

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 195402
ISSUED TO
BRENDA A. BERINGER

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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 P. Thomas
Executive Director of the Board

ORDER OF THE BOARD

TO: BRENDA A. BERINGER
308 MAXWELL LANE
WACO, TX 76705

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 195402, previously issued to BRENDA A. BERINGER, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 195402, previously issued to BRENDA A. BERINGER, 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

Re: Permanent Certificate Number 195402
Issued to BRENDA A. BERINGER
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 10TH 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):

BRENDA A. BERINGER
308 MAXWELL LANE
WACO, TX 76705

BY:



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

In the Matter of Permanent License § **BEFORE THE TEXAS**
Number 195402, Issued to §
BRENDA A. BERINGER, Respondent § **BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, BRENDA A. BERINGER, is a Vocational Nurse holding license number 195402, 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 April 18, 2009, Respondent failed to comply with the Agreed Order issued to her on April 17, 2008, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Five (5) of the Order which states, in pertinent part:

(5) Respondent shall, within one (1) year of entry of this Order, successfully complete the course Sharpening Critical Thinking Skills....

A copy of the April 17, 2008, 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).

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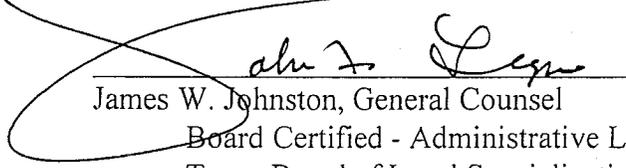
NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of revocation of Respondent's license to practice vocational nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent 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 April 17, 2008.

Filed this 1st 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

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Robert Kyle Hensley, Assistant General Counsel

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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 April 17, 2008.

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 195402 §
issued to BRENDA A. BERINGER § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BRENDA A. BERINGER, Vocational Nurse License Number 195402, 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 informal conference, notice and hearing, and agreed to the entry of this Order offered on February 10, 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 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 McLennan Community College, Waco, Texas, on August 12, 2004. Respondent was licensed to practice vocational nursing in the State of Texas on October 5, 2004.
5. Respondent's vocational nursing employment history includes:

10/2004 - 06/2006	Charge Nurse	Westview Manor McGregor, Texas
06/2006 - Unknown	Charge Nurse	Regent Care Center of Woodway Waco, Texas

Respondent's vocational nursing employment history continued:

08/2006 - 07/2007	Charge Nurse	Crestview Healthcare Residence Waco, Texas
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08/2007 - Present	Unknown	
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6. At the time of the initial incident, Respondent was employed as a Charge Nurse with Crestview Healthcare Residence, Waco, Texas, and had been in this position for ten (10) months.
7. On or about June 6, 2007, through June 13, 2007, while employed as a Charge Nurse with Crestview Healthcare Residence, Waco, Texas, Respondent failed to appropriately and timely assess and intervene regarding the change of condition of Resident JM. Respondent failed to fully assess the resident when she was informed by two Certified Nurse Aides (CNAs) that the resident yelled in pain during transfers and when having her position changed on June 6, 2007. Although she provided care to the resident over the next two (2) days, Respondent failed to assess the resident to determine if she was still experiencing pain. Additionally, Respondent failed to notify supervisory staff regarding the resident's change of condition, as required. On June 12, 2007, a facsimile was sent to the resident's physician notifying him of the change in the resident's condition and requesting an order to obtain an x-ray of the resident's right arm. Respondent was asked to phone the physician if an order was not received by 1600 hours, which Respondent failed to do. The physician returned the facsimile the next morning with an order to obtain an x-ray of the resident's arm, which was done that day, and revealed that the resident was suffering from a right arm fracture. On June, 13, 2007, Respondent obtained an elevated blood pressure reading of 173/83 after the resident returned from a physician's visit, but she failed to reassess the blood pressure, as appropriate. Further, although the resident returned from the physician's visit with an order to routinely administer Darvocet N-100 for pain, and although Respondent documented that the resident stated she felt "lousy," Respondent failed to timely administer the pain medication, as ordered, until more than an hour later. Respondent's conduct was neglectful, exposed the patient to the risk of harm from complications of an untreated arm fracture, including neurological damage, and resulted in a delay of medical intervention, including those to treat the resident's pain.
8. On or about June 5, 2007, through June 12, 2007, while employed as a Charge Nurse with Crestview Healthcare Residence, Waco, Texas, Respondent failed to appropriately and completely document in the aforementioned resident's medical record. Although Respondent states that she assessed the resident's arm when she was informed that the resident was indicating pain, she failed to document her assessment. Respondent states that she medicated the resident with Tylenol for pain, but failed to document the administration in the medical record, as required. Respondent's conduct resulted in an inaccurate medical record, and was likely to injure the patient in that subsequent care givers would not have accurate information on which to base their care decisions.

9. In response to the incidents in Finding of Fact Number Seven (7), Respondent states that when she returned to work from two days off, two CNAs called her into the room of Resident JM saying that the resident had cried out when they touched her hands and wrist. Respondent states that she asked the resident where she hurt and the resident just looked at her, so Respondent touched her hand and wrist and she winced. When Respondent "went up her arm" the resident did not do anything, so Respondent administered Tylenol for the pain. Respondent states that she informed the agency nurse for the next shift of the resident's hand and wrist hurting and that she had administered Tylenol for pain. The resident's hand and arm were not swollen at that time, and she heard nothing else about it until days later. Respondent states that when she checked the fax machine for the physician's response to the facsimile sent on June 12, 2007, there was no answer, so she started down the hall to go call the physician; however, she was called away by a CNA to check on another resident. According to Respondent, by the time she finished with that patient, she forgot to call the physician back. Respondent states that the last time she saw the resident's arm, there was no swelling or discoloration and that she believes it was not broken. Finally, Respondent indicates that if she had thought the arm was broken, "she would have ordered an x-ray."

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)(B),(1)(C), (1)(D),(1)(M),(1)(P)&(2)(A) and 217.12(1)(A),(1)(B),(4)&(6)(C).
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 195402, heretofore issued to BRENDA A. BERINGER, 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 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 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 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 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 BRENDA A. BERINGER, 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, 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. *Information regarding Board-approved courses in Texas nursing jurisprudence and ethics may be found at the Board's website www.bon.state.tx.us (on the "Disciplinary Action" page and on the page "About the Board"/"BON Meetings and Events).*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. 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. RESPONDENT SHALL perform physical assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The clinical component SHALL focus on tasks of physical assessment only and shall be provided by the same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. Performing assessments on mock patients or mannequins WILL NOT be accepted. 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.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>*

(5) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *I n f o r m a t i o n r e g a r d i n g*

this workshop may be found at the following web address:

<http://www.learningext.com/products/generalce/critical/ctabout.asp>.

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 VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(6) 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.

(7) 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.

(8) 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.

(9) 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

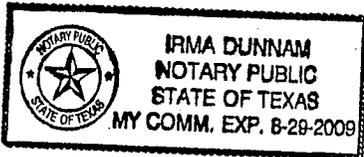
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid 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 March, 2008.

Brenda A Beringer
BRENDA A. BERINGER, Respondent

Sworn to and subscribed before me this 4th day of March, 2008.

SEAL



Irma Dunnam

Notary Public in and for the State of Texas

Approved as to form and substance.

Thomas C. West
Thomas C. West, Attorney for Respondent

Signed this 4th day of March, 2008.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 4th day of March, 2008, by BRENDA A. BERINGER, Vocational Nurse License Number 195402, and said Order is final.

Effective this 17th day of April, 2008.



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