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Patricia R. Bernal
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse §
License Number 50802 §
issued to HERMELINDA R. BERNAL §

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 50802, issued to HERMELINDA R. BERNAL, 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's license to practice vocational nursing in the State of Texas is currently in inactive status.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing.
3. Respondent received a Certificate in Vocational Nursing from Del Mar Technical Institute Vocational Nursing, Corpus Christi, Texas on September 9, 1971. Respondent was licensed to practice vocational nursing in the State of Texas on October 27, 1971.
4. Respondent's complete vocational nursing employment history is unknown.

5. On or about November 13, 2008, the Texas Board of Nursing noticed Respondent for the following allegations:

5a. On or about June 6, 2008 through July 13, 2008, while employed as a Licensed Vocational Nurse with CHRISTUS Spohn Hospital Corpus Christi-Shoreline, Corpus Christi, Texas, Respondent withdrew Lortab from the Medication Dispensing System (Pyxis) for patients in excess frequency/dosage of the physician's orders.

DATE	PATIENT	PHYSICIAN'S ORDERS	PYXIS RECORDS	MEDICATION ADMINISTRATION RECORDS	NURSES' NOTES	WASTAGE
06/06/2008	SH0000976490	Lortab 5/500 PRN 6hrs.	Hydrocodone 5/500 Tab @ 09:23:25 & 14:00:10	Documented as given @ 0915 Documented as given @ 1400	Not documented Not documented	None None
07/11/2008	SH0000986033	Lortab 7.5/500 1 Tab PO every 6 hrs.	1-Hydrocodone /Apap 7.5/500 @ 09:23:24 & 16:37:58	Documented as given @ 0850 Documented as given @ 1630	No Notes No Notes	None None
07/12/2008	"	"	Hydrocodone /Acetaminophen 7.5/500 Tab @ 10:03:30 & 15:39:38 & 18:51:15	Not Documented Not Documented Documented as given @ 1430	No Notes No Notes No Notes	None None None
07/13/2008	"	"	Hydrocodone /Acetaminophen 7.5/500 Tab @ 08:15:23 & 12:20:24	Not Documented Not Documented	Documented "Pain & Nerve Med" given @ 0957 Documented "Pain Med" given @ 1800	None None

Respondent's conduct was likely to injure the patient in that the administration of Lortab in excess frequency and/or dosage of the physician's order could result in the patient suffering from adverse reactions.

5b. On or about June 1, 2008 through July 13, 2008, while employed as a Licensed Vocational Nurse with CHRISTUS Spohn Hospital Corpus Christi-Shoreline, Corpus Christi, Texas, Respondent withdrew Lortab and Alprazolam from the Medication Dispensing System (Pyxis) for patients, but failed to document, or accurately document the administration, including signs, symptoms and responses to the medications in the patient's Medication Administration Record (MAR) and Nurses Notes, as follows:

DATE	PATIENT	PHYSICIAN'S ORDERS	PYXIS RECORDS	MEDICATION ADMINISTRATION RECORDS	NURSES' NOTES	WASTAGE
06/01/2008	SH0000975823	Hydrocodone 5/100 1-2 Tab PO 4hrs	Hydrocodone APAP 5/500 Tab @ 08:28:14	Not documented	Not documented	None
06/06/2008	SH0000976490	Lortab 5/500 PRN 6hrs.	Hydrocodone 5/500 Tab @ 09:23:25 & 14:00:10	Documented as given @ 0915 Documented as given @ 1400	Not documented Not documented	None
06/07/2008	"	"	Hydrocodone 5/500 Tab @ 08:29:56 &	Not documented	Not documented	None

