



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

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 120580
ISSUED TO
DERLIN PHYSHON NESBITT

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

ORDER OF THE BOARD

TO: DERLIN PHYSHON NESBITT
2423 FORTH WORTH AVE.
DALLAS, TX 75211

During open meeting held in Austin, Texas, on February 9, 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 120580, previously issued to DERLIN PHYSHON NESBITT, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 120580, previously issued to DERLIN PHYSHON NESBITT, 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 9th day of February, 2010.

TEXAS BOARD OF NURSING
FOR THE STATE OF TEXAS

BY: Katherine A. Thomas
KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

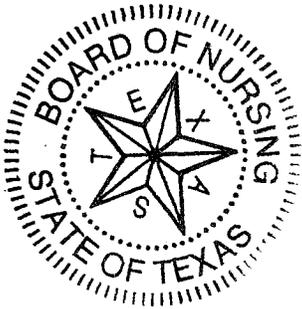


Re: Permanent Certificate Number 120580
Issued to DERLIN PHYSHON NESBITT
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of February, 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):

DERLIN PHYSHON NESBITT
2423 FORTH WORTH AVE.
DALLAS, TX 75211



BY: Katherine A. Thomas
KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse License Number 120580 § AGREED
issued to DERLIN PHYSHON NESBITT § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of DERLIN PHYSHON NESBITT, Vocational Nurse License Number 120580, 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 9, 2008, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

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 is currently licensed to practice vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Northeast Texas Community College, Mt. Pleasant, Texas, on July 11, 1986. Respondent was licensed to practice vocational nursing in the State of Texas on May 26, 1988.
5. Respondent's vocational nursing employment history includes:

05/88 - 11/95 Unknown

Respondent's vocational nursing employment history (continued):

| | | |
|-----------------|---------|--|
| 12/95 - 03/97 | LVN | Lake Park Nursing Home Dallas, TX |
| 03/97 - 03/98 | LVN | Bryan Manor Nursing Home Dallas, TX |
| 03/97- 03/98 | LVN | Parkway Medical & Associates Dallas, TX |
| 03/98 - 10/02 | LVN | Moore's Nursing Pittsburg, TX |
| 01/01 - 09/03 | LVN | Gilmer Medical Staffing Services Gilmer, TX |
| 04/01 - 05/01 | LVN | Upshur Manor Gilmer, TX |
| 10/03 - 02/04 | LVN | Holiday Hills Dallas, TX |
| 03/04 - 05/05 | Unknown | |
| 06/05 - 01/06 | LVN | Superior Staffing Tyler, TX |
| 01/06 - 04/06 | LVN | Nexion-Mt. Pleasant Healthcare Mt. Pleasant, TX |
| 05/06 - Present | Unknown | |

6. At the time of the initial incident, Respondent was employed as a licensed vocational nurse with Nexion-Mt. Pleasant Healthcare, Mt. Pleasant, Texas, and had been in this position for three (3) months.
7. On or about April 22, 2006, while employed as a Licensed Vocational Nurse with Nexion-Mt. Pleasant Healthcare, Mt. Pleasant, Texas, Respondent left her nursing assignment and failed to notify the appropriate personnel. Respondent left the facility for a break at 1700 and later contacted the facility and informed a Certified Nurse Assistant that she was having car problems. Respondent never returned to the facility. Respondent's conduct was likely to injure patients in that leaving the facility created an unsafe environment for the patients

due to inadequate staffing which could have resulted in the patients not getting the care that they needed from licensed personnel.

8. In response to Findings of Fact Number Seven (7), Respondent states that the day her car broke down was not on April 22, 2006. She states that the day her car broke down she was scheduled to work a 6am-2pm shift. Respondent states that she gave the RN supervisor her keys at 1pm when she left for a lunch. Her car broke down on the main highway and a man stopped to render aid and she used his phone to call work. Respondent states she talked to a certified nurse assistant who was unable to locate a registered nurse. Additionally, Respondent states that she passed the morning medications and charted for 6am-2pm and that is why she was taking a late lunch.

