



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 A. Thomas*  
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse § REINSTATEMENT  
License Number 141585 §  
issued to TINA BENDY HOFFPAUIR § AGREED ORDER

On this day came to be considered by the Texas Board of Nursing, hereinafter refer as the Board, the Petition for Reinstatement of Vocational Nurse License Number 141585, held by BENDY HOFFPAUIR, hereinafter referred to as Petitioner.

An informal conference was held on June 17, 2014, 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 Katherine A. Thomas, MN, RN, FAAN, Executive Director; John R. Griffith, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Omar Hasan, 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(s).
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 Lamar State College, Orange, Texas, on December 18, 1992. Petitioner was originally licensed to practice vocational nursing in the State of Texas on May 25, 1993.
4. Petitioner's vocational nursing employment history includes:

Unknown	LVN	Park Place Hospital Port Arthur, Texas
Unknown	LVN	Oak Grove Nursing Home Groves, Texas

Petitioner's vocational nursing employment history continued:

1998 - 1999	LVN	Christus St. Elizabeth Hospital Beaumont, Texas
08/99 - 07/00	LVN	The Heart Hospital of South Texas Corpus Christi, Texas
08/00 - 07/01	LVN	Christus St. Mary's Hospital Port Arthur, Texas
07/01 - 03/02	LVN	Cantex Healthcare Port Arthur, Texas
03/02 - 10/03	LVN	Advantage Nursing Services Houston, Texas
10/03 - 05/04	LVN	Mariner Healthcare Houston, Texas
05/04 - 06/05	LVN	Brazos Presbyterian Home Houston, Texas
07/05 - Present	Not employed in nursing	

5. On February 14, 2006, Petitioner's license to practice vocational nursing in the State of Texas was revoked by the Texas Board of Nursing. A copy of the February 14, 2006 Proposal for Decision and Order of The Board, Findings of Fact, and Conclusions of Law, is attached and incorporated, by reference, as a part of this Order.
6. On July 31, 2009, Petitioner was issued a Reinstatement Agreed Order by the Texas Board of Nursing which required her to participate and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the July 31, 2009, Order, Findings of Fact, and Conclusions of Law, is attached and incorporated, by reference, as a part of this Order.
7. On August 10, 2010, the Board accepted the voluntary surrender of Petitioner's license to practice vocational nursing in the State of Texas. A copy of the August 10, 2010, Order, Findings of Fact, and Conclusions of Law, is attached and incorporated, by reference, as a part of this Order.
8. On or about October 28, 2013, Petitioner submitted a Petition for Reinstatement of License to practice vocational nursing in the State of Texas.
9. Petitioner submitted a Certificate of Course Completion for the Texas nursing jurisprudence and ethics course. Petitioner completed the Texas nursing jurisprudence and ethics course on August 17, 2013, which would have been a requirement of this Order.

10. Petitioner presented the following in support of her petition:
  - 10.1. Chemical Dependency Evaluation, dated August 6, 2013, by Joyce M. Gayles, PhD, Clinical Psychologist. Dr. Gayles states that Petitioner does meet criterion to be classified with a Substance Dependence Disorder. Petitioner has not used alcohol or drugs during the past 12 months. Dr. Gayles states that Petitioner would be able to work with patients in a safe and skilled manner provided she continues with her sobriety program of regular 12-Step meetings and random drug screens. Dr. Gayles states that although Petitioner is classifiable as having a Substance Dependence Disorder, the evidence from testing suggests that she has remained sober since 2010.
  - 10.2. Letter of support, dated September 9, 2013, from Ginny Denham, states that she has known Petitioner for over thirty-five (35) years. Ms. Denham states that she has a great amount of admiration and respect for Petitioner. Petitioner has overcome her past substance abuse issues. Ms. Denham states that Petitioner has the knowledge, compassion, and empathy that all patients and families would like to see in a nurse during a crisis. Petitioner has had an unbelievable determination to remain sober, focused, and on track, to resume her career in nursing. Ms. Denham states that Petitioner would be an asset to the medical field.
  - 10.3. Letter of support, dated August 18, 2013, from Dorma Brandon Brones, RN, states that she has known Petitioner both personally and professionally since 1980. Ms. Brones states that from 1992 until 1994, she was both mentor and peer of Petitioner while working at Park Place Medical Center in Port Arthur, Texas. Petitioner was very knowledgeable, kind, caring, and eager to learn. Ms. Brones states that as Petitioner's charge nurse, there were never any complaints about her practice or fitness for duty. Ms. Brones states that Petitioner would be an asset to the nursing field and recommends reinstatement of Petitioner's nursing license.
  - 10.4. Documentation of negative drug screens for the dates of October 4, 2012, November 8, 2012, February 14, 2013, March 22, 2013, April 30, 2013, June 20, 2013, July 18, 2013, August 20, 2013, September 11, 2013, and October 7, 2013, November 20, 2013, January 30, 2014, February 27, 2014, March 26, 2014, April 15, 2014, and June 10, 2014
  - 10.5. Documentation of support group meeting attendance from July 15, 2013, through June 14, 2014.
  - 10.6. Verification of successful completion of twenty (20) Type I Continuing Education Contact Hours.
11. Petitioner gives June 4, 2010, 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. 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.
3. 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 TINA BENDY HOFFPAUIR, Vocational Nurse License Number 141585, to practice nursing in the state of Texas, be and the same is hereby GRANTED, AND SUBJECT TO THE FOLLOWING STIPULATIONS 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:

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 NOT seek employment or practice nursing for compensation until she has completed the following pre-licensure conditions and obtained a license to practice vocational nursing from the Board.

