

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	REINSTATEMENT
Registered Nurse License Number 686957	§	
& Vocational Nurse License Number 163756	§	
issued to DIANA L. CERVANTES	§	AGREED ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the Petition for Reinstatement of DIANA L. CERVANTES, Registered Nurse License Number 686957, and Vocational Nurse License Number 163756, hereinafter referred to as Petitioner.

An informal conference was held on April 2, 2013, at the office of the Texas Board of Nursing, in accordance with Section 301.464 of the 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 Katherine A. Thomas, MN, RN, FAAN, Executive Director; Kristin K. Benton, MSN, RN, Director of Nursing; John R. Griffith, Assistant General Counsel; Peter Marano, Law Clerk; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Nicole Binkley, BSN, RN, Nurse Consultant; and Diane E. Burell, Investigator.

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 Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Petitioner waived representation by counsel, notice and hearing, and agreed to the entry of this Order.

3. Petitioner received a Certificate in Vocational Nursing from Tyler Junior College, Tyler, Texas, on August 8, 1997. Petitioner was licensed to practice vocational nursing in the State of Texas on September 5, 1997. Petitioner received an Associate Degree in Nursing from Tyler Junior College, Tyler, Texas, on June 19, 2002. Petitioner was licensed to practice professional nursing in the State of Texas on June 25, 2002.

4. Petitioner's vocational and professional nursing employment history includes:

1997 - 1999	LVN	Eastview Nursing Facility Tyler, Texas
9/09 - 6/04	LVN/RN	East Texas Medical Center Tyler, Texas
2003 - 2004	Staff Nurse	Med Team Home Health Tyler, Texas
2004	Agency Nurse	Sunbelt Staffing Tampa, Florida
7/05 - 1/10	Agency Nurse	Capstone Staffing Tyler, Texas
8/06 - 1/07	Staff Nurse	At Home Health Care Tyler, Texas
2/09 - 3/09	Staff Nurse	University of Texas Health Center Tyler, Texas
4/09 - present	Not employed in nursing	

5. On August 17, 2010, the Texas Board of Nursing accepted the voluntary surrender of Petitioner's license(s) to practice nursing in the State of Texas. A copy of the August 17, 2010, Agreed Order, Findings of Fact, and Conclusions of Law, is attached and incorporated, by reference, as a part of this Order.

6. On or about January 14, 2013, Petitioner submitted a Petition for Reinstatement of License(s) to practice nursing in the State of Texas.

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

7.1. Letter, dated December 14, 2012, from Jonathan Ridenour, Psy.D., Clinical Associates of East Texas, Tyler, Texas, stating he has been seeing Petitioner for outpatient psychotherapy since April 2012. She has a history of depression that is now very well

under control with medication and working through some of her issues. She is currently taking Cymbalta 60mg QD and Seroquel 300mg QPM, which is a significant reduction since first treated. Petitioner is a kind, generous and pleasant woman with no severe psycho pathology. It appears that she voluntarily surrendered her nursing license in 2010 due to her medications being off-kilter and unable, at that time, to perform her nursing duties. Dr. Ridenour believes that Petitioner is psychologically fit to perform her duties as a nurse and recommends reinstating her license.

- 7.2. Letter, dated March 18, 2013, from Jan C. Lorenz, RN, MSN, PMHNP-C, Andrews Center Behavioral Healthcare System, Tyler, Texas, stating she has been treating Petitioner for mood disorder since February 2007. She has always been adherent with her medications and appointments and they have many candid discussions regarding her ability to return to work as a registered nurse. Ms. Lorenz whole heartedly recommends that Petitioner be reinstated. In the past two (2) years, she was able to reduce her medications, worked hard in her counseling goals, and has been volunteering at the community Red Cross center. She has been stable on her medications for the past year and has excellent insight into her current nursing abilities and future employment goals.
- 7.3. Letter, dated June 20, 2012, from Aileen Francisco, MD, stating Petitioner has been under her care for four (4) years. She is physically capable of working as a nurse.
- 7.4. Letter of support, dated December 18, 2012, from Linda Edwards, American Red Cross, stating Petitioner is an active and valued volunteer with the Smith County Chapter of the American Red Cross since September 2011. Petitioner currently holds the position of Disaster Action Team (DAT) captain, where she supervises other DAT members and is responsible for accurate client casework for herself and her teams. Petitioner is also part of the Community Events team which represents the Smith County Chapter at local disaster and health fairs. She is also a member of the Mass Care Shelter team. The Smith County Chapter of the American Red Cross appreciated the hours of unselfish and dedicated work that Petitioner does for the Chapter each month and they are looking forward to a long relationship with her.
- 7.5. Letter of support, dated December 17, 2012, from Linda Davis, Disaster Action Team Coordinator, American Red Cross, stating she has known and worked with Petitioner since October 2011. Petitioner quickly became one of the leading volunteers and has been a great asset to the American Red Cross and the Chapter. She has proven to be valuable in many ways. She is always reliable, efficient, and ready to do whatever is needed.
- 7.6. Letter of support, dated December 17, 2012, from Sherry E. Miller, DAT Lead, American Red Cross, stating she has volunteered with Petitioner for seven (7) months as a disaster response team member, whose duties include search and rescue as well as local house fire calls. As team leader, Ms. Miller trained Petitioner who learned very quickly and was soon a competent team captain. Petitioner is very responsible and reliable in all that she has undertaken during her time as a volunteer. Petitioner is a very smart, capable and caring person who would excel in any responsibilities given to her.