9. On or about April 22, 2006, while employed as a Licensed Vocational Nurse with Nexion-Mt. Pleasant Healthcare, Mt. Pleasant, Texas, Respondent falsely documented in patients' medical records (Nurse's Notes) that she provided nursing care to patients during a period of time when she was absent from her assignment, as follows:

| Patient Medical Record | Nurse's Notes |
|------------------------|--|
| 230210 | 8pm Resting quietly. Consumed 100% of supper. 0 Agitation noted. Monitored classes ambulatory ad. (?) gait flush/sluids(?) |
| 20706 | 1900 Ambulating about gait slow/unsteady. 0 Agitation. Appetite good. 0 Acute discomfort. |
| 251213 | 1900 Resting quietly. HOB elevated. Foly cath Patient to (?) draining clean yellow urine. |
| 240607 | 1930 Resting quietly at this. Consumed 100% of supper. Feed self. 0 (?) noted. Will continue to monitor. |
| 260120 | 9pm Resting quietly at this time. Call light within reach of patient. Needs anticipated and met per staff. |

Respondent's conduct created an inaccurate medical record which subsequent care givers would rely on to administer treatments and/or medications which could have resulted in nonefficacious treatment.

10. On or about April 22, 2006, while employed as a Licensed Vocational Nurse with Nexion-Mt. Pleasant Healthcare, Mt. Pleasant, Texas, Respondent falsely documented in patients' medical records (Medication Administration Record) that she administered medication to patients during a time when she was absent from her assignment, as follows:

| Time | Patient Medical Record | Physician's Order | MAR |
|--------|------------------------|--|---------------------------|
| 7:00pm | 980519 | Ultracet (Tramadol) 1 PO Q Hrs While Awake | Initialed as administered |

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|--------|---------|--|---------------------------|
| 8:00pm | 980519 | Seroquel (Quetapine) 100mg 1 PO At HS For Psychosis | Initialed as administered |
| 8:00pm | 980519 | Dilantin 300mg @ HS For Seizure Activity | Initialed as administered |
| 8:00pm | 980519 | Phenoharbital Elixir 100mg/25mL @ HS | Initialed as administered |
| 8:00pm | 980519 | Colace (Docusate Sodium) 100mg 1 Tab PO TID, Hold if Loose Stool | Initialed as administered |
| 8:00pm | 980519 | Calcium 500mg and Vit D 1 Tab PO Daily For Dietary Supplement | Initialed as administered |
| 8:00pm | 980519 | Med Pass 2.0 60cc PO TID | Initialed as administered |
| 8:00pm | 240825 | Risperdol 0.5mg PO @ HS for Psychosis | Initialed as administered |
| 8:00pm | 240825 | Calcium 500mg w/Vit D 1 PO BID | Initialed as administered |
| 8:00pm | 240825 | Ascorbic Acid (Vit C) 500mg 1 PO BID For Supplement | Initialed as administered |
| 7:00pm | 2209260 | Risperdal (Risperidone) 0.25mg 1 Tab PO @ HS for Alz | Initialed as administered |
| 8:00pm | 2209260 | Med Pass 2.0 Give 120cc PO QID | Initialed as administered |
| 8:00pm | 2209260 | Namenda (Memantine) 10mg 1 PO BID For Alz | Initialed as administered |
| 8:00pm | 2209260 | Aricept (Donepezil) 10mg 1 Tab Po Daily For Alz | Initialed as administered |
| 8:00pm | 210213 | Acetaminophen (ES) 500mg 2 Tabs PO BID For Pain | Initialed as administered |
| 7:00pm | 210213 | Colace (Docusate Sodium) 2 Caps PO @ HS For Constipation | Initialed as administered |
| 7:00pm | 210213 | Buspar (Buspirone) 15mg PO BID For Anti-Anxiety | Initialed as administered |
| 8:00pm | 210213 | Clonidine (Catapres) 0.1mg 1 Tab PO TID For HTN | Initialed as administered |
| 8:00pm | 210213 | H2O Give 6oz TID With Meds | Initialed as administered |
| 8:00pm | 210213 | Med Pass 2.0 Give 240cc PO 6 x Day | Initialed as administered |