(2) PETITIONER SHALL apply for a "Six-Month Clinical Permit" for the limited purpose of completing a refresher course. PETITIONER SHALL NOT, in any way, attempt to use this clinical permit for any purpose other than attending this course.

(3) PETITIONER SHALL successfully complete a nursing refresher course prior to returning to the practice of vocational nursing in the State of Texas. PETITIONER 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 course's content shall include: 1) the role and scope of the vocational nurse; 2) a review of the nursing process to include focused assessment, planning, implementation and evaluation; 3) Pharmacology review; 4) medication administration review for all standard routes of administration; 5) documentation, ethical and legal implications for nursing practice; and 6) current CPR certification. This course shall include a minimum of the clinical components, providing direct patient care supervised by another nurse, as stated on the Board's website, <http://www.bon.texas.gov/olv/pdfs/6mth-lvn.pdf>.

(4) Upon completion of the refresher course, PETITIONER SHALL return the clinical permit to the office of the Board, and PETITIONER SHALL CAUSE the sponsoring institution to notify the Board, on a form provided by the Board, of Petitioner's successful completion of the refresher course, including the required clinical component.

(5) Upon verification of successful completion of the agreed pre-licensure probation conditions of reinstatement, as set out in this Order, PETITIONER SHALL pay all re-registration fees and be issued a license to practice vocational nursing in the State of Texas, which shall bear the appropriate

notation. Said license issued to TINY BENDY HOFFPAUIR, shall be subject to the following agreed post-licensure probation conditions:

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

(7) PETITIONER SHALL, within one (1) year of relicensure, successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, PETITIONER SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken 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.texas.gov/disciplinaryaction/stipscourses.html>.

**IT IS FURTHER AGREED, SHOULD PETITIONER CHOOSE TO WORK AS A NURSE IN 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 PROBATION CONDITIONS FOR THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATION PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:**

(8) 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.

(9) 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.

(10) 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.

(11) 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.

(12) 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.

(13) 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.

(14) 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.

(15) 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 (3) years of employment as a vocational nurse.

(16) 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.**

(17) 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. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis is the sole method accepted by the Board.

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 or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including

EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Petitioner's license and multistate licensure privileges, if any, to practice nursing in the State of Texas

(18) PETITIONER SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. 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) month period. 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, all encumbrances will be removed from PETITIONER'S license(s) to practice nursing in the State of Texas and PETITIONER may be eligible for nurse licensure compact privileges, if any.

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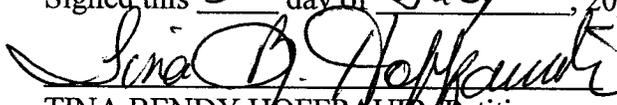
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PETITIONER'S CERTIFICATION

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.

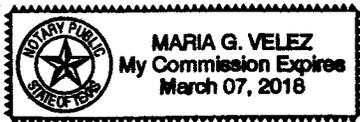
I have reviewed this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms 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, my license(s) to practice nursing in the State of Texas will be revoked, as a consequence of my noncompliance.

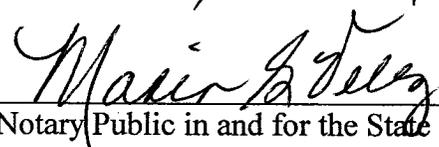
Signed this 31<sup>ST</sup> day of July, 2014.

  
TINA BENDY HOFFPAUER, Petitioner

Sworn to and subscribed before me this 31<sup>ST</sup> day of July, 2014.

SEAL



  
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 31st day of July, 2014, by TINA BENDY HOFFPAUIR, Vocational Nurse License Number 141585, and said Order is final.

Effective this 9th day of September, 2014.



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

DOCKET NUMBER 507-06-0086

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 141585  
ISSUED TO  
TINA BENDY HOFFPAUR

§  
§  
§  
§  
§

BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS

ORDER OF THE BOARD

TO: Tina Bendy Hoffpaur  
2801 Broadmead Drive #413  
Houston, Texas 77025

During open meeting held in Austin, Texas, the Board of Nurse Examiners finds that after proper and timely notice was given, the above-styled case was heard by an Administrative Law Judge who made and filed a proposal for decision containing the Administrative Law Judge's findings of fact and conclusions of law. The proposal for decision was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein.

The Board of Nurse Examiners, after review and due consideration of the proposal for decision, and exceptions and replies filed, if any, adopts the findings of fact and conclusions of law of the Administrative Law Judge as if fully set out and separately stated herein. All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 141585, previously issued to TINA BENDY HOFFPAUR, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

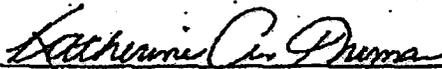
IT IS FURTHER ORDERED that Permanent Certificate Number 141585, previously issued to TINA BENDY HOFFPAUIR, upon receipt of this Order, be immediately delivered to the office of the Board of Nurse Examiners for the State of Texas.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privilege, if any, to practice vocational nursing in the State of Texas.

Entered this 14<sup>th</sup> day of February, 2006.

BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

BY:

  
KATHERINE A. THOMAS, MN, RN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

SOAH DOCKET NO. 507-06-0086

IN THE MATTER OF PERMANENT § BEFORE THE STATE OFFICE  
CERTIFICATE NUMBER 141585 §  
ISSUED TO § OF  
TINA BENDY HOFFPAUIR § ADMINISTRATIVE HEARINGS

**PROPOSAL FOR DECISION**

Staff of the Board of Nurse Examiners for the State of Texas (Staff/Board) brought this case seeking revocation of the vocational nurse's license of Tina Bendy Hoffpaur (Respondent) for violating provisions of the Nursing Practice Act, TEX. OCC. CODE ANN. ch. 301, and the Board's rules.<sup>1</sup> Despite being sent proper notice, Respondent did not appear nor was she represented at the hearing. Based on Respondent's failure to appear, Staff's allegations were accepted as true, establishing the violations. The Administrative Law Judge (ALJ) recommends that Respondent's license be revoked.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

The hearing convened December 7, 2005, before ALJ Georgie B. Cunningham in the William P. Clements Building, 300 West 15<sup>th</sup> Street, Austin, Texas. Staff was represented by Elizabeth L. Higginbotham, Assistant General Counsel. On November 23, 2005, Attorney William E. Hopkins filed a motion to withdraw as Respondent's counsel. After receiving no objection, the ALJ granted the motion.

After providing competent evidence establishing that the Board has jurisdiction and that appropriate notice of the hearing was provided, Staff moved for a default based on Respondent's

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<sup>1</sup> The Board of Vocational Nurse Examiners (BVNE) previously existed as a separate agency to regulate and supervise vocational nurses under the TEX. OCC. CODE ANN. ch. 302. However, effective February 1, 2004, ch. 302 was repealed, the BVNE was abolished, and all of its functions were transferred to the Board. Most of the underlying events that are the basis of this proceeding occurred prior to February 1, 2004, and the investigation of Respondent began at the BVNE in December 2002. Under the repealer and transition provisions of the act that abolished the BVNE, all investigations and proceedings that were pending before the BVNE on January 31, 2004, were transferred to the Board without change in status. Therefore, the now repealed TEX. OCC. CODE ANN. ch. 302 continues to apply to Respondent's actions that are the subject of this proceeding. Acts 2003, 78th Leg., ch. 553, § 3.003(4). Additionally, the BVNE's rules at 22 TEX. ADMIN. CODE ch. 239 were repealed after the underlying allegations in this case occurred, but the substantive provisions of those rules also apply to this case.

failure to appear. Those matters are set out in the Findings of Fact and Conclusions of Law. The hearing was closed on December 7, 2005.

## II. RECOMMENDATION

Based upon the following Findings of Fact and Conclusions of Law and in accordance with 1 TEX. ADMIN. CODE § 155.55, the ALJ granted Staff's motion for default and deemed the allegations to be true. Carol Marshall, Board staff, presented testimony recommending revocation of Respondent's license to protect the public. According to Ms. Marshall, Respondent's conduct was likely to injure patients and defraud patients and the hospital's pharmacy. Ms. Marshall further testified that Respondent's unprofessional and dishonorable conduct demonstrates she is unfit to practice nursing. Accordingly, the ALJ recommends that Respondent's license as a vocational nurse be revoked.

## III. FINDINGS OF FACT

1. Tina Bendy Hoffpauir (Respondent), holds Vocational Nurse License Number 141585, which was current on the date of the hearing.
2. On August 2, 2005, Staff of the Board of Nurse Examiners for the State of Texas (Staff/Board) sent Respondent its Second Amended Formal Charges by certified mail, return receipt requested, c/o William E. Hopkins, Attorney, Thompson & Knight, 98 San Jacinto Boulevard, Suite 1900, Austin, Texas 78701. USPS Form 3811, domestic return receipt, indicates that the certified mail was received on August 6, 2005.
3. On September 12, 2005, Staff sent its Notice of Hearing and charges to Respondent by certified mail, return receipt requested, c/o William E. Hopkins, Attorney, Thompson & Knight, 98 San Jacinto Boulevard, Suite 1900, Austin, Texas 78701. USPS Form 3811, domestic return receipt, indicates that the certified mail was received on September 14, 2005.
4. The hearing notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
5. The hearing notice contained the following language in capital letters in large boldface type: **"FAILURE TO APPEAR AT THE HEARING IN PERSON OR BY LEGAL REPRESENTATIVE, REGARDLESS OF WHETHER AN APPEARANCE HAS BEEN ENTERED, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE**

**FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF SHALL BE GRANTED BY DEFAULT."**

6. Respondent did not appear at the hearing and was not represented by counsel whose motion to withdraw had been granted prior to the hearing. Staff was represented by an Assistant General Counsel, who moved for a default.
7.
  - (a) On March 19, 2002, the County Criminal Court at Law No. 5 of Harris County, Texas, convicted Respondent of Driving While Intoxicated (a Class B misdemeanor offense committed on January 20, 2002), in Cause No. 1097257. The Court placed Respondent on probation for a period of nine (9) months, ordered her to pay a three hundred dollar (\$300) fine, and assessed court costs and fees. The Court suspended Respondent's driver's license for a period of one (1) year and ordered her to perform thirty (30) hours of community service.
  - (b) On June 20, 2002, the County Criminal Court at Law No. 5 of Harris County, Texas, revoked Respondent's community supervision in Cause No. 1097257 based on findings that Respondent had violated the terms and conditions of her probation, to-wit: Respondent failed to avoid injurious or vicious habits and failed to pay her court-ordered supervision fees. The Court ordered Respondent to be confined in the Harris County Jail for thirty (30) days, to pay any unpaid portion of the three hundred dollar (\$300) fine that she had been assessed previously, and to pay accrued court costs totaling three hundred thirty-six dollars (\$336). Respondent was given four (4) days credit toward the fine and court costs.
8. On March 31, 2003, Respondent submitted her license renewal to the Board of Vocational Nurse Examiners for the State of Texas. On the renewal, Respondent answered "No" to the question: "Were you convicted of a misdemeanor other than a minor traffic violation since your last renewal?"
9. On April 27, 2003, Respondent, while employed as a Licensed Vocational Nurse (LVN) with Advantage Nursing Services, Houston, Texas, and on assignment at San Jacinto Methodist Hospital, Baytown, Texas, withdrew medications from the Medication Dispensing System (Pyxis) for patients, but failed to document, or accurately document the administration of the medications in patients' medical records, as follows:

Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Nurse's Notes
MM	Demerol 100mg with Vistaril 25mg IM prior to Physical Therapy and Q4H prn pain	Meperidine HCL 50mg/1ml CPJ 1711 Qty: 2	Not Documented	1600 Entry: Pt c/o pain. Medicated with Demerol. 1800 Entry: No complaints voiced
BF	Morphine Sulfate 5mg Q4-6H Prn Pain	Morphine 10mg/1ml CPJ 1633 Qty: 1	Not Documented	1600 Entry. No complaints voiced at this time.
DA	Butorphanol 1mg IM Q3H Prn Pain	Butorphanol 2mg/1ml Vial 1654 Qty: 1	Not Documented	1700 Entry. C/O pain and discomfort. Medicated for pain.
BS	Demerol 75mg with Vistaril 25mg IM Q4H Prn Pain	Meperidine HCL 75mg/1ml CPJ 1811 Qty: 1	Documented as Administered at 2015	1800 Entry. Discussed s/s of infection and what to report. Pt temp 101-0. Dr. paged awaiting return call. 2000 Entry. C/O pain. Medicated with Demerol.
BS	Ativan 1mg IV Q6H Prn Anxiety/Sleep	Lorazepam 2mg/1ml Vial 2222 Qty: 1	Documented as Administered at 2145	2200 Entry. Resting quietly. Resp even and unlabored. No s/s distress noted.

10. On April 27, 2003, Respondent, while employed as an LVN with Advantage Nursing Services, Houston, Texas, and on assignment at San Jacinto Methodist Hospital, Baytown, Texas, withdrew medications from the Medication Dispensing System (Pyxis) for patients, but failed to follow the facility's policy and procedure for wastage of the unused portions of these medications, as follows:

Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Wastage
MM	Demerol 100mg with Vistaril 25mg IM prior to Physical Therapy and Q4H prn pain	Meperidine HCL 50mg/1ml CPJ 1711 Qty: 2	Not Documented	None Documented

BF	Morphine Sulfate 5mg Q4-6H Prn Pain	Morphine 10mg/1ml CPJ 1633 Qty: 1	Not Documented	None Documented
DA	Butorphanol 1mg IM Q3H Prn Pain	Butorphanol 2mg/1ml Vial 1654 Qty: 1	Not Documented	None Documented

11. On April 27, 2003, Respondent, while employed as an LVN with Advantage Nursing Services, Houston, Texas, and on assignment at San Jacinto Methodist Hospital, Baytown, Texas, withdrew medications from the Medication Dispensing System (Pyxis) in excess frequency of the physician's order, as follows:

Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Comments
MM	Demerol 100mg with Vistaril 25mg IM prior to Physical Therapy and Q4H prn pain	Meperidine HCL 50mg/1ml CPJ 1711 Qty: 2	Not Documented as Administered and No Wastage.
MM	Demerol 100mg with Vistaril 25mg IM prior to Physical Therapy and Q4H prn pain	Meperidine HCL 50mg/1ml CPJ 1954 Qty: 2	Withdrawn in Excess Frequency.
BF	Morphine Sulfate 5mg Q4-6H Prn Pain	Morphine 10mg/1ml CPJ 1633 Qty: 1	Not Documented as Administered and No Wastage.
BF	Morphine Sulfate 5mg Q4-6H Prn Pain	Morphine 10mg/1ml CPJ 1816 Qty: 1	Withdrawn in Excess Frequency.

12. (a) On August 17, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, falsified a Physician's Order Sheet, under the name of Patient FE, in order to obtain a fraudulent and unauthorized prescription for Demerol.
- (b) On June 14, 2004, the County Criminal Court at Law No. 1 of Harris County, Texas, convicted Respondent in Cause No. 1207288 for forging/altering a prescription (a Class B misdemeanor offense committed on August 19, 2003). The Court sentenced Respondent to confinement in the Harris County Jail for a period of ten (10) days, with four (4) days credit given, and ordered her to pay court costs.

13. On August 19, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, altered a physician's order sheet, under the name of Patient VB, in order to obtain a fraudulent and unauthorized prescription for Percocet.
14. On August 20, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, falsified a physician's order sheet, under the name of Patient MM, in order to obtain a fraudulent and unauthorized prescription for Demerol.
15. On August 23, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, falsified a physician's order sheet, under the name of Patient LM, in order to obtain a fraudulent and unauthorized prescription for Demerol.
16. On August 23, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, falsified a physician's order sheet, under the name of Patient SH, in order to obtain a fraudulent and unauthorized prescription for Demerol.
17. On August 19, 2003 to August 24, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, withdrew medications from the Medication Dispensing System (Pyxis) for patients, without a valid physician's order, as follows:

Date	Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Nurse's Notes
08-19-03	FE	None	Demerol 50mg Inj 1900 Qty: 2	Documented as Lortab 7.5/325mg 1 PO Q6H Pm at 1900. No Demerol wastage.	Not Documented
08-19-03	FE	None	Demerol 50mg Inj 2300 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 0230 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 0500 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 0645 Qty: 1	Not Documented. No wastage.	Not Documented

