



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

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse
License Number 741027
issued to ELIZABETH ANN DRAKE

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ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 741027, issued to ELIZABETH ANN DRAKE, 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 professional nursing in the State of Texas.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing.
3. Respondent received a Baccalaureate Degree in Nursing from Suny College at Brockport, Brockport, New York on May 20, 2002. Respondent was licensed to practice professional nursing in the State of Texas on May 24, 2007.
4. Respondent's complete professional nursing employment history includes:

06/02 - 09/05	Staff Nurse	Rochester General Hospital Rochester, New York
10/05 - 05/07	Unknown	

Respondent's nursing employment history continued:

06/07 - 07/07	OR Circulator	USPI-Surg. Cntr. of Arlington Arlington, Texas
08/07 - 07/08	Surgery Nurse	USMD Hospital at Arlington Arlington, Texas
08/08 - present	Unknown employment	

5. On or about February 6, 2009, Respondent was issued the sanction of a TPAPN Order through an Agreed Order by the Board. A copy of the Findings of Fact, Conclusions of Law and Agreed Order dated February 6, 2009 is attached and incorporated herein by reference as part of this Order.
6. Formal Charges were filed on March 4, 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 March 10, 2010.
8. On April 20, 2010, Respondent submitted a notarized statement to the Board voluntarily surrendering the right to practice professional nursing in Texas. A copy of Respondent's notarized statement, dated April 13, 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)(1)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(9)&(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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ORDER


NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 741027, heretofore issued to ELIZABETH ANN DRAKE, to practice professional 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:

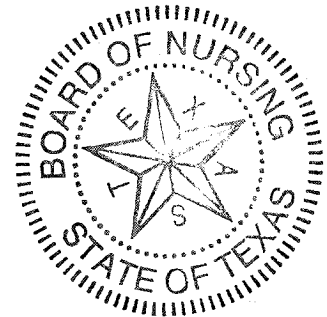
1. RESPONDENT SHALL NOT practice professional nursing, use the title of registered nurse or the abbreviation "RN" or wear any insignia identifying herself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse 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 professional nursing in the State of Texas.

Effective this 5th day of May, 2010.

TEXAS BOARD OF NURSING

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

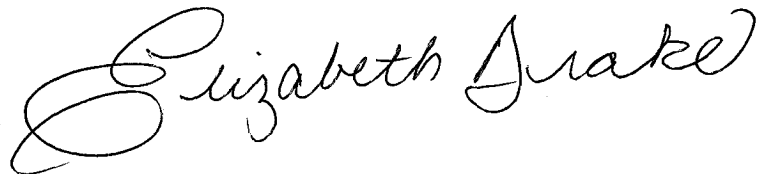


Attn: Doug Boone

To Whom it may concern,


I Elizabeth Drake voluntarily surrender my Texas nursing license. I understand that at a later time, I will have the opportunity to get my license back. Thank you for your time.

Sincerely,



Elizabeth A. Drake

4/13/10



ELIZABETH PIWONSKI
Notary Public - State of New York
No. 01PI6163089
Qualified in Monroe County
My Commission Expires March 19, 2011

In the Matter of Permanent License
Number 741027, Issued to
ELIZABETH ANN DRAKE, Respondent

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BEFORE THE TEXAS
BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, ELIZABETH ANN DRAKE, is a Registered Nurse holding license number 741027, 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 September 2, 2009 Respondent failed to comply with the Agreed Order issued to her by the Texas Board of Nursing on February 6, 2009. Respondent's noncompliance is the result of her failure to comply with Stipulation Number Three (3) of the Order dated February 6, 2009, which states that:

"(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."

Specifically, Respondent admitted to a relapse on Opiates that then progressed to Heroin. On September 2, 2009, Respondent was dismissed from TPAPN and referred to the Board.

A copy of the February 6, 2009 Agreed Order, Findings of Fact and Conclusions of Law is attached and incorporated by reference as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(9)&(11)(B).

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.

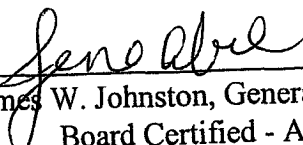
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Guidelines for Criminal Conduct and on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, which can be found at the Board's website, www.bon.state.tx.us.

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.

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 February 6, 2009.

Filed this 4th day of March, 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

Lance Robert Brenton, Assistant General Counsel
State Bar No. 24066924

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 February 6, 2009

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Respondent's nursing employment history continued:

10/05 - 05/07	Unknown	
06/07 - 07/07	OR Circulator	USPI-Surg. Cntr. of Arlington Arlington, Texas
08/07 - 07/08	Surgery Nurse	USMD Hospital at Arlington Arlington, Texas

6. At the time of the incident, Respondent was employed as a surgery nurse with USMD Hospital at Arlington, Arlington, Texas, and had been in this position for seven (7) months.
7. On or about March 10, 2008, while employed as a Registered Nurse with USMD Hospital at Arlington, Arlington, Texas, Respondent engaged in the intemperate use of Heroin and Cocaine, in that she produced a specimen for a drug screen, while on duty, which resulted positive for Heroin and Cocaine. Possession of Heroin and Cocaine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substance Act). The use of Heroin and Cocaine 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, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.
8. On or about July 9, 2008, while employed as a Registered Nurse with USMD Hospital at Arlington, Arlington, Texas, you admitted to a relapse. The use of alcohol by a nurse, while subject to call or duty, could impair the nurses' 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, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.
9. While staying at the Lighthouse halfway house in Dallas, Texas, you had multiple relapses, a positive drug screen, and admitted to another relapse on alcohol. The use of alcohol by a nurse, while subject to call or duty, could impair the nurses' 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, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.
10. 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.
11. 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.

12. Respondent admits to the conduct outlined in Findings of Fact Numbers Seven (7) through Nine (9). Respondent states that the past two years have been difficult for her and her family and she takes full responsibility for her actions.
13. Respondent's conduct described in Findings of Fact Numbers Seven (7) through Nine (9) resulted from Respondent's impairment by dependency on chemicals.
14. 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)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A), and 22 TEX. ADMIN. CODE §217.12(1)(A)(B),(4),(5),(10)(A)&(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 741027, heretofore issued to ELIZABETH ANN DRAKE, 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 ELIZABETH ANN DRAKE, 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 five hundred dollars (\$500) 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 his/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 professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 26th day of January, 2009.

Elizabeth Ann Drake
EDIZABETH ANN DRAKE, Respondent

Sworn to and subscribed before me this 26th day of January, 2009.


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Mohamed Sy
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 the 26th day of January, 2009, by ELIZABETH ANN DRAKE, Registered Nurse License Number 741027, and said Order is final.

Entered and effective this 6th day of February, 2009.


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

