

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 49687  
ISSUED TO  
HELEN ANITA THOMAS

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§  
§

BEFORE THE ELIGIBILITY  
AND DISCIPLINARY  
COMMITTEE  
OF THE TEXAS  
BOARD OF NURSING



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.  
*Helen Anita Thomas*  
Executive Director of the Board

**ORDER OF THE BOARD**

TO: Helen Anita Thomas  
133 Pin Oak Ln.  
Hempstead, TX 77445-9312

During open meeting held in Austin, Texas, on Tuesday, March 23, 2010, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case. This case was heard, and based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee of the Texas Board of Nursing finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, chapter 301 of the Texas Occupations Code, for retention of Respondent's license to practice vocational nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Eligibility and Disciplinary Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing (22 TEX. ADMIN.CODE § 213.2(j)). All parties have a right to judicial review of this Order.

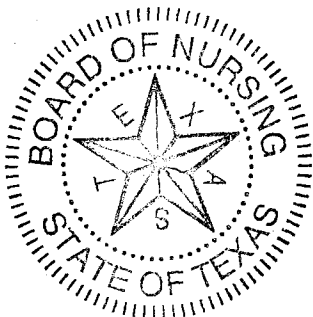
All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 49687, previously issued to HELEN ANITA THOMAS, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 49687, previously issued to HELEN ANITA THOMAS, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.


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 23rd day of March, 2010.



TEXAS BOARD OF NURSING

BY:


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

Re: Permanent Certificate Number 49687  
Issued to Helen Anita Thomas  
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 26<sup>th</sup> day of March, 2010, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

Helen Anita Thomas  
133 Pin Oak Ln.  
Hempstead, TX 77445-9312

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

**In the Matter of Permanent License** § **BEFORE THE TEXAS**  
**Number 49687, Issued to** §  
**HELEN ANITA THOMAS, Respondent** § **BOARD OF NURSING**

### **FORMAL CHARGES**

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, HELEN ANITA THOMAS, is a Vocational Nurse holding license number 49687, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

#### **CHARGE I.**

On or about February 7, 1991, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE LICENSE SUSPENDED (a misdemeanor offense committed on January 31, 1991), in the County Criminal Court at Law No. 8 of Harris County, Texas, under Cause No. 9104212. As a result of the conviction, Respondent was sentenced to confinement in the Harris County Jail for a period of three (3) days. Additionally, Respondent was ordered to pay a fine.

The above action constitutes grounds for disciplinary action in accordance with Article 4528(c), sec. 10(9), TEX. REV. CIV. STAT. ANN.,(eff. through 09/01/1993), and is a violation of 22 TEX. ADMIN. CODE §239.11(29)(A).

#### **CHARGE II.**

On or about August 13, 1992, Respondent entered a plea of Guilty and was convicted of CARRYING A WEAPON (a misdemeanor offense committed on July 20, 1992), in the County Criminal Court at Law No. 8 of Harris County, Texas, under Cause No. 9234926. As a result of the conviction, Respondent was sentenced to confinement in the Harris County Jail for a period of four (4) days. Additionally, Respondent was ordered to pay a fine.

The above action constitutes grounds for disciplinary action in accordance with Article 4528(c), sec. 10(9), TEX. REV. CIV. STAT. ANN.,(eff. through 09/01/1993), and is a violation of 22 TEX. ADMIN. CODE §239.11(29)(A).

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### CHARGE III.

On or about February 7, 2006, Respondent entered a plea of Nolo Contendere and was convicted of RESISTING ARREST, reduced to a lesser DISORDERLY CONDUCT offense (a misdemeanor committed on December 3, 2004), in the County Court at Law No. 1, Galveston County, Texas, under Cause No. 239902. As a result of the conviction, Respondent was ordered to pay a fine and court costs.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

### CHARGE IV.

On or about February 27, 2009, Respondent entered a plea of Nolo Contendere and was convicted of POSSESSION DELIVERY DRUG PARAPHERNALIA (a Class A misdemeanor offense committed on October 11, 2008), in the County Court at Law No. 2 of Galveston County, Texas, under Cause No. 290222. As a result of the conviction, Respondent was sentenced to confinement in the Galveston County Jail for a period of one (1) day.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to § 301.461, TEX. OCC. CODE ANN. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