Date	Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Nurse's Notes
08-20-03	FE	None	Demerol 50mg Inj Prior to 0800 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 1600 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 1910 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 2030 Qty: 2	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 2300 Qty: 2	Not Documented. No wastage.	Not Documented
08-20-03	VB	None	Percocet 0200 Qty: 2	Not Documented. No wastage.	Not Documented
08-20-03	VB	None	Demerol 50mg Inj 0530 Qty: 1	Not Documented. No wastage.	Not Documented
08-23-03	MM	None	Demerol 50mg Inj 1600 Qty: 1	Not Documented. No wastage.	Not Documented
08-23-03	MM	None	Demerol 50mg Inj 2100 Qty: 1	Demerol 50mg IM Q4-6H Prn Pain Documented as Administered at 1530. No wastage.	Not Documented
08-23-03	MM	None	Demerol 50mg Inj 2200 Qty: 1	Demerol 50mg IM Q4-6H Prn Pain Documented as Administered at 1945. No wastage.	Not Documented
08-23-03	LM	None	Demerol 50mg Inj 2000 Qty: 1	Demerol 50mg x 1 Now Documented as Administered at "18". No wastage.	Not Documented
08-23-03	SH	None	Demerol 50mg Inj 1945 Qty: 2	Demerol 50-75mg Q4-6H Documented as Administered at 1930 by Respondent. No wastage.	Not Available

Date	Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Nurse's Notes
08-24-03	SH	None	Demerol 50mg Inj 0030 Qty: 2	Demerol 50-75mg Q4-6H Documented as Administered at 0015 by Respondent. No wastage.	Not Available
08-24-03	SH	None	Demerol 50mg Inj 0420 Qty: 1	Demerol 50-75mg Q4-6H Documented as Administered at "04" by Respondent. No wastage.	Not Available
08-24-03	AG	None	Morphine 10mg 0435 Qty: 1	MS04 10mg IM x 1 Documented as Administered at 0430 by Respondent; then "drawn through." No wastage.	Not Documented.

18. From August 17 to August 24, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, misappropriated Demerol, Percocet and Morphine from the hospital and patients thereof.
19. On September 11, 2003 to September 12, 2003, Respondent, while employed as an LVN with Advantage Nursing Services, Houston, Texas, and on assignment at Methodist Sugar Land Hospital, Sugar Land, Texas, withdrew medications from the Medication Dispensing System (Pyxis) for patients, but failed to document, or accurately document the administration of these medications in the patients' medical records, as follows:

Date	Medical Record #	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Qty Withdrawn	MAR	Nurse's Notes
09-11-03	15114028	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Butorphanol 2mg/1ml Vial 2015 Qty: 1	Not Documented	Not Documented (See Note 1 Also)

Date	Medical Record #	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Qty Withdrawn	MAR	Nurse's Notes
09-11-03	15114028	None	Meperidine 25mg/1ml SYRD 2015 Qty: 2	Not Documented	Not Documented
09-11-03	15114028	Ketorolac 30mg slow IVP q6h (Prn/Round the Clock) x 3 days maximum	Ketorolac 30mg/1ml Vial 2106 Qty: 1	Not Documented	Not Documented
09-11-03	15114028	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Nalbuphine 10mg/1ml Amp 2116 Qty: 1	Not Documented	Not Documented (See Note 1 Below Also)
09-11-03	15114028	Oxycodone 5mg/Acetaminophen 325mg 1-2 tabs PO q3-4h Prn Pain	Oxycodone + Acetaminophen 5mg/1 Tab 2123 Qty: 2	Not Documented	(See Note 2 Below)
09-12-03	15114028	None	Meperidine 50mg/1ml SYRD 0011 Qty: 1	Not Documented	Not Documented
09-12-03	15114028	Diphenhydramine 25-50mg IV or IM or PO q4h Prn itching.	Diphenhydramine 50mg/1ml Vial 0627 Qty: 1	Not Documented	Not Documented
09-12-03	15114028	None	Meperidine 50mg/1ml SYRD 0628 Qty: 1	Not Documented	Not Documented
09-11-03	432299381	Ondansetron 4mg IVP q6h prn. If Zofran ineffective, give Promethazine 12.5mg IVP. May repeat x 1.	Promethazine 25mg/1ml Amp 2348 Qty: 1	Not Documented	(See Note 3 Below)
09-11-03	432299381	None	Meperidine 50mg/1ml SYRD 2348 Qty: 1	Not Documented	(See Note 3 Below)

Date	Medical Record #	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Qty Withdrawn	MAR	Nurse's Notes
09-12-03	432299381	Oxycodone 5mg/Acetaminophen 325mg 1-2 tabs PO q3-4h Prn Pain	Hydrocodon-Acet 5mg/500mg 5mg/1 Tab 0117 Qty: 2	Not Documented	Not Documented
09-12-03	432299381	None	Meperidine 50mg/1ml SYRD 0341 Qty: 1	Not Documented	Not Documented
09-12-03	432299381	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Butorphanol 2mg/1ml Vial 0615 Qty: 1	Not Documented	Not Documented (See Note 1 Below Also)
09-11-03	16126211	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Butorphanol 2mg/1ml Vial 2041 Qty: 1	Not Documented	Not Documented (See Note 1 and Note 4 Below Also)
09-11-03	16126211	None	Meperidine 25mg/1ml SYRD 2041 Qty: 2	Not Documented	Not Documented
09-11-03	16126211	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Butorphanol 2mg/1ml Vial 2123 Qty: 1	Not Documented	Not Documented (See Note 1 and Note 4 Below Also)
09-11-03	16126211	Oxycodone 5mg/Acetaminophen 325mg 1-2 tabs PO q3-4h prn pain.	Oxycodone + Acetaminoph 5mg/1 Tab 2201 Qty: 2	Not Documented	Not Documented (See Note 5 Below Also)

