, were you able to observe for that entire 12-hour shift whether or not anybody went into Marjorie Byrd's room?", she replied: "Yes, sir."
Please refer to page 30 lines 21-25 of the Hearing Transcript.

The Hearing Officer found Ms. Nicole Laborde, ADON, Jennings Guest House to be a competent witness whose presentations of facts were well organized, knowledgeable, and well documented. The Hearing Officer further found the facts presented by this witness invalidated the written response of the respondent.

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4. The respondent ***is guilty*** of falsifying records, improper use of drugs, medical supplies, or patient records, and inappropriate, incomplete or improper documentation. Please refer to Exhibits D-13, D-16, and D-17 through D-22.

On April 29, 2010, at 20:46, the respondent documented the following in resident M. Byrd's progress notes: Resident is being skilled for observation of peg site. Site is intact. Resident is resting in bed with eyes closed. No complaints of pain or discomfort. Please refer to Exhibit D-13.

On April 29, 2010, at 04:40, the respondent documented on resident M. Byrd's Intake sheet that her fluid intake was 1200. Please refer to Exhibit D-16.

On April 29, 2010, the respondent documented on resident M. Byrd's MAR that she gave the resident her feedings at 0000, 0600 and 1900. On April 30, 2010, the respondent documented on the resident's MAR feeding the resident at 0000 and 0600. Please refer to Exhibit D-17. The respondent also documented on Ms. Byrd's MAR that she gave the resident her ordered medications on April 29, 2010/April 30, 2010. Please refer to Exhibits D-18 through D-22. However, it was discovered that the respondent did not enter the resident's room on her 6:00 pm. - 6:00 a.m. shift of April 29 and 30, 2010.

Please refer to the sworn testimony of Ms. Alison Dietz, RN, DON, Jennings Guest House, recorded on page 4 through page 23 line 20 of the Hearing Transcript.

> Ms. Dietz, when asked by Mr. Mulhall, Board Attorney: "So, in your opinion, did Rachel Bertrand also falsify medical documents?", she replied: "Yes." She testified that the respondent documented on the residents' MAR and progress reports that she administered Ms. Byrd's medication and feedings. Ms. Dietz testified: "first of all, she charted that she did an assessment on Ms. Byrd. She documented that she checked the blood sugar and even wrote down the numbers, what it was. For that particular evening Ms. Byrd didn't get any of her medicine; didn't get her narcotic, her Xanax to help her."
> Please refer to page 17 lines 4-17 of the Hearing Transcript.
>
> Ms. Dietz testified that Ms. Bertrand charted that she gave Xanax to Ms. Byrd that she didn't give.
> Please refer to page 21 line 15 through page 22 line 7 of the Hearing Transcript and Exhibit D-20.

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The Hearing Officer found Ms. Alison Dietz, RN, DON to be a competent witness whose presentations of facts were well organized, knowledgeable, and well documented. The Hearing Officer further found the facts presented by this witness invalidated the written response of the respondent.

Please refer to the sworn testimony of Ms. Nicole Laborde, ADON, Jennings Guest House, on page 23 through page 40 of the Hearing Transcript.

> According to the sworn testimony of Ms. Nicole Laborde, ADON, Jennings Guest House, the respondent documented that she gave the resident her medications and feedings and took the resident's Accu-Cheks. She referred to Exhibit D-17 for April 29, 2010, and stated that the respondent initialed that she administered a can of Jevity 1.5 three times in that shift. She stated: "That did not occur because Ms. Marjorie Byrd was in her room and she did not enter the room." Everything that has Ms. Rachel's initials -- the "rxb" -- was false documentation including her finger sticks which measures her blood glucose levels.... And also there was a Xanax that was administered that she signed that she administered."
> Please refer to page 33 line 23 through page 35 line 17 of the Hearing Transcript and Exhibits D-17 through D-22.
>
> Ms. Laborde refuted the respondent's written statement submitted to the board on which the respondent indicated that she gave Ms. Byrd her medications in the day room on that scheduled shift.
> Please refer to Exhibit F-1.
>
> Mr. Mulhall asked Ms. Laborde: "Okay. From 6 p.m. to 6 a.m., is there any way that Marjorie Byrd, assuming she was in her room, came out of that room?", she replied: "No, sir." "And that's because you can tell that because of the videotape?" "Correct." "So, in fact, it would not have been possible, would it have been, for Ms. Bertrand to administer meds to Ms. Byrd in the day room during that 12-hour shift?", "No, sir."
> Please refer to page 37 lines 14-25 of the Hearing Transcript.

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When asked by the Hearing Officer: "how many cameras are in that agency?", she replied: "12". "Did you all check the camera tape in the day room to see if perhaps Rachel might have given her the medicine there?", she replied: "Yes, ma'am. We followed Rachel for the 12-hour period." "So if Rachel, in fact, said she gave them to her, you can prove by the tapes that she did not?", She replied: "Yes, ma'am."
Please refer to page 38 line 10 - page 39 line 4 of the Hearing Transcript.

The Hearing Officer found Ms. Nicole Laborde, ADON, Jennings Guest House to be a competent witness whose presentations of facts were well organized, knowledgeable, and well documented. The Hearing Officer further found the facts presented by this witness invalidated the written response of the respondent.