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|--------|--------|---|---------------------------|
| 8:00pm | 210213 | Ferrous Sulfate 325mg 1 Tab PO TID With Meals For Iron Deficiency | Initialed as administered |
| 8:00pm | 240917 | Med Pass 2.0***60cc PO QID x 60 Days Then Re-eval | Initialed as administered |
| 8:00pm | 240917 | Ascorbic Acid (Vit C) 500mg 1 PO BID For Supplement | Initialed as administered |
| 8:00pm | 240917 | Reminyl (Razadyne) 4mg 1 PO BID For Alz | Initialed as administered |
| 8:00pm | 240513 | Mucinex 600mg 1 PO TID With 6oz H2O With Each Dose | Initialed as administered |
| 7:00pm | 240513 | Senna 2 Tabs @ HS, Hold For Loose Stools | Initialed as administered |
| 8:00pm | 240513 | Remeron (Mirtazapine) 15mg 1 PO Daily For Appetite Stimulant | Initialed as administered |
| 8:00pm | 240513 | Zyprexa (Olanzapine) 5mg PO @ HS For Psychosis | Initialed as administered |
| 8:00pm | 240513 | Med Pass 2.0 Give 60cc PO QID | Initialed as administered |
| 8:00pm | 240513 | Ascorbic Acid (Vit C) 500mg 1 PO BID For Skin Concerns | Initialed as administered |
| 8:00pm | 240513 | Colace (Docusate Sodium) 100mg 1 Cap PO BID For Constipation | Initialed as administered |
| 6:00pm | 240513 | Ultram 50mg 1 PO Q 6 Hrs Pain | Initialed as administered |
| 8:00pm | 220420 | Risperdal (Risperidone) 0.5mg 1 Tab PO @ HS For Psychosis | Initialed as administered |
| 8:00pm | 220420 | Ultram 50mg 1 PO BID | Initialed as administered |
| 8:00pm | 220420 | Colace (Docusate Sodium) 100mg 1 PO BID For Constipation | Initialed as administered |
| 8:00pm | 220420 | Namenda (Memantine Hydrochloride) 10mg 1 PO BID For Alz | Initialed as administered |
| 5:00pm | 220420 | Reminyl (Razadyne) 8mg 1 Tab PO BID With Meals For Alzheimers | Initialed as administered |
| 8:00pm | 92905 | Zyprexa (Olanzapine) 5mg 1 PO @ HS For Psychosis | Initialed as administered |
| 8:00pm | 92905 | Magic Cup 1 With Med Pass TID | Initialed as administered |

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| 6:00pm | 92905 | Tobramycin Eye Drops 1-2 Drops Each Eye Q 6 Hrs | Initialed as administered |
| 8:00pm | 92905 | K-Dur 20 MEQ 1 PO BID For Hypokalemia | Initialed as administered |
| 8:00pm | 92905 | Namenda (Memantine) 10mg 1 PO BID | Initialed as administered |
| 8:00pm | 92905 | Imdur 30mg 1 PO Each PM | Initialed as administered |
| 8:00pm | 92905 | Zocar (Simvastatin) 20mg 1 PO @ HS To Lower Cholestrol | Initialed as administered |
| 8:00pm | 92905 | Slow Mag 64mg 1 PO TID | Initialed as administered |
| 8:00pm | 201211 | M.O.M. 30cc PO At HS For Constipation | Initialed as administered |
| 8:00pm | 201211 | Risperdal (Risperidone) 0.25mg 1 Tab PO @ HS For Psychosis | Initialed as administered |
| 8:00pm | 220913 | Norvasc (Amlodipine) 10mg 1 Tab PO @ HS For HTN, CK B/P | Initialed as administered |
| 8:00pm | 220913 | Risperdal (Risperdone) 0.5mg 1 PO @ HS | Initialed as administered |
| 8:00pm | 220913 | SF Nourishment BID | Initialed as administered |
| 8:00pm | 220913 | Ultram (Tramadol) 1 PO BID For Arthritis | Initialed as administered |
| 8:00pm | 220913 | Mavik (Trandolapril) 2mg 1 PO Q HS/HTN | Initialed as administered |
| 8:00pm | 220913 | Colace (Docusate Sodium) 100mg 1 Cap PO TID For Constipation | Initialed as administered |
| 7:00pm | 220913 | M.O.M. 30cc PO Each PM for Constipation | Initialed as administered |
| 8:00pm | 251213 | Seroquel (Quetapine) 100mg 1 PO @ HS For Psychosis | Initialed as administered |
| 8:00pm | 251213 | L'Emental 1 Packet BID | Initialed as administered |
| 8:00pm | 251213 | Remeron (Mirtazapine) Sol Tab 15mg 1 PO @ HS x 60 Days For Appetite Stimulant | Initialed as administered |
| 8:00pm | 251213 | Megace (Megestrol) 380mg TID For Appetite Stimulant | Initialed as administered |

