

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse §  
License Number 171726 issued §  
to RACHELLE WINDISCHMAN LYONS §



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 P. Thomas*  
Executive Director of the Board

ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the I accepted the voluntary surrender of Vocational Nurse License Number 171726, issued to RACHELLE WINDISCHMAN LYONS, 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 Schreiner College, Kerrville, Texas, on February 19, 1999. Respondent was licensed to practice vocational nursing in the State of Texas on April 20, 1999.
4. Respondent's vocational nursing employment history includes:
 

04/99 - 07/99	Unknown	
08/99 - 07/00	LVN	SciRex Pharmaceuticals Austin, Texas
2001 - 2006	LVN	Maxim Healthcare Services Austin, Texas

Respondent's vocational nursing employment history continued:

02/06 - 04/06	LVN	St. David's Medical Center - North Austin, Texas
11/06 - 01/07	LVN	Heartland Healthcare Austin, Texas
05/06 - Unknown	LVN	Seton Medical Center Austin, Texas
01/08 - 04/09	LVN	Maxim Healthcare Services Austin, Texas
05/09 - Unknown	LVN	St. David's Medical Center Austin, Texas

5. Formal Charges were filed on April 18, 2011. A copy of the Formal Charges is attached and incorporated by reference as part of this Order.
6. Formal Charges were mailed to Respondent on April 20, 2011.
7. On April 27, 2011, the Board received a notarized statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's notarized statement, dated April 27, 2011, is attached and incorporated herein, by reference, as part of this Order.
8. 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.
9. 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 violation of Section 301.452(b)(9),(10),(12) &(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(E) and 217.12(1)(B),(4),(5),(10)(A),(10)(D)&(13).
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.

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ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender Vocational Nurse License Number 171726, heretofore issued to RACHELLE WINDISCHMAN LYONS, 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 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 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; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
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 vocational nursing in the State of Texas.

Effective this 6th day of May, 2011.



TEXAS BOARD OF NURSING

By:

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

In the Matter of Permanent License § BEFORE THE TEXAS  
Number 171726, Issued to §  
RACHELLE WINDISCHMAN LYONS, Respondent § BOARD OF NURSING

### FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, RACHELLE WINDISCHMAN LYONS, is a Vocational Nurse holding license number 171726, 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 April 24-25, 2009, while employed with Maxim Healthcare, Columbia, Maryland, and assigned to A\*Med Community Hospice, Austin, Texas, Respondent had a male visitor at the facility and in a patient's room for 30-45 minutes. Respondent told other caregivers that he was an auditor from Maxim, but later admitted that he was not. Respondent's conduct was deceptive and failed to respect the patient's right to privacy.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §§217.11(1)(E) and 217.12(1)(B)&(4).

#### CHARGE II.

On or about April 24-25, 2009, while employed with Maxim Healthcare, Columbia, Maryland, and assigned to A\*Med Community Hospice, Austin, Texas, Respondent lacked fitness to practice vocational nursing in that she was found asleep by the oncoming shift nurse, in the room of Patient Medical Record Number 440. Respondent's condition was likely to affect her ability to recognize subtle signs, symptoms or changes in the patient's condition, and was likely to affect her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(12), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(4)&(5).

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### CHARGE III.

On or about April 27, 2009, while employed with Maxim Healthcare, Respondent engaged in the intemperate use of cocaine, in that she produced a specimen for a random urine drug screen which resulted positive for cocaine metabolites. Possession of cocaine is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of cocaine by a licensed vocational nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patients' condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(4),(5),(10)(A)&(10)(D).

### CHARGE IV.

On or about May 19, 2009, Respondent was convicted of DRIVING WHILE INTOXICATED 2ND, (a Class A Misdemeanor offense committed on May 23, 2008), in the County Court at Law No. 8 of Travis County, Texas, under Cause No. C1CR08209351. As a result of the conviction, Respondent was sentenced to one (1) year confinement in the Travis County Jail, with the imposition of the sentence suspended, and was placed on community supervision for a period of eighteen (18) months. Additionally, 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).

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 Nursing Practice Act, Chapter 301, Texas Occupations Code and 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 Section 301.461, Texas Occupations Code. 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 and on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, 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).

Filed this 18<sup>th</sup> day of April, 20 11.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel  
Board Certified - Administrative Law  
Texas Board of Legal Specialization  
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TEXAS BOARD OF NURSING  
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Rachelle Windischman Lyons  
715 Ralph Street  
Jacksonville, Florida 32204  
Texas LVN License #171726

April 27, 2011

Dear Texas Board of Nursing:

I no longer desire to be licensed as a licensed vocational nurse. Accordingly, I voluntarily surrender my license 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 Rachelle W. Lyons

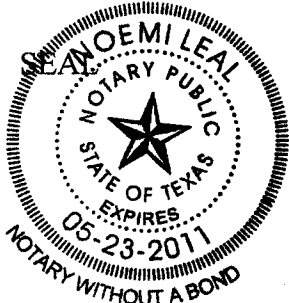
Date 4/27/11

Texas LVN License Number 171726

The State of Texas

Before me, the undersigned authority, on this date personally appeared RACHELLE WINDISCHMAN LYONS 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<sup>th</sup> day of April, 20 11.



Noemi Leal  
Notary Public in and for the State of TX