DATE	PATIENT	PHYSICIAN'S ORDERS	PYXIS RECORDS	MEDICATION ADMINISTRATION RECORDS	NURSES' NOTES	WASTAGE
			15:28:50	Not documented	Not documented	None
06/08/2008	"	"	Morphine Syr 2mg @ 16:33:47	Documented as given @ 1630	Not documented	None
03/13/2008	SH0000979140	Lortab 10 PRN 6hrs	Lortab 10 Tab @ 10:26:51	Not documented	Notation "meds" @ 1300	None
06/14/2008	"	"	Lortab 10 Tab @ 08:35:41	Documented as given @ 0840	Notation "medicated" @ 0950	None
06/15/2008	"	"	Lortab 10 Tab @ 16:31:51	Not documented	Not documented	None
06/27/2008	SH0000980359	Alprazolam 0.25mg Tab PO 3 times a day. Hydrocodone 5/500 1 Tab PO 4 hrs	1-Alprazolam.25 Tab @ 08:58:58 & 16:50:57 1-Hydrocodone 5/500 Tab @ 16:51:18	Documented as given @ 0900 Documented as given-time not readable Documented as given @ 1645	Not documented Not documented Notation "med for pain" @ 1700	None None None
06/28/2008	"	"	1-Alprazolam.25 Tab @ 07:56:40 & 16:45:21 1-Hydrocodone 5/500 Tab @ 07:56:58 & 13:59:54 & 18:21:07	Documented as given @ 0900 Documented as given @ 1900 Documented as given @ 0830 Not documented Not documented	Notation "med for pain" @ 0730 Not documented Not documented Not documented	None None None None
07/04/2008	"	"	1-Alprazolam.25 Tab @ 10:07:15 1-Hydrocodone 5/500 Tab @ 10:12:44 & 18:15:38	Not documented Not documented Not documented	Notation "med & lor" @ 1815 Not documented Not documented	None None None
07/06/2008	"	"	1-Alprazolam.25 Tab @ 09:16:23 & 17:34:39 1-Hydrocodone 5/500 Tab @ 09:17:20 & 12:54:55 & 17:35:00	Documented as given @ 0900 Documented as given @ 1600 Documented as given @ 0915 Not documented Documented as given @ 1750	Notation "med" @ 0902 Notation "had some rel from pain meds given" @ 1830	None None None None
06/13/2008	SH0000980363	Hydrocodone 5/500 1 Tab PO 4 times daily	1-Hydrocodone Apap 5/500 Tab @ 18:21:41	Not documented	Notation "med" @ 1330	None
06/22/2008	SH0000981865	Alprazolam 0.25 Tab PO twice daily	1-Alprazolam 0.25 Tab @ 08:16:16	Not Documented	No Notes	None
06/29/2008	SH0000983489	Hydrocodone/ Acetaminophen 10/500mg Tab 1ea PO twice daily	1-Hydrocodone/ Acetaminophen 10/500mg Tab @ 13:28:07	Not Documented	Documented @ 1310	None
06/29/2008	SH0000983840	Hydrocodone /Acetaminophen 7.5/500 Tab PO 3 times daily.	1-Hydrocodone /Acetaminophen 7.5/500 Tab @ 08:45:34 & 12:04:53	Not Documented Not Documented	Documented @ 1051 Documented @ 1700	None None

DATE	PATIENT	PHYSICIAN'S ORDERS	PYXIS RECORDS	MEDICATION ADMINISTRATION RECORDS	NURSES' NOTES	WASTAGE
07/12/2008	SH0000986033	Lortab 7.5/500 1 Tab PO every 6 hrs.	Hydrocodone /Acetaminophen 7.5/500 Tab @ 15:39:38 & 18:51:15	Not Documented Not Documented	No Notes No Notes	None None
07/13/2008	"	"	Hydrocodone /Acetaminophen 7.5/500 Tab @ 08:15:23 & 12:20:24	Not Documented Not Documented	Documented "Pain & Nerve Med" given @ 0957	None None

Respondent's conduct above was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose.

- 5c. On or about June 1, 2008 through July 13, 2008, while employed as a Licensed Vocational Nurse with CHRISTUS Spohn Hospital Corpus Christi-Shoreline, Corpus Christi, Texas, Respondent misappropriated Lortab from the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
- 5d. On or about September 19, 2008, while employed as a Licensed Vocational Nurse with CHRISTUS Spohn Hospital Corpus Christi-Shoreline, Corpus Christi, Texas, Respondent engaged in the intemperate use of Benzodiazepine in that Respondent produced a specimen for a urine drug screen that resulted positive for Benzodiazepine for which Respondent had no valid prescription. Possession of Benzodiazepine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Benzodiazepine by a Registered 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.
- 5e. On or about March 4, 2010, Respondent presented to Dr. T. Martinez for a chemical dependancy evaluation with a polygraph examination conducted by Larry Serna on March 8, 2010. Dr. Martinez states in his summary and conclusion that findings from interview did not raise obvious concerns about substance abuse. However, some degree of concern was raised based on findings from psychological testing. Dr. Martinez states that Respondent invalidated the SASSI-3 due to excessive defensiveness and the polygraph findings indicate deception with respect to falsifying her statement to the Board, knowingly failing to document medications and stealing controlled substances while employed at CHRISTUS Spohn. Dr. Martinez further states that when Ms. Bernal was later advised (by polygraph examiner) about her results and given an opportunity to provide an explanation, she admitted she stole one Lortab while employed with

CHRISTUS Spohn.

6. Formal Charges were filed on July 12, 2010. A copy of the Formal Charges is attached and incorporated by reference as part of this Order.
7. Formal Charges were mailed to Respondent on July 13, 2010.
8. On December 2, 2010, 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 November 29, 2010, is attached and incorporated herein by reference as part of this Order.
9. 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.
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.

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 violations of Section 301.452(b)(9),(10)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(C) & (D) and 22 TEX. ADMIN. CODE §217.12(1)(A)&(B),(4),(5),(6)(G),(8),(10)(A),(B)&(D).
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.

Hermelinda R. Bernal
2329 Mystic Star Drive
Corpus Christi, Texas 78414
Texas LVN License #50802

Voluntary Surrender Statement

November 18, 2010

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 Hermelinda R Bernal

Date Nov 29 - 2010

Texas Nursing License Number/s 50802

The State of Texas

Before me, the undersigned authority, on this date personally appeared Hermelinda R. Bernal 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 29 day of November, 2010.

SEAL



Ruby May Carrillo
Notary Public in and for the State of Texas

ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 50802, heretofore issued to HERMELINDA R. BERNAL, 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 13th day of December, 2010.



TEXAS BOARD OF NURSING

By:

A handwritten signature in black ink, appearing to read 'Katherine A. Thomas', written over a horizontal line.

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