



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 TEXAS BOARD OF NURSING

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.

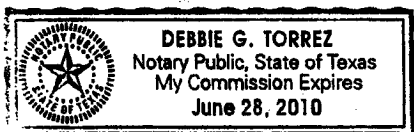
Signed this 2 day of April, 2009.

Tracy Lynn Ferguson
TRACY LYNN FERGUSON, Respondent

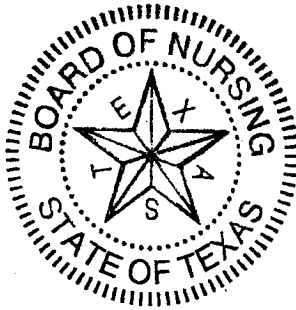
Sworn to and subscribed before me this 2 day of April, 2009.

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 2nd 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