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| 8:00pm | 251213 | Flomax (Tamsulosin) 0.4mg PO 1 PO BID For BHP | Initialed as administered |
| 8:00pm | 251213 | Ascorbic Acid (Vit C) 500mg 1 Tab PO BID | Initialed as administered |
| 8:00pm | 251213 | Aricept (Donepezil) 10mg 1 PO @ Bedtime For Alzheimers | Initialed as administered |
| 8:00pm | 251213 | Zocar (Simvastatin) 20mg 1 PO @ Bedtime to Lower Cholestrol | Initialed as administered |
| 8:00pm | 251213 | Glipizide 2.5mg PO Each PM | Initialed as administered |
| 8:00pm | 241002 | Namenda (Memantine) 10mg 1 PO BID For Alz | Initialed as administered |
| 8:00pm | 241002 | Aricept (Donepezil) 10mg 1 Tab PO @ HS For Alzheimers | Initialed as administered |
| 8:00pm | 230613 | Namanda Titration (Memantine Hydrochloride) 10mg 1 PO BID For Alz | Initialed as administered |
| 7:00pm | 230613 | Aricept (Donepezil) 10mg 1 Tab PO @ HS For Alz | Initialed as administered |
| 8:00pm | 230613 | Risperdal (Risperidone) 1mg 1 Tab PO @ HS For Psychosis | Initialed as administered |
| 8:00pm | 230122 | Gentamycin Eye TID x 7 Days to R Eye | Initialed as administered |
| 8:00pm | 230122 | Colace (Docusate Sodium) 100mg 1 Cap PO Q 12 Hrs For Constipation | Initialed as administered |
| 8:00pm | 230122 | Ascorbic Acid (Vit C) 500mg 1 Tab PO BID For Supplement | Initialed as administered |
| 8:00pm | 230122 | Seroquel (Quetiapine Fumarate) 25mg 1 Tab PO @ HS For Psychosis | Initialed as administered |
| 8:00pm | 230122 | Med Pass 60cc PO QID | Initialed as administered |
| 8:00pm | 230122 | Urecholine 50mg 2 Tabs of 25mg to = 50mg PO QID For Neurogenic Bladder | Initialed as administered |
| 8:00pm | 230122 | Reglan (Metoclopramide) 10mg 1 Tab PO AC And HS | Initialed as administered |
| 8:00pm | 990614 | Senna S 2 Per Tub Each PM | Initialed as administered |
| 8:00pm | 990614 | Reglan (Metoclopramide) 10mg 1 PO/Tube TID | Initialed as administered |