- 7.7. Letter of support, dated December 21, 2012, from Barbara Brandon, Tyler, Texas, stating her acquaintance with Petitioner began about ten (10) months ago at the Red Cross in Tyler, Texas, where they both volunteer on the Disaster Action Team. During each occasion they have worked together, Petitioner acted in a professional manner. Her behavior is appropriate, compassionate and cooperative. She followed instructions closely, demonstrated initiative and willingness to work hard. During training and meetings, Petitioner is attentive, participates and is appropriate with her input and responses.
- 7.8. Verification of successful completion of at least twenty (20) Continuing Education Contact Hours.
8. Petitioner'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 301.451-301.555, 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.
3. 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, that the petition of DIANA L CERVANTES, Registered Nurse License Number 686957, and Vocational Nurse License Number 163756, to practice nursing in the state of Texas, be and the same is hereby GRANTED 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 §211.1 *et. seq.* and the stipulations contained in this Order: The terms of the Order will become effective with my signature, and a copy will be mailed to you.

IT IS FURTHER AGREED and ORDERED that, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Petitioner to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Petitioner's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Petitioner's license(s) is/are encumbered by this Order, Petitioner may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the State of Texas and the Board of Nursing in the party state where Petitioner wishes to work.

(1) PETITIONER SHALL pay all re-registration fees and be issued a license to practice nursing in the State of Texas, which shall bear the appropriate notation. Said licenses issued to DIANA L. CERVANTES, shall be subject to the following agreed post-licensure stipulations:

(2) PETITIONER SHALL, within forty-five (45) days of relicensure, apply to TPAPN and SHALL, within ninety (90) days following relicensure, sign and execute the TPAPN participation agreement and complete the enrollment process, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500.00).

(3) Upon acceptance into the TPAPN, PETITIONER SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Texas Board of Nursing.

(4) PETITIONER SHALL comply with all the requirements of the TPAPN participation agreement during its term and SHALL keep all applicable license(s) to practice nursing in the State of Texas current.

(5) PETITIONER SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN contract.

IT IS FURTHER AGREED, SHOULD PETITIONER 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 EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of PETITIONER'S license and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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 do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. 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. 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(s) to practice 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 14th day of April, 2013.

Diana L Cervantes
DIANA L. CERVANTES, Petitioner

Sworn to and subscribed before me this 14 day of April, 2013.

SEAL

Nicole R. Wilson

Notary Public in and for the State of Texas



WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 4th day of April, 2013, by DIANA L. CERVANTES, Registered Nurse License Number 686957, and Vocational Nurse License Number 163756, and said Order is final.

Entered and effective this 22nd day of April, 2013.



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



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.
Patricia Williams
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse § AGREED
License Number 686957 and §
Vocational Nurse §
License Number 163756 §
issued to DIANA L. CERVANTES § ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 686957 and Vocational Nurse License Number 163756, issued to DIANA L. CERVANTES, 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 proceedings, notice 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(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 professional nursing in the State of Texas. Respondent holds a license to practice vocational nursing in that State of Texas, which is in delinquent status.
4. Respondent received a Certificate in Vocational Nursing from Tyler Junior College, Tyler, Texas, on August 8, 1997. Respondent was licensed to practice vocational nursing in the State of Texas on September 5, 1997. Respondent received an Associate Degree in Nursing from Tyler Junior College, Tyler, Texas, on June 19, 2002. Respondent was licensed to practice professional nursing in the State of Texas on June 25, 2002.

