



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 R. Thomas*  
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse                     §  
License Number 209726                                     §  
issued to TRACY LYNN FERGUSON                     §

ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 209726, issued to TRACY LYNN FERGUSON, 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 Indiana Vocational Technical College, South Bend, Indiana, on August 13, 1993. Respondent was licensed to practice vocational nursing in the State of Texas on May 5, 2007.
4. Respondent's vocational nursing employment history continued:

|                   |                            |  |
|-------------------|----------------------------|--|
| 10/2007 - 07/2008 | LVN                        | Azle Manor Nursing Home<br>Azle, Texas |
| 07/2008 - 10/2009 | Employment history unknown |  |

Respondent's vocational nursing employment history continued:

|                     |     |  |
|---------------------|-----|--|
| 10/2009 - Present   | LVN | Brightstar Healthcare<br>Fort Worth, Texas       |
| 11/2009 - 6/14/2010 | LVN | Cross Timbers Care Center<br>Flower Mound, Texas |

5. On or about April 8, 2009, Respondent was issued an Agreed Order by the the Texas Board of Nursing which required her to participate and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Finding of Fact, Conclusions of Law and Order dated April 8, 2009 is attached and incorporated herein by reference as part of this Order.
6. On June 18, 2010, the Board provided notice to Respondent for the following allegations:
  - a. On or about May 3, 2010, while employed as a Licensed Vocational Nurse with Cross Timbers Care Center, Flower Mound, Texas, Respondent engaged in the intemperate use of Alcohol, in that she produced a specimen for a random drug screen requested by the Texas Peer Assistance Program for Nurses (TPAPN), which resulted positive for EtG/EtS. The use of Alcohol 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 patient's 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.
  - b. On or about May 3, 2010, Respondent failed to comply with the Agreed Order issued to her by the Texas Board of Nursing, on April 8, 2009. Respondent's noncompliance is the result of her failure to comply with Stipulation Number Three (3) of the Order, which reads, in pertinent part:

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

On May 27, 2010, Respondent was dismissed from TPAPN and referred to the Board.
7. On April 26, 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 19, 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 a violation of Section 301.452(b)(1),(9),(10)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(A),(4),(5),(9),(10)(A)&(11)(B).
4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

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TRACY LYNN FERGUSON  
5516 Maurie Drive  
Haltom City, Texas 76148  
Texas LVN License #209726

Voluntary Surrender Statement

April 12, 2011

Dear Texas Board of Nursing:

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

Signature

Tracy L Ferguson

Date

4-19-11

Texas Nursing License Number/s

209726

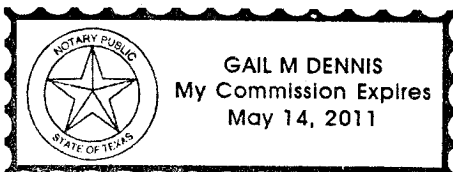
The State of Texas

Before me, the undersigned authority, on this date personally appeared TRACY LYNN FERGUSON 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 19 day of April, 2011.

SEAL

Gail M. Dennis  
Notary Public in and for the State of Texas



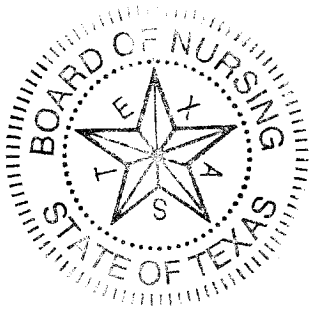
ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 209726, heretofore issued to TRACY LYNN FERGUSON, 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 27<sup>th</sup> day of April, 2011.



TEXAS BOARD OF NURSING

By:

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

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse                   §     AGREED  
License Number 209726                                 §  
issued to TRACY LYNN FERGUSON                   §     ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of TRACY LYNN FERGUSON, Vocational Nurse License Number 209726, 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 proceedings, notice and hearing, and agreed to the entry of this Order offered on February 3, 2009, by Katherine A. Thomas, MN, RN, Executive Director.