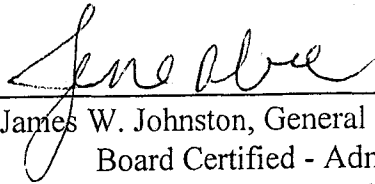
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Guidelines for Criminal Conduct which can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at [www.bon.state.tx.us/disciplinaryaction/discp-matrix.html](http://www.bon.state.tx.us/disciplinaryaction/discp-matrix.html).

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order dated March 18, 1994.

Filed this 21<sup>st</sup> day of January, 2010.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel  
Board Certified - Administrative Law  
Texas Board of Legal Specialization  
State Bar No. 10838300

Jena Renee Koslan Abel, Assistant General Counsel  
State Bar No. 24036103

Robert Kyle Hensley, Assistant General Counsel  
State Bar No. 50511847

John F. Legris, Assistant General Counsel  
State Bar No. 00785533

TEXAS BOARD OF NURSING

333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701

P: (512) 305-6824

F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Board dated March 18, 1994

049687

BOARD OF VOCATIONAL NURSE EXAMINERS

STATE OF TEXAS

VS.

HELEN C. MORGAN

COUNTY OF TRAVIS

COMPLAINT

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Jana D. Walp, who after being by me duly sworn, did depose and say:

As an Investigator for the Board of Vocational Nurse Examiners, I, Jana D. Walp, do hereby present to the Executive Director of the Board of Vocational Nurse Examiners, the following complaint against HELEN C. MORGAN, a practitioner of vocational nursing in Texas licensed by the Board of Vocational Nurse Examiners with license number 049687, hereinafter called Respondent.

I.

On or about April 28, 1993, the Board of Vocational Nurse Examiners received a written referral from the Texas Peer Assistance Program for Nurses (TPAPN) reporting Respondent to the Board for investigation due to inability to locate Respondent.

II.

a. Respondent was employed as a Licensed Vocational Nurse at Nurse Connection, in Houston, Texas, from about December, 1992 through about March 12, 1993.

b. While so employed, on or about March 11-12, 1993, and assigned as a supplemental staff nurse at Memorial Northwest Hospital in Houston, Texas, on the 11-7 shift, co-workers noted a distinct change in Respondent's behavior and appearance during the shift. During said shift, Respondent appeared to have glassy eyes and an unsteady gait.

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COMPLAINT  
RE: HELEN C. MORGAN, LVN #049687  
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c. During said shift assignment, Respondent signed out for Demerol 50 mg to patient #37619493 in Room 612 B on the 24 Hour Controlled Substance Administration Record, although said patient was not assigned to Respondent's care. Further, Respondent failed to document the administration of said Demerol in the patient's 24 Hour Nursing Record/Flow Sheet under PRN management or narrative notes as required by hospital policy.

d. During said shift assignment, Respondent signed out for Demerol 50 mg and Restoril 30 mg at about 2430 hours for patient #37632821. Physician's orders were for Demerol 25 mg. Respondent failed to document any wastage of said Demerol. Said medications were signed out for on the 24 Hour Controlled Substance Administration Record. However, Respondent failed to document the administration of said medications in the patient's MAR and and in the 24 Hour Nursing Record/Flow Sheet under PRN management or narrative notes as required by hospital policy.

e. Further, during said shift assignment at about 0340 hours, Respondent signed out for Demerol 25 mg to said patient #37632821. Respondent failed to document the administration of said medication in the patient's MAR and and in the 24 Hour Nursing Record/Flow Sheet under PRN management or narrative notes as required by hospital policy.

f. During said shift assignment, Respondent was requested to submit to a urine drug screen by the Nursing Supervisor. Respondent approached another staff member and asked her to obtain a urine specimen for her.