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|--------|--------|---|---------------------------|
| 8:00pm | 990614 | Namenda (Mamantine) 10mg 1 PO Or Tub Daily @ HS For Alz | Initialed as administered |
| 8:00pm | 990614 | Norvasc (Amlodipine) 5mg Via Tube BID HTN | Initialed as administered |
| 8:00pm | 990614 | If Does Not Consume Nutren 2.0 Bolus May Give 240cc Med Pass Orally | Initialed as administered |
| 8:00pm | 240607 | Razadyne 12mg 1 PO BID | Initialed as administered |
| 5:00pm | 240607 | Namenda (Memantine Hydrochloride) 10mg 1 PO BID With Meals For Alz | Initialed as administered |
| 8:00pm | 240607 | Neurontin (Gabapentin) 100mg 1 PO TID For Neuropathic Pain | Initialed as administered |
| 8:00pm | 240607 | Singular (Montelukast Sodium) 10mg 1 PO @ HS | Initialed as administered |
| 8:00pm | 240607 | Seroquel 100mg PO @ HS | Initialed as administered |
| 8:00pm | 240607 | Depotote 500mg PO @ HS | Initialed as administered |
| 8:00pm | 251221 | Pro Pass 1 Scoop TID x 60 Days | Initialed as administered |
| 8:00pm | 251221 | Depokote 500mg 1 PO BID For Schiz Affective Disorder | Initialed as administered |
| 8:00pm | 251221 | Exelon (Rivastigmine) 3mg 1 PO BID For Alz | Initialed as administered |
| 8:00pm | 251221 | Tegretol (Carbamazepine) 200mg 1 PO BID | Initialed as administered |
| 8:00pm | 251221 | Seroquel (Quetapine) 100mg 1 PO @ HS For Psychosis | Initialed as administered |
| 8:00pm | 251221 | Risperdal (Risperdone) 1mg PO @ HS For Psychosis | Initialed as administered |
| 8:00pm | 260120 | Namenda (Memantine) 10mg 1 PO BID For Alz | Initialed as administered |
| 8:00pm | 260120 | Colace (Docusate Sodium) 100mg 1 CAP PO BID For Constipation | Initialed as administered |
| 8:00pm | 260120 | Coumadin 2mg 1 PO @ HS for DCT***Hold Coumadin if INR Is Greater Than 3.0 | Initialed as administered |
| 8:00pm | 260120 | Xyprexa (Zydis)(Olanzapine) 5mg 1 PO Each PM With Meal For Psychosis | Initialed as administered |

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|--------|----------|---|---------------------------|
| 8:00pm | 260120 | Seroquel (Quetapine) 75mg 1 PO @ HS For Psychosis | Initialed as administered |
| 8:00pm | 531301 | Lescol X L 80mg PO @ N 2 | Initialed as administered |
| 8:00pm | 531301 | Colace (Docusate Sodium)100mg 1 Cap PO TID For Constipation | Initialed as administered |
| 8:00pm | 531301 | Aricept (Donepezil) 10mg 1 PO Daily For Alz | Initialed as administered |
| 8:00pm | 531301 | Zyprexa Zydis 2.5mg PO @ HS | Initialed as administered |
| 8:00pm | 531301 | Med Pass 120cc PO QID | Initialed as administered |
| 8:00pm | 531301 | Namenda (Memantine) 10mg 1 PO BID For Alz | Initialed as administered |
| 8:00pm | 531301 | Tramadol (Ultram) HCL 50mg 1 PO BID For Pain | Initialed as administered |
| 8:00pm | 20706 | Namenda (Memantine) 10mg 1 PO BID For Alz | Initialed as administered |
| 8:00pm | 20706 | Mucinex 600mg 1 PO BID | Initialed as administered |
| 5:00pm | 20706 | Zyprexa (Olanzapine) 5mg 1 Each PM With Meal for Psychosis | Initialed as administered |
| 8:00pm | 20706 | Seroquel.50mg PO @ Re | Initialed as administered |
| 8:00pm | 20706 | Depotote 250mg PO 2 X A Day | Initialed as administered |
| 5:00pm | 25181101 | Ensure 1 Can TID | Initialed as administered |
| 5:00pm | 25181101 | Sinement 25/100 (Caridopor) PO Q AM and Afternoon | Initialed as administered |
| 8:00pm | 25181101 | Seroquel 25mg PO @ HS | Initialed as administered |
| 8:00pm | 230210 | Med Pass 2.0 Give 60cc PO QID For Wt Loss | Initialed as administered |
| 8:00pm | 230210 | Aricept (Donepezil) 5mg 1 PO @ HS For Alz | Initialed as administered |
| 8:00pm | 230210 | Aggrenox 25/200 1 PO BID | Initialed as administered |

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|--------|---------|---|---------------------------|
| 7:00pm | 230210 | Zocar (Simvastatin) 20mg 1 Tab PO @ 7PM to Lower Cholestrol | Initialed as administered |
| 8:00pm | 2501243 | Zypreza (Olanzapine) 20mg 1 PO @ HS For Psychosis | Initialed as administered |

Respondent's conduct created an inaccurate medical record which subsequent care givers would rely on to administer treatments and/or medications which was could have resulted in nonefficacious treatment.

