



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.
Katherine A. Thomas
Executive Director of the Board

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Vocational Nurse
License Number 156868
issued to CYNTHIA ANNE MENCHACA

§ AGREED
§
§ ORDER

On this day the Board of Nurse Examiners for the State of Texas, herei
referred to as the Board, considered the matter of CYNTHIA ANNE MENCHACA, Voc
Nurse License Number 156868, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have
violated Section 301.452(b)(9),(10)&(12), Texas Occupations Code. Respondent waived
representation by counsel, informal conference, notice and hearing, and agreed to the entry of
this Order offered on March 23, 2007, by Katherine A. Thomas, MN, RN, Executive Director,
subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from the Health Institute of San Antonio, San Antonio, Texas, on February 2, 1996. Respondent was licensed to practice vocational nursing in the State of Texas on March 1, 1996.

5. Respondent's vocational nursing employment history includes:

3/96-8/99	Staff Nurse	S.A.K.D.C. & N.W.K.D.C. San Antonio, Texas
8/99-4/00	Staff Nurse	Freedom House San Antonio, Texas
4/00-1/01	Staff Nurse	Kingsley Place at Medical Center San Antonio, Texas
1/01-11/02	Staff Nurse	Northside Kidney Disease Center San Antonio, Texas
11/02-3/04	Staff Nurse	Gateway Dialysis San Antonio, Texas
3/04-Unknown	Staff Nurse	University Health System San Antonio, Texas
8/04-Unknown	Staff Nurse	Fresenius Medical Care San Antonio, Texas

6. At the time of the initial incident, Respondent was employed as a Staff Nurse with Fresenius Medical Care, San Antonio, Texas, and had been in this position for approximately one (1) year and two (2) months.
7. On or about October 2005, through December 16, 2005, while employed with Fresenius Medical Care, San Antonio, Texas, Respondent lacked fitness to practice vocational nursing due to exhibiting impaired behavior while on duty, including, but not limited to, severe weight loss, tardiness, frequent absenteeism, increasing levels of emotional lability, numerous complaints of illness, seeming stressed and distracted, and leaving patients' bedsides frequently for bathroom breaks. Respondent's conduct 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 December 16, 2005, while employed with Fresenius Medical Care, San Antonio, Texas, Respondent engaged in the intemperate use of Cocaine in that Respondent provided a specimen for drug screening which resulted positive for the presence of Cocaine. Possession of Cocaine is prohibited by Chapter 481 of the Texas Health & Safety Code

(Controlled Substances Act). The use of Cocaine by a nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patients' conditions, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

9. In response to Findings of Fact Numbers Seven (7) and Eight (8), Respondent states that she was being stalked by an ex-boyfriend. Respondent states that when she realized that her ex-boyfriend had a lot of bad habits, she broke up with him, causing him to become angry. He began making threats towards herself and her family. Respondent states that on December 14, 2005, she met with her ex-boyfriend to try to settle their differences. While meeting with him, Respondent states that she asked for something for a headache. Respondent states that her ex-boyfriend gave her what she thought to be BC Powder. After she took it, Respondent states that her mouth went completely numb. On December 15, 2005, Respondent states that she went to the San Antonio Police Department and filed a report against her ex-boyfriend. On December 20, 2005, Respondent applied for a Protective Order against her ex-boyfriend. On or about April 20, 2006, an Agreed Protective Order was issued in the 408th Judicial District of Bexar County, Texas, Cause No. 2006-C1-04599.
10. On or about February 3, 2006, Respondent underwent a Substance Abuse Subtle Screening Inventory (SASSI) performed by Yolanda Gonzaba, Alamo Drug and Alcohol Educational Services, San Antonio, Texas. The results of the SASSI indicated a low probability of Respondent having a substance dependence disorder. Ms. Gonzaba found Respondent to have "no apparent problem" with substance abuse/dependency and recommended that Respondent take fourteen (14) hours of alcohol/drug education.
11. In a letter dated March 7, 2007, Frank Vargas, Respiratory Therapy Supervisor, Select Specialty Hospital, San Antonio, Texas, states that he has known Respondent for over a year and worked with her directly. Mr. Vargas states that he found Respondent to be professional, competent, and reliable, and Respondent was always attentive to the needs of her patients. It is Mr. Vargas' strong belief that Respondent is an excellent nurse and a person of good morals and ethics.
12. In a letter dated March 21, 2007, Deborah J. Stahl, LVN, states that she has known Respondent for almost thirty (30) years in a variety of capacities, including both personal and professional settings. Ms. Stahl states that Respondent is a "first rate nurse" who has always put her patients' care first.
13. In a letter dated March 21, 2007, Gwendolyn D. Saunders, LVN, states that she has known Respondent professionally and personally for almost thirteen (13) years and worked with Respondent for four (4) years. During that time, Ms. Saunders states that Respondent was nothing but professional, courteous, and kind to her patients and co-workers, and Respondent

was very dependable and a great dialysis nurse.

14. Stella Bondoc submitted a letter to the Board states that she has known Respondent for seven (7) years both professionally and personally. Ms. Bondoc states that Respondent is a real team player, and if anyone needed help, Respondent was the first to lend a hand. Ms. Bondoc states that Respondent always puts her patients first and she was highly liked by the doctors at the facility due to Respondent's compassionate nature. Ms. Bondoc states that she would feel comfortable with Respondent caring for her or one of her loved ones.
15. 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.
16. Formal Charges were filed on February 5, 2007.
17. Formal Charges were mailed to Respondent on February 7, 2007.

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)(9),(10)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(T) and 217.12(5)&(10)(A)&(D).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Vocational Nurse License Number 156868, heretofore issued to CYNTHIA ANNE MENCHACA, including revocation of Respondent's license to practice vocational nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing

Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice vocational nursing in compact states.

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

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to CYNTHIA ANNE MENCHACA, to the office of the Board of Nurse Examiners within ten (10) days from the date of ratification of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence. 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) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, and documentation of care. 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.bne.state.tx.us/about/stipscourses.html>.*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing 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. The course shall be a minimum of six (6) contact hours in length. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify RESPONDENT's successful completion of the course. 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.bne.state.tx.us/about/stipscourses.html>.*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A LICENSED VOCATIONAL NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING

STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(4) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations 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 stipulations 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.

(5) 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.

(6) 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.

(7) 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) months for one (1) year of employment as a nurse.

(8) 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 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.**

(9) 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 second three (3) month period, random screens shall be performed at least once per month. For the remainder of the stipulation period, random screens shall be performed at least once every three (3) months.

Specimens shall be screened for at least the following substances:

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

A Board representative may appear at the RESPONDENT's place of employment at any time during the stipulation 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 stipulation period.

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

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license and multistate licensure

privileges, if any, to practice vocational nursing in the State of Texas.

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 to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 11 day of May, 2007
Cynthia Anne MENCHACA
CYNTHIA ANNE MENCHACA, Respondent

Sworn to and subscribed before me this 11 day of May, 2007.


SEAL

Gloria Cretsinger
Notary Public in and for the State of Michigan

GLORIA CRETSINGER
NOTARY PUBLIC, CALHOUN COUNTY, MI
MY COMMISSION EXPIRES AUG. 29, 2008

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 11th day of May, 2007, by CYNTHIA ANNE MENCHACA, Vocational Nurse License Number 156868, and said Order is final.

Effective this 12th day of June, 2007.


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