III.

a. Respondent was employed as a Licensed Vocational Nurse at Analytical Medical Enterprises, in Houston, Texas, from about June 14, 1993 through about July 5, 1993.

b. While so employed on or about July 5-6, 1993, Respondent was assigned as a supplemental staff at nurse Sam Houston Memorial Hospital in Houston, Texas on the 3-11 in the SNF Unit. During said shift, Respondent requested to continue working through the 11-7 shift because she had not finished passing the 9:00 pm medications.

c. During said 11-7 shift assignment, co-workers noted a distinct change in Respondent's behavior and appearance. Respondent appeared fatigued, had an unsteady gait, blood shot eyes, pinpointed pupils, was forgetful, and exhibited a diminished ability to function or carryout her nursing duties.

d. During said 11-7 shift assignment, Respondent failed to document nursing assessment/care provided on the Nursing Care and Assessment sheet on all patients assigned to her as per hospital policy.

e. During said shift assignment, the Nursing Supervisor requested Respondent to submit to a urine drug screen. Said urine drug screen results read positive for Cocaine and Benzodiazopines.

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COMPLAINT

RE: HELEN C. MORGAN, LVN #049687

PAGE 3.

f. During said shift assignment, Respondent was requested to go back to said unit and complete the patients' charts and report off to the charge nurse on duty prior to being relieved of duty for the evening. However, Respondent left the hospital without reporting off to the charge nurse and failed to complete the patient charts, thereby, abandoning the patients assigned to her.

IV.

Respondent has engaged in the intemperate use of alcohol or drugs, in violation of Article 4528c, Section 10 (a) (8), Revised Civil Statutes of Texas.

V.

The foregoing acts constitute unprofessional or dishonorable conduct that, in the opinion of the Board, is likely to deceive, defraud, or injure the public, in violation of Article 4528c, Section Section 10 (a) (9). Revised Civil Statutes of Texas and Rule 239.11 of the Rules and Regulations of the Board of Vocational Nurse Examiners, Title 22, Texas Administrative Code. Rule 239.11 (a), provides in pertinent part: that "Unprofessional Conduct" shall include, but not be limited to:

- (1) misappropriating supplies, equipment, or medications or personal items of the patient/client, employer, or any other person or entity;
- (2) administering medications and treatments in a negligent manner;
- (4) failing to make entries, destroying entries, and/or making false entries in records pertaining to care of patient's/client's;
- (10) practicing as a vocational nurse while the individual's ability to practice is impaired by alcohol, drugs, physical or mental disability;

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COMPLAINT  
RE: HELEN C. MORGAN, LVN #049687  
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(27) failing to conform to the minimal standards of acceptable prevailing practice, regardless of whether or not actual injury to any person was sustained, including but not limited to:

(H) leaving a nursing assignment while being the only licensed professional on the premises, and/or without notifying one's immediate supervisor;

(J) failing to comply with a supervisor's valid directives;

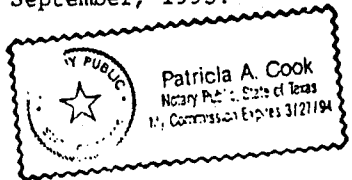
VI.

The foregoing acts constitute grounds for the Board of Vocational Nurse Examiners to take disciplinary action as provided under Article 4528c, Revised Civil Statutes of Texas, 1951, as amended.

WHEREFORE, PREMISES CONSIDERED, I, Jana D. Walp, do hereby suggest and request the Board of Vocational Nurse Examiners take disciplinary action against HELEN C. MORGAN, LVN #049687, in accordance with the provisions of the laws of the State of Texas.

Jana D. Walp  
AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME by the said Jana D. Walp, on this the 20<sup>th</sup> day of September, 1993.



Patricia A. Cook  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

Filed with the Board of Vocational Nurse Examiners on the 20<sup>th</sup> day of September, 1993.

Marjorie A. Bronk, R.N.  
Marjorie A. Bronk, R.N.  
Executive Director  
Board of Vocational Nurse Examiners



219687

**BOARD OF VOCATIONAL NURSE EXAMINERS**  
9101 BURNET ROAD - SUITE 105  
AUSTIN, TEXAS 78758  
TELEPHONE 512/835-2071

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March 18, 1994

Helen C. Morgan  
2112 33rd Street  
Galveston, TX 77550

Dear Ms. Morgan:

This is to inform you of the decision reached by the Board of Vocational Nurse Examiners in business meeting, March 15, 1994, concerning continued issuance of your license number 049687.