Date	Medical Record #	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Qty Withdrawn	MAR	Nurse's Notes
09-11-03	16126211	None	Meperidine 50mg/1ml SYRD 2201 Qty: 1	Not Documented	Not Documented (See Note 5 Below Also)
09-12-03	16126211	None	Meperidine 50mg/1ml SYRD 0114 Qty: 1	Not Documented	Not Documented (See Note 5 Below Also)
09-12-03	16126211	None	Meperidine 50mg/1ml SYRD 0616 Qty: 1	Not Documented	Not Documented
09-12-03	16126211	Ondansetron 4mg IVP q6h prn. If Zofran ineffective, give Promethazine 12.5mg IVP. May repeat x 1.	Promethazine 25mg/1ml Amp 0627 Qty: 1	Not Documented	Not Documented
09-12-03	16126211	Oxycodone 5mg/Acetaminophen 325mg 1-2 tabs PO q3-4h prn pain.	Oxycodone + Acetaminophen 5mg/1 Tab 0715 Qty: 2	Not Documented	Not Documented
09-12-03	16126211	None	Meperidine 100mg/1ml SYRD 0715 Qty: 1	Not Documented	Not Documented

Note 1: Although there was technically an order for the Stadol and Talwin, it was for itching related to the epidural, and was ordered as q4h only if the Revex did not work. None of the patients that had Stadol or Talwin withdrawn for them were given Revex for itching. In addition, there was no documentation of itching, or that the medications were given at all.

Note 2: Respondent withdrew two (2) tablets of Percocet UD from the Medication Dispensing System, on 09-11-03, at 2123, for Medical Record # 15114028. The administration of the Percocet was not documented on the Medication Administration Record for Medical Record # 15114028. There are no Nursing Note entries made by Respondent at or around 2123, on 09-11-03, pertaining to the Percocet. There was a shift assessment by Respondent at 2241, on 09-11-03, reading: "moderate incisional pain, mild perineum pain, no uterine cramping, mild breast pain." There was a Nursing Note entry made by Respondent at 23:28, on 09-11-03, that read: "c/o pain medicated with percocet" and another Nursing Note entry made by Respondent at 0134, on 09-12-03, that read: "medicated with percocet." There is no evidence which would suggest that Respondent withdrew Percocet for Medical Record # 15114028, at or around 0134, on 09-12-03.

Note 3: Respondent assessed Medical Record # 432299381 and documents no nausea or pain.

Note 4: On 09-11-03, Respondent withdrew one (1) Stadol at 2041, and another Stadol at 2123, for Medical Record # 16126211. The Stadol was ordered q4h, if the Revex was ineffective.

Note 5: On 09-11-03 at 2239, Respondent assessed Medical Record # 16126211 with no pain. On 09-12-03, at 0136 and 0137, Respondent assessed Medical Record # 16126211 with no pain and noted as asleep, respectively.

20. On June 13, 2005, Respondent, while employed as an LVN with Brazos Presbyterian Home, d/b/a Isla Carroll Turner Health Care Facility, Houston, Texas, lacked fitness to practice vocational nursing, in that she had a flushed face, slurred speech, and poor eye focus and her affect and demeanor were unusual. Furthermore, Respondent opted to resign her position "on-the-spot" at Isla Carroll Turner Health Care Facility, when she was requested to submit to a reasonable suspicion drug and alcohol test.

#### IV. CONCLUSIONS OF LAW

1. The Board of Nurse Examiners for the State of Texas (Board) has jurisdiction over this matter pursuant to the Nursing Practice Act, TEX. OCC. CODE ANN. § 301.453.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this matter, including the authority to issue a proposal for decision with findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003 and TEX. OCC. CODE ANN. § 301.454.
3. Proper and timely notice was effected upon Respondent pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and 22 TEX. ADMIN. CODE (TAC) §§ 213.10 and 213.22.
4. The allegations stated in Findings of Fact Nos. 7 - 20 are deemed admitted as true. 1 TAC § 155.55.
5. Based on Findings of Fact Nos. 7-19, Respondent violated TEX. OCC. CODE ANN. § 302.402(a)(10).
6. Based on Finding of Fact No. 12, Respondent violated TEX. OCC. CODE ANN. § 301.452(b)(3).
7. Based on Findings of Fact Nos. 12 and 20, Respondent violated TEX. OCC. CODE ANN. § 301.452(b)(10).
8. Based on Findings of Fact Nos. 9-11, 17 and 19, Respondent violated the Controlled Substances Act, TEX. HEALTH AND SAFETY CODE ANN. ch. 481.
9. Based on Findings of Fact Nos. 7 and 12, Respondent violated 22 TAC § 239.11(29)(A)(iv).