5. Respondent's complete professional and vocational nursing employment history includes:

1997-1999	LVN	Eastview Nursing Facility Tyler, Texas
09/1999-06/02	LVN	East Texas Medical Center Tyler, Texas
06/02-06/04	RN	East Texas Medical Center Tyler, Texas
2003-2004	RN	Med-Team Home Health Tyler, Texas
2004-2004	RN	Sunbelt Staffing Tampa, Florida
01/04-Present	RN	Staff Hunters Inc.
07/05-07/06	RN	Outreach Health Services Garland, Texas
07/05-Present	RN	Capstone Staffing Tyler, Texas
08/06-01/07	RN	At Home Health Care Tyler, Texas
02/09-03/09	RN	University of Texas Health Center at Tyler Tyler, Texas

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as a Registered Nurse with the University of Texas Health Center at Tyler, Tyler, Texas, and had been in this position for approximately three (3) months.
7. On or about March 5, 2009, while employed as a Registered Nurse with the University of Texas Health Center at Tyler, Tyler, Texas, Respondent lacked fitness to practice nursing in that she showed signs of impaired behavior which included, but was not limited to, failed to perform or remember proper techniques (accessing mediports and sterile dressing changes), was unable to remember patients names, was unable to pay attention to detail or follow simple instructions, simple tasks "seemed to puzzle her", she seemed disoriented, had a flat expression, and was confused. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have

affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

8. On or about March 5, 2009, while employed as a Registered Nurse with the University of Texas Health Center at Tyler, Tyler, Texas, Respondent attempted to infuse a Chemotherapy drug into a patient, even though she had not proven competency or received approval to infuse Chemotherapy independently. Respondent's conduct was likely to injure the patient in that the administration of Chemotherapy without proper training could result in the patient experiencing adverse reactions.
9. On or about March 5, 2009, while employed as a Registered Nurse with the University of Texas Health Center at Tyler, Tyler, Texas, Respondent was witnessed in the process of initiating the administration of Chemotherapy to Patient JT, who was not ordered to receive Chemotherapy on that date. Respondent's conduct was likely to injure the patient in that the administration of Chemotherapy without a physician's order could result in the patient experiencing adverse reactions.
10. On or about March 6, 2009, while employed as a Registered Nurse with the University of Texas Health Center at Tyler, Tyler, Texas, Respondent lacked fitness to practice nursing in that she showed signs of impaired behavior which included, but was not limited to, slurred speech, flat affect, and was unable to correctly write the five rights of medication administration when requested. Additionally, Respondent stated she had a history of a mental disorder, was taking Depakote and Cymbalta for Bipolar Disorder, and her physician felt she was going through a "manic" phase. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
11. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender his/her license(s) to practice nursing in the State of Texas.
12. On or about July 26, 2010, Respondent expressed to staff of the Texas Board of Nursing her wish to voluntarily surrender her licenses to practice professional and vocational nursing in the State of Texas.

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)(10)(12)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A),(B),(C)&(G) and 22 TEX. ADMIN. CODE §217.12(1)(A)&(B),(4)&(5).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 686957, and Vocational Nurse License Number 163756, heretofore issued to DIANA L. CERVANTES, including revocation of Respondent's license to practice professional or vocational 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 Registered Nurse License Number 686957, and Vocational Nurse License Number 163756, heretofore issued to DIANA L. CERVANTES, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional or vocational nursing, use the title "registered or vocational nurse" or the abbreviation "RN" or "LVN" or wear any insignia identifying herself as a registered or vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered or 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.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

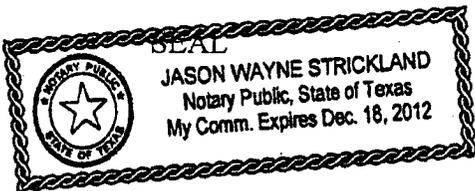
RESPONDENT'S CERTIFICATION

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 10 day of August, 2010.

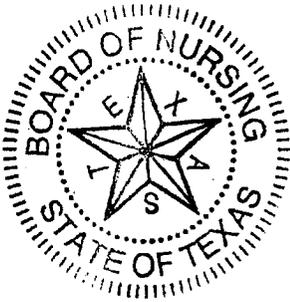
Diana L. Cervantes
DIANA L. CERVANTES, Respondent

Sworn to and subscribed before me this 10 day of August, 2010.



Jason Strickland
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 the voluntary surrender of Registered Nurse License Number 686597, and Vocational Nurse License Number 163756, previously issued to DIANA L. CERVANTES.



Effective this 17th day of August, 2010.

A handwritten signature in cursive script, reading 'Katherine A. Thomas'.

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