Based on the evidence introduced, the Board ruled your license should be suspended for three (3) year. You are hereby requested to return your license to this office immediately. Failure to comply could result in submission of your file to the Attorney General's office for institution of injunctive procedures.

The Vocational Nurse Act, Article 4528c, Section 2, V.A.C.S., prohibits the practice of vocational nursing while the person's license is suspended or revoked. Violation of this prohibition is a Class B Misdemeanor, punishable by a fine and/or jail term, upon conviction.

Enclosed please find the Order of the Board. Outlined are the findings and conclusions as determined in your case.

Appeals from a final decision or Order of the Board must be made pursuant to the requirements of the Administrative Procedure Act (APA), 73rd Leg., R.S., ch. 268, Section 1, 1993 Tex. Sess. Law Serv. 737 (Vernon) (formerly in V.A.C.S. art. 6252-13a, to be codified at Tex. Gov't Code Ann., ch. 2001). A motion for rehearing must be filed within 20 days from the date of this notice, as a jurisdictional prerequisite to an Appeal.

If you have any questions concerning this matter, please contact the Investigation Division.

Sincerely,

A handwritten signature in cursive script that reads "Marjorie A. Bronk".

Marjorie A. Bronk, R.N.  
Executive Director

MAB/jf  
Enclosure

0249687

DOCKET NO. 511-93-1024

IN THE MATTER OF	§	BEFORE THE
	§	
	§	STATE OFFICE OF
	§	
HELEN C. MORGAN, L.V.N.	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Board of Vocational Nurse Examiners brought this case seeking disciplinary action against a licensee for engaging in the intemperate use of drugs and indulging in unprofessional conduct. The licensee did not attend the hearing. This proposal finds that the subject license should be suspended.

I. Procedural History

On September 20, 1993, the staff of the Board of Vocational Nurse Examiners (the Board), filed a sworn complaint against Helen C. Morgan (the Respondent). The Board alleged that the Respondent was referred to the Texas Peer Assistance Program for Nurses (TPAPN) but that TPAPN has been unable to locate her, that the Respondent tested positive for drugs while on duty, misappropriated medications belonging to her employer, administered medications in a negligent manner, failed to make entries in nursing records, was impaired while on duty, failed to comply with a supervisor's directive, and abandoned her patients. The Board further alleged that such actions constitute grounds for disciplinary action against the Respondent's license.

The hearing commenced on January 10, 1994, in the Clements Building, 300 West 15th Street, Austin, Texas. After the taking of evidence, the hearing concluded the same day. The Board's staff was represented by Janet Monteros, Assistant Attorney General of Texas. Helen C. Morgan did not appear and was not represented at the hearing.

II. Jurisdiction and Notice

The Board of Vocational Nurse Examiners has jurisdiction over this matter pursuant to TEX. REV. CIV. STAT. ANN. art. 4528c §10. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law pursuant to Acts 1993, 73rd Leg., R.S., ch. 268, §1, 1993 Tex. Sess. Law Serv. 759 (Vernon) (formerly V.A.C.S. art. 6252-13f, to be codified at TEX. GOV'T CODE ANN., ch. 2003).

The Board satisfied the Administrative Procedure Act ("APA"), 73rd Leg., R.S., ch. 268, §1, 1993 Tex. Sess. Law Serv. 737 (Vernon) (formerly in V.A.C.S. art. 6252-13a, to be codified at

Tex. Gov't Code Ann., ch. 2001) by its attempts to provide the Respondent with notice of the proposed disciplinary action against her license and of the hearing. Notice of the Board's intention to institute disciplinary action, dated July 22, 1993, a second notice of intention to institute disciplinary action, dated August 6, 1993, a copy of the complaint against the Respondent, dated September 20, 1993, and notice of the hearing, dated December 13, 1993, were each properly addressed and sent by certified mail, return receipt requested, to Helen C. Morgan, 2112 33rd Street, Galveston, Texas 77502, her address of record. The first three letters were received by the Respondent or her agent. The Board has further provided by rule, at 22 TAC §239.23, "Service of notice of hearing or investigation on the respondent/applicant shall be complete and effective if the document to be served is sent by registered, certified or regular mail to the respondent/applicant at his or her most recent address as shown in the investigative records of the board." The notice of hearing contained a statement of the time, place and nature of the hearing, and a statement of the matters asserted and of the legal authority and jurisdiction under which the hearing was to be held.