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 proceedings, 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 Nursing from Indiana Vocational Tech college, South Bend Indiana on August 13, 1993. Respondent was licensed to practice vocational nursing in the State of Texas on May 8, 2007.
5. Respondent's vocational nursing employment history includes:  
05/2007 - 09/2007                                 Unknown

Respondent's vocational nursing employment history continued:

10/2007 - 07/2008                      LVN                      Azle Manor Nursing Home  
Azle, Texas

07/2008 - Present                      Unknown

6. At the time of the incidents, Respondent was employed as a licensed vocational nurse with Azle Manor Nursing Home, Azle, Texas, and had been in this position for nine (9) months.
7. On or about July, 17, 2008, while employed as a Licensed Vocational Nurse with Azle Manor, Inc., Azle, Texas, Respondent lacked fitness to practice vocational nursing, in that she presented to work acting very disorganized, exhibited an unsteady gait and had flight of ideas. Respondents conduct could have affected her ability to recognize subtle signs, symptoms or changes in patients' condition, and could have affected her ability to make rational, accurate and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patients in potential danger.
8. On or about July, 17, 2008, while employed as a Licensed Vocational Nurse with Azle Manor, Inc., Azle, Texas, Respondent engaged in the intemperate use of Benzoyllecgonine (Cocaine Metabolites), Amphetamine/Methamphetamine, Carboxy-THC (Marijuana Metabolites) and Benzodiazepines, in that Respondent produced a specimen for a drug screen which resulted positive for Benzoyllecgonine (Cocaine Metabolites), Amphetamine/Methamphetamine, Carboxy-THC (Marijuana Metabolites) and Benzodiazepines. Possession of Benzoyllecgonine (Cocaine Metabolites), Amphetamine/Methamphetamine, Carboxy-THC (Marijuana Metabolites) and Benzodiazepines is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Benzoyllecgonine (Cocaine Metabolites), Amphetamine/Methamphetamine, Carboxy-THC (Marijuana Metabolites) and Benzodiazepines by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to make rational, accurate and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.
9. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
10. 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.
11. Formal Charges were filed on December 18, 2008.
13. Formal Charges were mailed to Respondent on December 19, 2008.

- 14 Respondent's conduct described in Findings of Fact Numbers Seven (7) and Eight (8) resulted from Respondent's impairment by dependency on chemicals.
15. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

#### CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violations of Section 301.452(b)(9),(10)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(E),(5),(10)(A),(D),&(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 209726, heretofore issued to TRACY LYNN FERGUSON, including revocation of Respondent's license to practice nursing in the State of Texas.
5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

#### ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

RESPONDENT SHALL deliver the wallet-sized license issued to TRACY LYNN FERGUSON, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order.



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

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her license to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privileges, if any, to practice nursing in the State of Texas.

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 Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this

Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including revocation of Respondent's license and multistate licensure 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 violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, 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.

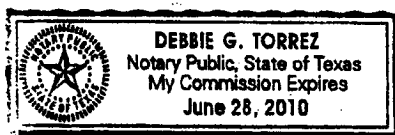
Signed this 2 day of April, 2009.

Tracy Lynn Ferguson  
TRACY LYNN FERGUSON, Respondent

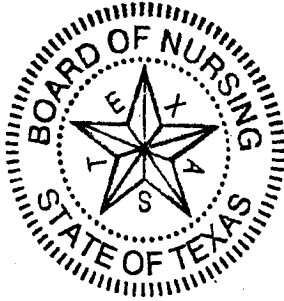
Sworn to and subscribed before me this 2 day of April, 2009.

SEAL

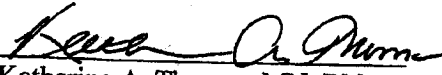
Debbie G. Torrez  
Notary Public in and for the State of Texas



WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Agreed Order that was signed on 2<sup>nd</sup> day of April, 2009, by TRACY LYNN FERGUSON, Vocational Nurse License Number 209726, and said Order is final.



Entered and effective this 8th day of April, 2009.

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