



Respondent's vocational nursing employment history continued;

08/09 - 04/10	LVN	Capstone Staffing Tyler, Texas
05/10 - 01/15	LVN	UT Health NE Family Practice Clinic Tyler, Texas
01/15 - Present	LVN	Sleep Medicine Institute of Texas Tyler, Texas

6. On or about June 14, 2011, Respondent's license to practice vocational nursing in the State of Texas was issued an ENFORCED SUSPENSION by the Texas Board of Nursing, Austin, Texas. Respondent successfully completed the terms of the Order on July 1, 2014. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated June 14, 2011, is attached and incorporated, by reference, as part of this Order.
7. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with UT Health Northeast Family Practice Clinic, Tyler, Texas, and had been in that position for four (4) years and eight (8) months.
8. On or about January 6, 2015, while employed with UT Health Northeast Family Practice Clinic, Tyler, Texas, Respondent falsified a medication list for Patient Number M002085942, in that Respondent inappropriately added phentermine 30mg and Adderall 20mg to the list. Additionally, at the patient's request, Respondent faxed the falsified medication list to a urine drug testing laboratory after the patient produced a specimen for a urine drug screen that resulted positive for phentermine and amphetamines. Respondent's conduct was deceptive, created an inaccurate medical record, and was in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
9. On or about March 4, 2015, Respondent was arrested by the Tyler City Marshals Office, Tyler, Texas, and subsequently charged under Cause Number 001-81137-15 for FORGERY TO DEFRAUD OR HARM OF ANOTHER, a Class A misdemeanor offense. The criminal case is currently pending in the County Court at Law of Smith County, Texas.
10. In response to Findings of Fact Numbers Eight (8) and Nine (9), Respondent states she was contacted by an ex co-worker, who was also a friend of hers, who had told her she had taken some Adderall and phentermine from a friend. Respondent further states her friend asked her for a medication list from the clinic because a drug testing lab was asking for it since she tested positive for it. Respondent states her friend was very upset and afraid she was going to lose her job and wouldn't be able to provide for her kids. Respondent states she initially refused to help her; however, her friend kept texting and calling throughout the day, crying and begging her to help. Respondent admits she finally gave in and wrote a medication list for her and faxed it to her job. Respondent states her friend said the lab told her the

medication list did not clear her for the medications she tested positive for. Respondent further explains that when she returned to work she was confronted by her employer with the paper copy of the medication list and was terminated. Respondent also states she was informed that the UT Police Department would be conducting an investigation, which later resulted in forgery charges. Respondent states that on March 4, 2015, she was pulled over and taken to jail on a warrant.

11. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license(s) to practice 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(s) of 22 TEX. ADMIN. CODE §§217.11(1)(A)&(D) and 217.12(1)(A),(1)(B),(1)(C),(6)(A),(10)(B)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 201864, heretofore issued to LINDA DY ANN CUMMINGS, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.
6. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
7. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
8. 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.

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**TERMS OF ORDER**

NOW, THEREFORE, IT IS AGREED and ORDERED that the **VOLUNTARY SURRENDER** of Vocational Nurse License Number 201864, heretofore issued to LINDA DY ANN CUMMINGS, 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 vocational nursing, use the title "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying his/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.

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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 violation(s) alleged herein. By my signature on this Order, I agree to the entry of this 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 29 day of May, 2015.

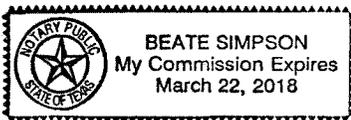
Linda Dy Ann Cummings  
LINDA DY ANN CUMMINGS, Respondent

Sworn to and subscribed before me this 29<sup>th</sup> day of May, 2015

SEAL

[Signature]

Notary Public in and for the State of Texas



FILED IN M.D. 02/12/15

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept the voluntary surrender of Vocational Nurse License Number 201864, previously issued to LINDA DY ANN CUMMINGS.

Effective this 3rd day of June, 2015.