### III. Discussion

The Respondent is a vocational nurse licensed by the State of Texas and holds license number 049687.

On or about April 28, 1993, the Board of Vocational Nurse Examiners received a letter from the Texas Peer Assistance Program for Nurses (TPAPN) in which the Board was advised that the Respondent had been referred to TPAPN but that TPAPN had been unable to locate the Respondent.

From about December, 1992, until about March 12, 1993, the Respondent was employed as a vocational nurse at Nurse Connection, Houston, Texas. She was assigned to work as a supplemental staff nurse on March 11 and 12, 1993, at Memorial Northwest Hospital, Houston, Texas. The Respondent was on the 11:00 p.m. to 7:00 a.m. shift.

Ester M. Cuellar, R.N., Memorial Northwest Hospital, testified that she worked the same shift as the Respondent on the night of March 11, 1993. The Respondent reported for duty alert, cheerful and oriented. By mid-shift the Respondent had an unsteady gait, glassy eyes and slowed speech. Ms. Cuellar became concerned because the Respondent seemed to be requesting too many narcotics. Ms. Cuellar asked patients to whom the Respondent had supposedly administered narcotics if they had requested or received the injections. Most patients denied needing or receiving any narcotics.

At about 2:30 a.m. on March 12, 1993, the Respondent signed out for Demerol 50mg for the patient in room 612B on the 24 Hour

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Controlled Substance Administration Record. The patient in room 612B was not assigned to the Respondent's care. The Respondent failed to document administration of the Demerol on the patient's 24 Hour Nursing Record/Flow Sheet or the nurses' narrative notes as required by hospital policy. The patient denied receiving the medication.

At about 12:30 a.m. on March 12, 1993, the Respondent signed out for Demerol 50mg for patient number 37632821 on the 24 Hour Controlled Substance Administration Record. The physician's orders for the patient were for Demerol 25mg. The Respondent failed to document any wastage of the Demerol. The Respondent failed to document administration of the Demerol on the patient's Medication Administration Record, the 24 Hour Nursing Record/Flow Sheet or the nurses' narrative notes as required by hospital policy. The patient denied receiving the medication.

At about 3:40 a.m. on March 12, 1993, the Respondent signed out for Demerol 25mg for patient number 37632821 on the 24 Hour Controlled Substance Administration Record. The Respondent failed to document administration of the Demerol on the patient's Medication Administration Record, the 24 Hour Nursing Record/Flow Sheet or the nurses' narrative notes as required by hospital policy. The patient denied having requested any medication.

Ms. Cuellar testified that near the end of the shift she and her supervisor confronted the Respondent about her condition and the discrepancies in the narcotic records. They demanded a urine sample to be screened for drugs. The Respondent denied any drug use and agreed to supply a urine sample as soon as she could.

Barbara Beene, Nursing Assistant, Memorial Northwest Hospital, testified that about 5:30 a.m. on March 12, 1993, she was cleaning up and was collecting the urine outputs from patients. The Respondent approached her and requested a urine specimen from one of the patients. Ms. Beene asked why the Respondent wanted the specimen and the Respondent left.

From about June 14, 1993, until about July 5, 1993, the Respondent was employed as a vocational nurse at Analytical Medical Enterprises, Houston, Texas. She was assigned to work as a supplemental staff nurse on July 5 and 6, 1993, at Sam Houston Memorial Hospital, Houston, Texas. The Respondent was on the 3:00 p.m. to 11:00 p.m. shift.