5. The respondent ***is guilty*** of working as a licensed practical nurse without being duly licensed to do so at Jennings Guest House. Please refer to Exhibit B-3.

The respondent received her temporary permit on May 18, 2010, which indicated an expiration date of August 10, 2010. The respondent was terminated from Jennings Guest House on May 20, 2010, and the last date she practiced as a practical nurse at Jennings was on April 30, 2010.
Please refer to Exhibit B-3 and D-2.

Please refer to the sworn testimony of Ms. Lynn Ansardi, RN, Director of the Compliance Department, Louisiana State Board of Practical Nurse Examiners on page 60 line 2 through page 63 line 25 of the Hearing Transcript.

Ms. Ansardi testified that the respondent was issued a temporary permit dated May 18, 2010, which expired on August 10, 2010. Please refer to page 61 lines 17-20.

Ms. Ansardi also testified that the respondent was practicing practical nursing in February, March and April, 2010, without authorization of the Louisiana State Board of practical Nurse Examiners.
Please refer to page 63 lines 5-15 of the Hearing Transcript.

The Hearing Officer found Ms. Ansardi, RN, to be a competent, credible witness whose presentations of facts were well organized and knowledgeable.

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6. The respondent did not appear at the scheduled hearing to give sworn testimony. She submitted her response form to the board office indicating she denies the allegations contained in the Hearing Notice and will not appear before the board for the hearing. She stated, "I have sent response to the complaint already." Please refer to Exhibit J-1.

   According to the respondent's statements submitted to the board, she indicated that "There has been times when I would give Mrs. Byrd her medicine in the day room." Please refer to Exhibit F-1 and H-1.

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## CONCLUSIONS OF LAW

**Based on the facts set forth in the entire record and outlined herein above, the respondent is in violation of:**

The Louisiana Revised Statutes of 1950, Title 37, Chapter 11, Part II, Section 969 A. (4); **(c) is unfit, or incompetent by reason of negligence habit, or other causes; (f) is guilty of unprofessional conduct; (g) has violated any provisions of this Part; and §978 A. (3) Practice practical nursing unless duly licensed to do so under the provisions of this Part; (4) Use in connection with his name any designation tending to imply that he is a practical nurse, unless licensed to practice under the provisions of this Part; (8) Violate any provisions of this Part.**

2. The Louisiana Administrative Code, Title 46, Part XLVII, Subpart 1, Sections 306 T.
    - **3. being unfit, or incompetent by reason of negligence, habit or other causes;**
    - **6. practicing practical nursing without being duly licensed to do so by the board;**
    - **7. using in connection with his/her name any designation tending to imply that he/she is a practical nurse without being duly licensed to practice by the board;**
    - **8. being guilty of unprofessional conduct;**
        - **a. failure to practice practical nursing in accordance with the standards normally expected;**
        - **b. failure to utilize appropriate judgment in administering nursing practice;**
        - **c. failure to exercise technical competence in carrying out nursing care;**
        - **g. improper use of drugs, medical supplies, or patients' records;**
        - **i. falsifying records;**
        - **j. intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient;**
        - **p. inappropriate, incomplete or improper documentation;**
        - **t. violating any provisions of R.S. 37:961 et seq. (the practical nursing practice act), as amended or aiding or abetting therein.**

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# ORDER

The matter of **Rachel Bertrand, applicant for licensure,** on October 15, 2010 came on for final action by the Louisiana State Board of Practical Nurse Examiners.

**NOW THEREFORE, IT IS ORDERED**, that the respondent,
Rachel Bertrand, Applicant for Licensure
S.S. # ending in - 4430

BE

DENIED LICENSURE IN THE STATE OF LOUISIANA

AND THAT

1. She submit a hearing assessment fee of $500.00, payable by money order/cashier's check only, to the Board within 90 days of receipt of this notice.

2. She be fined $500.00, payable by money order/cashier's check only for the violations detailed in the Conclusions of Law, payable within 90 days of receipt of this notice.

Rendered this **15th** day of **October, 2010** and signed this **15th** day of **October, 2010** at Metairie, Louisiana.

**BOBBY FULLMER, M.D.**
**CHAIRMAN OF THE BOARD**

**CLAIRE D. GLAVIANO, RN**
**EXECUTIVE DIRECTOR**

Mailed this **18th** day of **October, 2010** by U.S. postal service certified mail return receipt #7007 2560 0001 2719 3237 and regular mail to the following address:

Rachel Bertrand
2211 Linda Ave
Sulphur, LA 70663

Date 10-20-10

I certify this to be a true copy of the records on file with the Louisiana State Board of Practical Nurse Examiners.

Signed
Executive Director

Attention Carolyn Hudson:

I Rachel Bertrand did not take the following classes, nursing jurisprudence and ethics, medication administration, physical assessment and nursing documentation because I will/am no longer practicing nursing. Included is my license.

Sincerely,

Rachel Bertrand

Attention Carolyn Hudson:

I Rachel Bertrand did not take the following classes, nursing jurisprudence and ethics medication administration, physical assessment and nursing documentation because I will / am no longer practicing nursing. Included is my license.

Sincerely,

Rachel Bertrand