

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 169926
ISSUED TO
DONNA MANN WHITWELL

§
§
§
§
§
§
§
§
§

BEFORE THE ELIGIBILITY
AND DISCIPLINARY
COMMITTEE
OF THE TEXAS
BOARD OF NURSING



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 Thomas
Executive Director of the Board

ORDER OF THE BOARD

TO: DONNA MANN WHITWELL
224 HAPPY SWANER LN.
AXTELL, TX 76624

During open meeting held in Austin, Texas, on March 23, 2010, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case. This case was heard, and based on the failure of the Respondent to file a written response to the Formal Charges as required by 22 TEX. ADMIN. CODE § 213.16.

The Committee of the Texas Board of Nursing finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, chapter 301 of the Texas Occupations Code, for retention of Respondent's license to practice vocational nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely notice of the violations alleged in the Formal Charges were given to Respondent in this matter, Respondent has failed to file an answer in accordance with 22 TEX. ADMIN. CODE § 213.16.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056 and 22 TEX. ADMIN. CODE § 213.16.

The Eligibility and Disciplinary Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion to set aside the default order (22 TEX. ADMIN. CODE § 213.16(j)). All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 169926, previously issued to DONNA MANN WHITWELL, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.


IT IS FURTHER ORDERED that Permanent Certificate Number 169926, previously issued to DONNA MANN WHITWELL, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privilege, if any, to practice vocational nursing in the State of Texas.

Entered this 23rd day of March, 2010.

TEXAS BOARD OF NURSING
FOR THE STATE OF TEXAS

BY:


KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD


Re: Permanent Certificate Number 169926
Issued to DONNA MANN WHITWELL
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of March, 2010, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

DONNA MANN WHITWELL
224 HAPPY SWANER LN.
AXTELL, TX 76624

BY:



KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of Permanent License § **BEFORE THE TEXAS**
Number 169926, Issued to §
DONNA MANN WHITWELL, Respondent § **BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, DONNA MANN WHITWELL, is a Vocational Nurse holding license number 169926, which is in delinquent 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 May 15, 2008, Respondent failed to comply with the Agreed Order issued to her on May 14, 2007, by the Board of Nurse Examiners for the State of Texas. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Three (3) of the Order which states, in pertinent part:

(3) Respondent shall, within one (1) year of entry of this Order, successfully complete a course in medication administration....

A copy of the May 14, 2007, 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) and (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

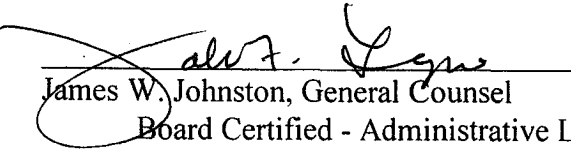
NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of revocation of Respondent's license to practice vocational nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent 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 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 May 14, 2007.

Filed this 15th day of October, 2007.

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

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

John F. Legris, Assistant General Counsel
State Bar No. 00785533

Ronald Lloyd Simpson, Jr., Assistant General Counsel
State Bar No. 24067868

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: Agreed Order dated May 14, 2007.

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Vocational Nurse	§	AGREED
License Number 169926	§	
issued to DONNA MANN WHITWELL	§	ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of DONNA MANN WHITWELL, Vocational Nurse License Number 169926, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on March 23, 2007, 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 conference, notice and hearing, and agreed to the entry of this Order.
3. Respondent's license to practice vocational nursing in the State of Texas is currently in delinquent status.
4. Respondent received a Certificate in Vocational Nursing from Northeast Texas Community College, Mt. Pleasant, Texas, on August 7, 1998. Respondent was licensed to practice vocational nursing in the State of Texas on October 21, 1998.
5. Respondent's nursing employment history includes:

1998	Unknown
------	---------

Respondent's nursing employment history continued:

1999 - 2000	Staff Nurse	Cartmell Nursing Home Palestine, Texas
2001 - 2002	Staff Nurse	Dogwood Trails Nursing Home, Palestine, Texas
2002 - 2003	Staff Nurse	West Park Nursing Home Eules, Texas
2003 - 2004	Staff Nurse	Greenbrier Nursing Home Palestine, Texas
09/2004 - 10/2004	Staff Nurse	Highland Pines Nursing Home Longview, Texas
11/2004 - Present		Not employed in nursing

6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a Staff Nurse with Highland Pines Nursing Home, Longview, Texas, and had been in this position for one (1) month.
7. On or about October 30, 2004, through October 31, 2004, while employed as a Staff Nurse with Highland Pines Nursing Home, Longview, Texas, Respondent failed to take precautions to prevent misappropriation and/or loss of controlled substances, including her failure to secure the keys to the medication cart during her shift and leaving the premises at the end of her shift without counting and documenting the quantities of controlled substances, as required. As a result, sixty (60) tablets of Vicodin ES dispensed for Resident 2927 could not be located or accounted for at the end of Respondent's shift. Respondent's conduct was in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act) and resulted in the loss to the resident of the cost of medication.
8. In response to the incident in Finding of Fact Number Seven (7), Respondent states that it was common facility practice to leave the keys hidden on the medication cart because there were not enough keys for the staff to use while administering medications. Respondent acknowledges the Vicodin came up missing, but denies that she took it, and explains that she had agreed to work the shift as an extra shift in order to provide nighttime nursing coverage. Respondent states that before agreeing to work the shift, she had been approved to leave before the end of shift the next morning so that she could take care of her children before school. Respondent states that she tried to get another nurse to count the controlled substances with her before the end of the shift, but the other nurse kept delaying and so Respondent finally left to take care of her children without counting.

9. Formal Charges were filed February 27, 2007.
10. Formal Charges were mailed to Respondent at her address of record on February 28, 2007.

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)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(A)&(1)(D) and 217.12(1)(B),(1)(C),(6)(G)&(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 169926, heretofore issued to DONNA MANN WHITWELL, including revocation of Respondent's license to practice vocational nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of REMEDIAL EDUCATION, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, 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 State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to DONNA MANN WHITWELL to the office of the Board of Nurse Examiners within ten (10) days of the date of ratification of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, and documentation of care. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address:*
<http://www.bne.state.tx.us/about/stipscourses.html>

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in medication administration. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be

approved, the target audience shall include Nurses. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form, provided by the Board, to the office of the Board to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bne.state.tx.us/about/stipscourses.html>.*

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of

recording; methods of alternative record-keeping; and computerized documentation. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address:*
<http://www.bne.state.tx.us/about/stipscourses.html>.

(5) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. The course shall be a minimum of six (6) contact hours in length. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify RESPONDENT's successful completion of the course. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Board-approved courses may be found at the following Board website address:*
<http://www.bne.state.tx.us/about/stipscourses.html>.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice nursing in the State of Texas.

RESPONDENT'S CERTIFICATION

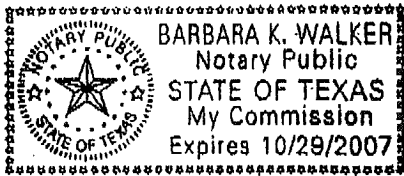
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that when this Order becomes final and the terms of this Order become effective, 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 nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 11 day of May, 2007.
Donna Whitwell
DONNA MANN WHITWELL, Respondent

Sworn to and subscribed before me this 11th day of May, 2007.


SEAL

Barbara K. Walker
Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby ratify and adopt the Agreed Order that was signed on the 11th day of May, 2007, by DONNA MANN WHITWELL, Vocational Nurse License Number 169926, and said Order is final.

Effective this 14th day of May, 2007.


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