Linda Shult, LVN, Sam Houston Memorial Hospital, testified that she worked the 11:00 p.m. to 7:00 a.m. shift which began on July 5, 1993. The Respondent was not finished with the 9:00 p.m. medications and requested to work past her normal quitting time. Ms. Shult observed the Respondent pushing the medication cart down the hallway. The Respondent appeared confused and had an unsteady gait. Upon closer examination, she was talking to herself, had

bloodshot glassy eyes, and unclear speech. Ms. Shult reported the Respondent to her supervisor. Ms. Shult further testified that the Respondent did no documentation that day in the patient's charts.

Raquel Barnes, R.N., Sam Houston Memorial Hospital, testified that after being informed of the Respondent's condition about 1:00 a.m. she confronted the Respondent about her condition. Ms. Barnes demanded that the Respondent supply a urine sample to be screened for drugs. The urine sample tested positive for Cocaine and Benzodiazepines. Ms. Barnes directed the Respondent to return to her station, to report on her patients to the charge nurse, to complete her charting and to sign out. The Respondent got her personal effects and left the hospital without complying with the directive of Ms. Barnes.

The Board has authority to take disciplinary action against its licensees under TEX. REV. CIV. STAT. ANN. art. 4528c §10(a) which states, in part, "(a) The Board may ... may suspend or may revoke the license of any practitioner of vocational nursing for ... (8) intemperate use of alcohol or drugs; [and] (9) unprofessional conduct that, in the opinion of the Board, is likely to deceive, defraud, or injure the public."

In its Rules, at 22 TAC §239.11, the Board has defined "unprofessional or dishonorable conduct, likely to deceive, defraud, or injure the public" to include, "(1) misappropriating supplies, equipment, or medications or personal items of the ... employer; (2) administering medications and treatments in a negligent manner; ... (4) failing to make entries ... in records pertaining to care of patients/clients; ... (10) practicing as a vocational nurse while the individual's ability to practice is impaired by alcohol, drugs, physical or mental disability [and] (27) failing to conform to the minimal standards of acceptable prevailing practice, regardless of whether or not actual injury to any person was sustained, including ... (H) leaving a nursing assignment ... without notifying one's immediate supervisor; [and] ... (J) failing to comply with a supervisor's valid directives."

The Respondent was twice on duty as a licensed vocational nurse while impaired by drugs. She misappropriated medications, failed to properly document nursing care and failed to conform to the minimal standards of acceptable prevailing practice. The Respondent has shown herself to be an intemperate user of drugs. Such actions make her a danger to the public and justify disciplinary action against her license.

Based upon the actions of the Respondent, the Administrative Law Judge recommends that the Respondent's license be suspended for three years. That recommendation is consistent with the recommendation of the staff.

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PROPOSED FINDINGS OF FACT

1. Helen C. Morgan (Respondent), a vocational nurse licensed by the State of Texas, holds license number 049687.
2. A sworn complaint against the Respondent was filed with the Board of Vocational Nurse Examiners for the State of Texas.
3. Proper and timely notice of the hearing and of the complaint was mailed to the Respondent by certified mail to her record address.
4. The Respondent was not present at the hearing.
5. The Respondent was not represented by counsel at the hearing.
6. The Respondent was referred to the Texas Peer Assistant Program for Nurses (TPAPN) but TPAPN has been unable to locate the Respondent.
7. From about December, 1992, until about March 12, 1993, the Respondent was employed as a vocational nurse at Nurse Connection, Houston, Texas. She was assigned to work the 11:00 p.m. to 7:00 a.m. shift as a supplemental staff nurse on March 11 and 12, 1993, at Memorial Northwest Hospital, Houston, Texas.
8. At 11:00 p.m. on March 11, 1993, the Respondent reported for duty alert, cheerful and oriented. By mid-shift the Respondent had an unsteady gait, glassy eyes and slowed speech.
9. At about 2:30 a.m. on March 12, 1993, the Respondent signed out for Demerol 50mg for the patient in room 612B on the 24 Hour Controlled Substance Administration Record. The patient in room 612B was not assigned to the Respondent's care. The Respondent failed to document administration of the Demerol on the patient's 24 Hour Nursing Record/Flow Sheet or the nurses' narrative notes as required by hospital policy. The patient did not receive the medication.
10. At about 12:30 a.m. on March 12, 1993, the Respondent signed out for Demerol 50mg for patient number 37632821 on the 24 Hour Controlled Substance Administration Record. The physician's orders for the patient were for Demerol 25mg. The Respondent failed to document any wastage of the Demerol. The Respondent failed to document administration of the Demerol on the patient's Medication Administration Record, the 24 Hour Nursing Record/Flow Sheet or the nurses' narrative notes as required by hospital policy. The patient did not receive the medication.