10. Based on Finding of Fact No. 8, Respondent violated 22 TAC § 239.11(8).
11. Based on Findings of Fact Nos. 9-11, 17, and 19, Respondent violated 22 TAC § 239.11(2) and (4).
12. Based on Findings of Fact Nos. 9-11 and 19, Respondent violated 22 TAC § 239.11(3).
13. Based on Findings of Fact Nos. 9 and 12-19, Respondent violated 22 TAC § 239.11(28).
14. Based on Findings of Fact Nos. 10 and 11, Respondent violated 22 TAC § 239.11(27)(G) and (K).
15. Based on Findings of Fact Nos. 12-16, Respondent violated 22 TAC § 239.11(5) and (7).
16. Based on Findings of Fact Nos. 12-16, and 18, Respondent violated 22 TAC § 239.11(6).
17. Based on Finding of Fact No. 18, Respondent violated 22 TAC § 239.11(1).
18. Based on Finding of Fact No. 20, Respondent violated 22 TAC § 217.12(1)(B) and (E), (4) and (5).
19. Based on the foregoing findings of fact and conclusions of law, the Board should revoke Permanent License No. 141585 issued to Respondent pursuant to TEX. OCC. CODE ANN § 301.453.

SIGNED January 13, 2006.

  
GEORGIE B. CUNNINGHAM  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

BEFORE THE TEXAS BOARD OF NURSING

\*\*\*\*\*

In the Matter of Vocational Nurse	§	REINSTATEMENT
License Number 141585	§	
issued to TINA BENDY HOFFPAUIR	§	AGREED ORDER

On this day came to be considered by the Texas Board of Nursing, hereinafter referred to as the Board, the Petition for Reinstatement of Vocational Nurse License Number 141585, held by TINA BENDY HOFFPAUIR, hereinafter referred to as Petitioner.

An informal conference was held on June 2, 2009, 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 Mary Beth Thomas, PhD, RN, Director of Nursing, Executive Director's Designee; Robert Kyle Hensley, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director of Enforcement; 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 notice and hearing, and consented to the entry of this Order.
3. Petitioner received a Certificate in Vocational Nursing from Lamar University, Orange, Texas, on December 18, 1992. Petitioner was originally licensed to practice vocational nursing in the State of Texas on May 25, 1993.

4. Petitioner's vocational nursing employment history included:

Unknown	LVN	Park Place Hospital Port Arthur, Texas
Unknown	LVN	Christus St. Mary's Hospital Port Arthur, Texas
Unknown	LVN	Oak Grove Nursing Home Groves, Texas
1998 - 1999	LVN	Christus St. Elizabeth Hospital Beaumont, Texas
08/99 - 07/00	LVN	The Heart Hospital of South Texas Corpus Christi, Texas
08/00 - 07/01	LVN	Christus St. Mary's Hospital Port Arthur, Texas
08/01 - 03/02	LVN	Cantex Healthcare Port Arthur, Texas
04/02 - 10/03	LVN	Advantage Nursing Services Houston, Texas
11/03 - 05/04	LVN	Mariner Healthcare Houston, Texas
06/04 - 06/05	LVN	Brazos Presbyterian Home Houston, Texas
07/05 - Present	Not employed in nursing	

5. On February 14, 2006, Petitioner's license to practice vocational nursing in the State of Texas was revoked by the Board of Nurse Examiners for the State of Texas. A copy of the February 14, 2006, Order of the Board is attached and incorporated, by reference, as a part of this Order.
6. On or about December 18, 2008, Petitioner submitted a Petition for Reinstatement of License to practice vocational nursing in the State of Texas.

7. Petitioner presented the following in support of her petition:
  - 7.1. Letter of support, dated April 10, 2007, written by James W. Lomax, M.D., Baylor College of Medicine, Houston, Texas, states that Petitioner was the charge nurse at Bayou Manor when his mother was a patient of the facility. Dr. Lomax stated that Petitioner performed in an entirely professional, capable, and congenial manner. Dr. Lomax recommends reinstatement of Petitioner's nursing license.
  - 7.2. Letter of support, dated November 16, 2008, written by Mike O'Neill, O'Neill Design & Development, Gilchrist, Texas, states that Petitioner became his tenant in June 2006, and began working for him part time. Petitioner has been diligently working towards her recovery and sobriety. Mr. O'Neill states that Petitioner is very knowledgeable about the medical field and has a passion about it. Mr. O'Neill recommends reinstatement of Petitioner's nursing license.
  - 7.3. Letter of support, dated April 10, 2007, written by Connie Riley, Assistant Director of Financial Aid, Lamar State College, Port Arthur, Texas, states that Petitioner has been employed as a work-study student since January 2007. Petitioner learned her job duties very quickly and she interacts with the students who come to the financial aid office by assisting them with financial aid questions.
  - 7.4. Letter of support, dated March 23, 2007, written by Linda McGee, Director Human Resources, Lamar State College, Port Arthur, Texas, states that Petitioner is a student at Lamar State College and is employed in the Financial Aid office. Petitioner works twenty (20) hours or less each week. Petitioner works her schedule consistently and she is dependable.
  - 7.5. Verification of successful completion of twenty (20) Type I Continuing Education Contact Hours.
8. Petitioner gives December 2005, 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.
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, subject to ratification by the Texas Board of Nursing, that the petition of TINA BENDY HOFFPAUIR, Vocational Nurse License Number 141585, to practice vocational 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:

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 or professional nursing in the State of Texas, which shall bear the appropriate notation. Said licenses issued to TINA BENDY HOFFPAUIR, shall be subject to the following agreed post-licensure stipulations:

(2) PETITIONER SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN, which SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350) payable to TPAPN.

(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 her license 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 participation agreement.

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 revocation of Petitioner's license and multistate licensure privileges, if any, to practice vocational nursing in the State of Texas.