11. On or about April 22, 2006, while employed as a Licensed Vocational Nurse with Nexion-Mt. Pleasant Healthcare, Mt. Pleasant, Texas, Respondent failed to administer scheduled medications to patients as ordered by physicians as detailed in Finding of Fact Number Ten (10). Respondent's conduct was likely to injure patients in that the failure to administer medications could have resulted in nonefficacious treatment.
12. In response to Findings of Fact Numbers Nine (9), Ten (10) and Eleven (11), Respondent states that she was scheduled to work a 6am to 6pm shift. She remembers that the oncoming nurse was going to be late due to the weather and did not arrive until 7:30pm. Respondent states that she did the 8pm medication pass and charting but did not do the 8pm treatments, which made the oncoming nurse upset. Respondent states that she did not leave until almost 8pm.
12. Formal Charges were filed on January 23, 2008.
13. Formal Charges were mailed to Respondent on January 24, 2008.

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 violation of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(B),(C),(D)(I), and 22 TEX. ADMIN. CODE §217.12(1)(A)(C),(4),(6)(A)(H),(10)(B)&(12).
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 120580, heretofore issued to DERLIN PHYSHON NESBITT, 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 Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, 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 vocational nursing in compact states.

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 that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to DERLIN PHYSHON NESBITT, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order for appropriate notation.

(2) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500). RESPONDENT SHALL pay this fine within forty-five (45) days of entry of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and 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. 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, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding Sexual Misconduct, Fraud, Theft and Deception, Nurses with Chemical Dependency, and Lying and Falsification. 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.bon.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.bon.state.tx.us/about/stipscourses.html>.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A LICENSED VOCATIONAL NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A LICENSED VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on

RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(6) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(7) RESPONDENT SHALL be supervised by a Registered Nurse or a Licensed Vocational Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(8) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT's capability to practice nursing. These reports shall be completed by the Registered Nurse or Licensed Vocational Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) months for one (1) year of employment as a nurse.

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 vocational 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. 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 this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, 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 4th day of April, 2008.
Derlin Physhon Nesbitt
DERLIN PHYSHON NESBITT, Respondent

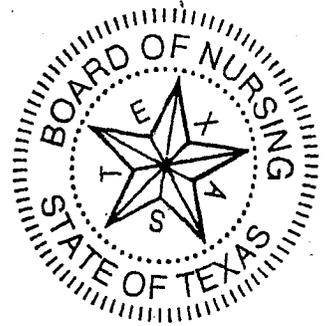
Sworn to and subscribed before me this 4th day of April, 2008.
Marilyn Rodriguez
Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 4th day of April, 2008, by DERLIN PHYSHON NESBITT, Vocational Nurse License Number 120580, and said Order is final.

Effective this 13th day of May, 2008.


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



In the Matter of Permanent License § **BEFORE THE TEXAS**
Number 120580, Issued to §
DERLIN PHYSHON NESBITT, Respondent § **BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, DERLIN PHYSHON NESBITT, is a Vocational Nurse holding license number 120580, 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 June 30, 2008, Respondent failed to comply with the Agreed Order issued to her on May 13, 2008, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Two (2) of the Order which states, in pertinent part:

(2) Respondent shall pay a monetary fine in the amount of five hundred dollars (\$500.00) within forty-five (45) days of entry of this Order....

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)

A copy of the May 13, 2008, Agreed Order, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this pleading.

CHARGE II.

On or about May 14, 2009, Respondent failed to comply with the Agreed Order issued to her on May 13, 2008, by the Texas Board of Nursing. 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 Texas nursing jurisprudence and ethics....

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).

CHARGE III.

On or about May 14, 2009, Respondent failed to comply with the Agreed Order issued to her on May 13, 2008, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Four (4) of the Order which states, in pertinent part:

(4) Respondent shall, within one (1) year of entry of this Order, successfully complete a course in nursing documentation....

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).

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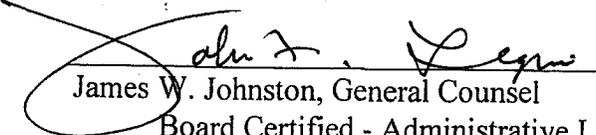
NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of revocation of Respondent's license to practice vocational nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent 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 13, 2008.

Filed this 7th day of October, 2009.

TEXAS BOARD OF NURSING


James W. Johnston, General Counsel

Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

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Attachments: Agreed Order dated May 13, 2008.