11. At about 3:40 a.m. on March 12, 1993, the Respondent signed out for Demerol 25mg for patient number 37632821 on the 24 Hour Controlled Substance Administration Record. The Respondent failed to document administration of the Demerol on the patient's Medication Administration Record, the 24 Hour Nursing Record/Flow Sheet or the nurses' narrative notes as required by hospital policy. The patient had not requested any medication.
12. At approximate 5:30 a.m. on March 12, 1993, Ester M. Cuellar confronted the Respondent about her condition and the discrepancies in the narcotic records. A urine sample was demanded to be screened for drugs. The Respondent denied any drug use and agreed to supply a urine sample as soon as she could.
13. At approximately 5:30 a.m. on March 12, 1993, the Respondent approached Barbara Beene, Nursing Assistant, and requested a urine specimen from one of the patients. Ms. Beene asked why the Respondent wanted the specimen and the Respondent left.
14. From about June 14, 1993, until about July 5, 1993, the Respondent was employed as a vocational nurse at Analytical Medical Enterprises, Houston, Texas. She was assigned to work the 3:00 p.m. to 11:00 p.m. shift as a supplemental staff nurse on July 5 and 6, 1993, at Sam Houston Memorial Hospital, Houston, Texas.
15. On July 5, 1993, the Respondent was not finished with the 9:00 p.m. medications and requested to work past her normal quitting time. Linda Shult, LVN, observed the Respondent pushing the medication cart down the hallway. The Respondent appeared confused and had an unsteady gait. Upon closer examination, the Respondent was talking to herself, had bloodshot glassy eyes, and unclear speech. Ms. Shult reported the Respondent to her supervisor.
16. On July 5, 1993, the Respondent did no documentation in the patient's charts.
17. Raquel Barnes, R.N., Sam Houston Memorial Hospital, after being informed of the Respondent's condition about 1:00 a.m., confronted the Respondent about her condition. Ms. Barnes demanded that the Respondent supply a urine sample to be screened for drugs. The urine sample tested positive for Cocaine and Benzodiazopines. Ms. Barnes directed the Respondent to return to her station, to report on her patients to the charge nurse, to complete her charting and to sign out.
18. The Respondent got her personal effects and left the hospital without complying with the directive of Ms. Barnes.