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PETITIONER'S CERTIFICATION

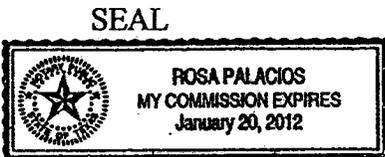
I understand that I have the right to legal counsel prior to signing this Reinstatement Agreed Order. I waive representation by counsel. I certify that my past behavior, except as disclosed in my Petition for Reinstatement of Licensure, has been in conformity with the Board's professional character rule. 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.

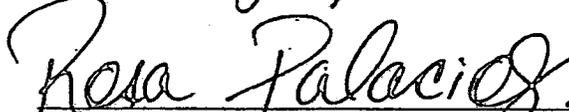
I have reviewed this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms 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 2 day of July, 2009.

  
TINA BENDY HOFFPAUIR, Petitioner

Sworn to and subscribed before me this 2 day of July, 2009.

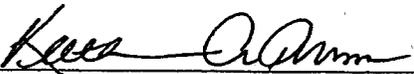


  
Notary Public in and for the State of TEXAS

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 2nd day of July, 2009, by TINA BENDY HOFFPAUIR, Vocational Nurse, License Number 141585, and said Order is final.

Effective this 31st day of July, 2009.



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

BEFORE THE TEXAS BOARD OF NURSING

\*\*\*\*\*

In the Matter of Vocational Nurse                   §  
License Number 141585                                   §  
issued to TINA BENDY HOFFPAUIR                   §

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 141585, issued to TINA BENDY HOFFPAUIR, 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 is currently licensed to practice vocational nursing in the State of Texas.
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, 1992. Respondent was licensed to practice vocational nursing in the State of Texas on May 25, 1993.
4. Respondent's vocational nursing employment history includes:

Unknown	LVN	Park Place Hospital Port Arthur, Texas
Unknown	LVN	Christus St. Mary's Hospital Port Arthur, Texas

Respondent's vocational nursing employment history continued:

Unknown	LVN	Oak Grove Nursing Home Groves, Texas
1998 - 1999	LVN	Christus St. Elizabeth Hospital Beaumont, Texas
08/199 - 07/2000	LVN	The Heart Hospital of South Texas Corpus Christi, Texas
08/2000 - 07/2001	LVN	Christus St. Mary's Hospital Port Arthur, Texas
08/2010 - 03/2002	LVN	Cantex Healthcare Port Arthur, Texas
04/2002 - 10/2003	LVN	Advantage Nursing Services Houston, Texas
11/2003 - 05/2004	LVN	Mariner Healthcare Houston, Texas
06/2004 - 06/2005	LVN	Brazos Presbyterian Home Houston, Texas
07/2005- Present	Not employed in nursing.	

5. On or about February 14, 2006, Respondent's license to practice vocational nursing was revoked. A copy of the Findings of Fact, Conclusions of Law and Order dated February 14, 2006, is attached and incorporated by reference as part of this Order.
6. On or about July 31, 2009, Respondent was issued a Reinstatement Agreed Order by the Board. A copy of the Findings of Fact, Conclusions of Law and Order dated July 31, 2009, is attached and incorporated by reference as part of this Order.
7. On August 5, 2010, Respondent submitted a notarized statement to the Board voluntarily surrendering the right to practice vocational nursing in Texas. A copy of Respondent's notarized statement, dated July 27, 2010, is attached and incorporated herein by reference as part of this Order.

6. On June 30, 2010, the Board received notice regarding the following allegations involving Respondent:

On or about June 4, 2010, Respondent engaged in the intemperate use of Alcohol, in that she produced a specimen for a random drug screen requested by the Texas Peer Assistance Program for Nurses (TPAPN), which resulted positive for Alcohol

On or about June 4, 2010, Respondent became non-compliant with the Reinstatement Agreed Order issued to her by the Texas Board of Nursing on July 31, 2009. Non-compliance is the result of her failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract. Stipulation number three (3) of the Order dated July 31, 2009, states:

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

On June 21, 2010, Respondent was dismissed from TPAPN for non-compliance and referred to the Board.

10. 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.
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.

#### 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 a violation of Section 301.452(b)(1),(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(A),(4),(5),(9),(10)(A), (D) &(11)(B).
4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.

6. 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.

ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 141585, heretofore issued to TINA BENDY HOFFPAUIR, to practice vocational 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 immediately deliver the wallet-size license, heretofore issued to TINA BENDY HOFFPAUIR, to the office of the Texas Board of Nursing.
2. 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 registered 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 nurse licensure compact privileges, if any, to practice vocational nursing in the State of Texas.

Effective this 20th day of August, 2010.



TEXAS BOARD OF NURSING

By:

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

TINA BENDY HOFFPAUIR  
PO Box 296  
Gilchrist, Texas 77617  
Texas Vocational Nurse License #141585

Voluntary Surrender Statement

July 13, 2010

Dear Texas Board of Nursing:

I no longer desire to be licensed as a vocational nurse. Accordingly, I voluntarily surrender my license/licenses to practice in Texas. I waive representation by counsel and consent to the entry of an Order which outlines requirements for reinstatement of my license. I understand that I will be required to comply with the Board's Rules and Regulations in effect at the time I submit any petition for reinstatement.

Signature *Tina B Hoffpauir*  
Date 7-27-2010  
Texas Nursing License Number/s 141585

The State of Texas

Before me, the undersigned authority, on this date personally appeared TINA ENDY HOFFPAUIR who, being duly sworn by me, stated that she executed the above for the purpose therein contained and that she understood same.

Sworn to before me the 27 day of July, 2010.

SEAL

*Stormy H. Barrow*  
Notary Public in and for the State of Texas