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



Respondent's vocational nursing employment history continued:

08/09 - Present	LVN	Capstone Staffing Tyler, Texas
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6. At the time of the initial incident, Respondent was employed as a licensed vocational nurse with Trinity Mother Frances Hospital, Tyler, Texas, and has been in this position for three (3) years and eight (8) months.
7. On or about August 1, 2009, while employed with Trinity Mother Frances Hospital, Tyler, Texas, it was discovered that Respondent had been obtaining Lortab 7.5mg from the CVS Pharmacy, WhiteHouse, Texas, under her own name, through the use of fraudulent oral or telephonically communicated prescriptions, using the name and Drug Enforcement Agency (DEA) number assigned to Paul Fanning, M.D., on several occasions over the past twelve (12) months. Respondent's conduct was likely to deceive the pharmacy.
8. In response to the incident in Finding of Fact Number Seven (7), Respondent states:  
  
"I did call out several prescriptions for pain medication for myself. At no time did I give the pharmacy the doctor's DEA number. I did not change the dose or strength of the prescription; it was called in as a refill on the previous prescription prescribed by that doctor. I continued to take the same amount of pain medication that was originally prescribed; I did not increase the amount I was taking daily. I was prescribed the pain pills to control the pain in my lower back due to Degenerative Disc Disease that I was diagnosed with in 2007. In order to keep getting the refills from a doctor I had to go to monthly doctor's appointments. The manager in the clinic I was working for was very strict about work attendance and was not very understanding about me needing time off each month. I was already taking time off work due to the fact that I am a single mom and had recently had another baby that also had to be taken to doctor's appointments."
9. On or about January 8, 2009 through the present, the Board was notified that Respondent has been in default of her guaranteed student loans. Respondent's failure to repay her Texas Guaranteed Student Loan may have deprived other applicants of funds for nursing school loans.

#### 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)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(7),(10)(E)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 201864, heretofore issued to LINDA DY ANN CUMMINGS, 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 Vocational Nurse License Number 201864, previously issued to LINDA DY ANN CUMMINGS, to practice nursing in Texas is hereby SUSPENDED and said suspension is ENFORCED until Respondent completes the following requirements:

(1) RESPONDENT SHALL initiate contact with the Texas Guaranteed Student Loan Corporation and make arrangements to repay her student loan(s). Upon approval of a repayment contract with the Texas Guaranteed Student Loan Corporation, RESPONDENT SHALL CAUSE the Texas Guaranteed Student Loan Corporation to submit verification of the defaulted loan's repayment status directly to the Board.

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 the 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, upon verification of successful completion of the above

requirements, the Suspension will be STAYED, and RESPONDENT will be placed on PROBATION for two (2) years with the following agreed terms of probation:

(2) 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.

(3) RESPONDENT SHALL pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.

(4) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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>*

(5) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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, RESPONDENT 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. *Information regarding this workshop may be found at the following web address: <http://learningext.com/hives/a0f6f3e8a0/summary>.*

(6) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500). RESPONDENT SHALL pay this fine within forty-five (45) days of the suspension being stayed. 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 PROBATION CONDITIONS FOR TWO (2) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY 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 PROBATIONARY PERIOD:**

(7) 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.

(8) 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.

(9) RESPONDENT 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 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.

(11) RESPONDENT 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, RESPONDENT 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 RESPONDENT SHALL submit to a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.

(12) RESPONDENT 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 next 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 probation

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 are 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 RESPONDENT'S place of employment at any time during the probation period and require RESPONDENT 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. RESPONDENT SHALL be responsible for the costs of all random drug screening during the probation 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 Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

(13) RESPONDENT SHALL participate in pain management therapy with a Board approved Medical Doctor or Doctor of Osteopathy, licensed by the Texas Medical Board, and certified as a Diplomat with the American Board of Pain Medicine. RESPONDENT SHALL CAUSE the physician to submit written reports to the Board, which shall include, at a minimum, the

clinical indications and rationale for the chronic use of controlled substances, RESPONDENT'S progress and compliance with pain management therapy, and a prognosis as to RESPONDENT'S ability to safely practice nursing in a direct patient care setting. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the probation period, or until RESPONDENT no longer requires the use of controlled substances.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

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.

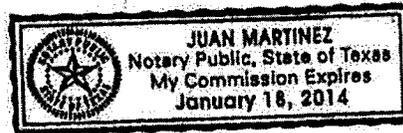
Signed this 22 day of April, 2011.

Linda D. Cummings  
LINDA DY ANN CUMMINGS, Respondent

Sworn to and subscribed before me this 22 day of APRIL, 2011.

SEAL

Juan Martinez  
Notary Public in and for the State of TX



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 22nd day of April, 2011, by LINDA DY ANN CUMMINGS, Vocational Nurse License Number 201864, and said Order is final.

Effective this 14th day of June, 2011.



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