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PROPOSED CONCLUSIONS OF LAW


1. The Board of Vocational Nurse Examiners has jurisdiction over this matter pursuant to TEX. REV. CIV. STAT. ANN. art. 4528c §10.
2. Proper and timely notice of the hearing was effected upon Respondent pursuant to the Administrative Procedure Act ("APA"), 73rd Leg., R.S., ch. 268, §1, 1993 Tex. Sess. Law Serv. 737 (Vernon) (formerly in V.A.C.S. art. 6252-13a, to be codified at Tex. Gov't Code Ann., ch. 2001) and 22 TAC §239.23.
3. The Board has authority to take disciplinary action against its licensees under TEX. REV. CIV. STAT. ANN. art. 4528c §10(a) which states, in part, "(a) The Board may ... may suspend or may revoke the license of any practitioner of vocational nursing for ... (8) intemperate use of alcohol or drugs; [and] (9) unprofessional or dishonorable conduct that, in the opinion of the Board, is likely to deceive, defraud or injure the public."
4. In its Rules, at 22 TAC §239.11, the Board has defined "unprofessional or dishonorable conduct, likely to deceive, defraud, or injure the public" to include, "(1) misappropriating supplies, equipment, or medications or personal items of the ... employer; (2) administering medications and treatments in a negligent manner; ... (4) failing to make entries ... in records pertaining to care of patients/clients; ... (10) practicing as a vocational nurse while the individual's ability to practice is impaired by alcohol, drugs, physical or mental disability [and] (27) failing to conform to the minimal standards of acceptable prevailing practice, regardless of whether or not actual injury to any person was sustained, including ... (H) leaving a nursing assignment ... without notifying one's immediate supervisor; [and] ... (J) failing to comply with a supervisor's valid directives."
5. Based upon Findings of Fact Nos. 8, 15 and 17, the Respondent has been intemperate in her use of drugs in violation of TEX. REV. CIV. STAT. ANN. art. 4528c §10(a)(8) which warrants disciplinary action against her license.
6. Based upon Findings of Fact Nos. 8, 15 and 17, the Respondent has practiced as a vocational nurse while her ability was impaired by drugs in violation of TEX. REV. CIV. STAT. ANN. art. 4528c §10(a)(9) and 22 TAC §239.11(10) which warrants disciplinary action against her license.
7. Based upon Findings of Fact Nos. 9 - 13, the Respondent has misappropriated medications belonging to her employer in

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violation of TEX. REV. CIV. STAT. ANN. art. 4528c §10(a)(9) and 22 TAC §239.11(1) which warrants disciplinary action against her license.

8. Based upon Findings of Fact Nos. 9 - 11, the Respondent has administered medications in a negligent manner in violation of TEX. REV. CIV. STAT. ANN. art. 4528c §10(a)(9) and 22 TAC §239.11(2) which warrants disciplinary action against her license.
9. Based upon Findings of Fact Nos. 10 - 12, and 16, the Respondent has failed to make entries in records pertaining to care of patients in violation of TEX. REV. CIV. STAT. ANN. art. 4528c §10(a)(9) and 22 TAC §239.11(4) which warrants disciplinary action against her license.
8. Based upon Findings of Fact Nos. 17 and 18, the Respondent has failed to conform to the minimal standards of acceptable prevailing practice in violation of TEX. REV. CIV. STAT. ANN. art. 4528c, §10(a)(9) and 22 TAC §239.11(27) which warrants revocation of her license.

Signed and entered this 28th day of January, 1994.

  
\_\_\_\_\_  
Earl A. Corbitt  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS

049687

DOCKET NO. 511-93-1024

IN THE MATTER OF PERMANENT	§	BEFORE THE BOARD OF
LICENSE NUMBER 049687	§	VOCATIONAL NURSE EXAMINERS
ISSUED TO	§	IN AND FOR THE
HELEN C. MORGAN, LVN	§	STATE OF TEXAS

ORDER OF THE BOARD

TO: HELEN C. MORGAN  
2112 33rd Street  
Galveston, Texas 77550

During open meeting at Austin, Texas, the Board of Vocational 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 Vocational 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 not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that License Number 049687 heretofore issued to HELEN C. MORGAN to practice vocational nursing in the State of Texas be, and the same is hereby, suspended for three years.

Passed and approved at the regular meeting of the Board of Vocational Nurse Examiners in and for the State of Texas at Austin, Texas, on the 15<sup>th</sup> day of March, 1994.

Entered this 15<sup>th</sup> day of March, 1994.

James M. Jones  
Keith J. Lusk  
Alan Speck  
Melba Lee Wacey, Jr.  
Doris A. Parkerson  
Lydia Lewis

Paul M. Robinson, LVS  
Charlotte J. Sigford, DVS  
Betty Ann McNamee  
Virginia M. Bauman

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CERTIFICATE OF SERVICE

I hereby certify that on the 18<sup>th</sup> day of March, 19 94,  
a true and correct copy of the foregoing Order was served by placement in the  
U.S. Mail, first class, and addressed to the following person(s):

HELEN C. MORGAN  
2112 33RD STREET  
GALVESTON, TX 77550

Marjorie A Bronk, R.N.  
Marjorie Bronk, R.N.  
Executive Director  
Agent for the Board of Vocational Nurse Examiners