

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 156982  
ISSUED TO  
MICHELLE YVONNE CORTEZ

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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 A. Thomas*  
Executive Director of the Board

**ORDER OF THE BOARD**

TO: MICHELLE YVONNE CORTEZ  
3819 WATERCANYON RD.  
BAYTOWN, TX 77521

During open meeting held in Austin, Texas, on December 8, 2009, 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.

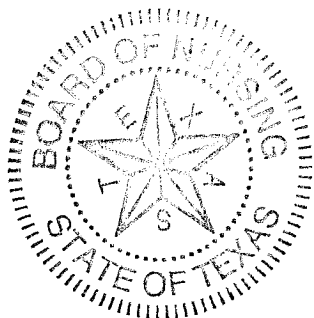
All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 156982, previously issued to MICHELLE YVONNE CORTEZ, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 156982, previously issued to MICHELLE YVONNE CORTEZ, 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 8th day of December, 2009.



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

CERTIFICATE OF SERVICE

I hereby certify that on the 9<sup>TH</sup> day of December, 2009, 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):

MICHELLE YVONNE CORTEZ  
3819 WATERCANYON RD  
BAYTOWN, TX 77521

BY:

*Katherine A Thomas*

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

**In the Matter of Permanent License** § **BEFORE THE TEXAS**  
**Number 156982, Issued to** §  
**MICHELLE YVONNE CORTEZ, Respondent** § **BOARD OF NURSING**

### **FORMAL CHARGES**

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MICHELLE YVONNE CORTEZ, is a Vocational Nurse holding license number 156982, 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 March 19, 2009, Respondent failed to comply with the Order of Conditional Eligibility issued to her on March 18, 2008, 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 Two (2) of the Order which states, in pertinent part:

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

A copy of the March 18, 2008, 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).

#### **CHARGE II.**

On or about March 19, 2009, Respondent failed to comply with the Agreed Order issued to her on March 18, 2008, 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....

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).

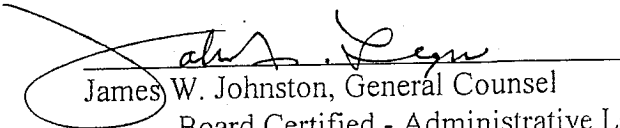
NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of revocation of Respondent's license to practice vocational nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent 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](http://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: Order of Conditional Eligibility dated March 18, 2008.

Filed this 15<sup>th</sup> 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

John F. Legris, Assistant General Counsel

State Bar No. 00785533

Jena Renee Koslan Abel, Assistant General Counsel

State Bar No. 24036103

Robert Kyle Hensley, Assistant General Counsel

State Bar No. 50511847

333 Guadalupe, Tower III, Suite 460

Austin, Texas 78701

P: (512) 305-6824

F: (512) 305-8101 or (512) 305-7401

Attachments: Order of Conditional Eligibility dated March 18, 2008.

BEFORE THE BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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In the Matter of Vocational Nurse License Number 156982      §     AGREED  
issued to MICHELLE YVONNE CORTEZ                             §     ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of MICHELLE YVONNE CORTEZ, Vocational Nurse License Number 156982, 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 June 22, 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 is currently licensed to practice vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Lee College, Baytown, Texas, on August 15, 1995. Respondent was licensed to practice vocational nursing in the State of Texas on March 18, 1996.
5. Respondent's complete vocational nursing employment history includes:  

3/96-9/96	LVN	Multi-Specialty Clinic
		Unknown

9/96-4-99	LVN	Hermann Hospital Houston, Texas
4/99-9/04	LVN	San Jacinto Methodist Hospital Baytown, Texas
4/00-7/06	LVN	SEV Staffing Baytown, Texas
7/06-9/06	LVN	Pulse Staffing Houston, Texas
10/06-Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with Pulse Staffing, Houston, Texas, and had been in this position for approximately two (2) months.
7. On or about September 8, 2006, while employed with Pulse Staffing, Houston, Texas, and working at Park Plaza Hospital, Houston, Texas, Respondent signed out Norco on the Controlled Substance Distribution and Audit Record for Patient Medical Record Number 7265820, but failed to completely and accurately document the administration of the medication in the patient's Medication Administration Record (MAR) and Nurses Notes, as follows:

Date/Time	Patient #	Medication	Physician's Order	MAR	Nurses Notes	Wastage
9/8/06@1030	7265820	(2) Norco 10/325	Hydrocodone/ Acetaminophen (1) PO PRN (Norco)	1030- No Dose Indicated	1030- No Dose Indicated	NO

Respondent's conduct was likely to injure the patient in that subsequent care givers would rely on her documentation to further medicate the patient.

8. On or about September 8, 2006, while employed with Pulse Staffing, Houston, Texas, and working at Park Plaza Hospital, Houston, Texas, Respondent signed out Norco on the Controlled Substance Distribution and Audit Record for Patient Medical Record Number 7265820 in excess dosage of the physician's order, as follows:

Date/Time	Patient #	Medication	Physician's Order	MAR	Nurses Notes	Wastage
9/8/06@1030	7265820	(2) Norco 10/325	Hydrocodone/ Acetaminophen (1) PO PRN (Norco)	1030- No Dose Indicated	1030- No Dose Indicated	NO

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

9. On or about September 8, 2006, while employed with Pulse Staffing, Houston, Texas, and working at Park Plaza Hospital, Houston, Texas, Respondent misappropriated Norco belonging to the facility and patient thereof, or failed to take precautions to prevent such misappropriation in that Respondent signed out two (2) Norco tablets for Patient Medical Record Number 7265820, but failed to completely and accurately document the administration of the full dose of said medication. In addition, the patient denied receiving the full dose of said medication. Respondent's conduct was likely to defraud the facility and patient of the cost of the medication.
10. Respondent states that on the morning of September 8, 2006, the patient in question had breakthrough pain and had Norco ordered. Respondent states that she gave the patient two (2) "pills" which she documented on the narcotic sign out sheet. At the end of the Respondent's shift, while counting narcotics, Respondent states that she realized that the patient only had one (1) "pill" ordered. Respondent states that she brought this to the attention of the oncoming nurse and offered to complete a medication discrepancy report.

#### 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)(iv), and §217.12(1)(A),(4)&(6)(G).
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 156982, heretofore issued to MICHELLE YVONNE CORTEZ, including revocation of Respondent's license to practice vocational nursing in the State of Texas.

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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 Vocational 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 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 MICHELLE YVONNE CORTEZ 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 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.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>.*

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 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 10 day of March 2008.

Michelle Yvonne Cortez  
 MICHELLE YVONNE CORTEZ, Respondent

Sworn to and subscribed before me this 10 day of March 2008.

SEAL

Maude Jean Lee

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 10th day of March, 2008, by MICHELLE YVONNE CORTEZ, Vocational Nurse License Number 156982, and said Order is final.

Effective this 18th day of March, 2008.



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