

BEFORE THE TEXAS BOARD OF NURSING



In the Matter of Registered Nurse
License Number 671368
issued to PENNY CANDY JOHNSON

§ AGREED
§
§ ORDER

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.
Katherine A. Thomas
Executive Director of the Board

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of PENNY CANDY JOHNSON, Registered License Number 671368, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(3) & (10), Texas Occupations Code. Respondent waived informal conference, notice and hearing, and agreed to the entry of this Order offered on October 20, 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 professional nursing in the State of Texas.
4. Respondent received an Associate Degree in Nursing from Del Mar College, Corpus Christi, Texas, on May 1, 2000. Respondent was licensed to practice professional nursing in the State of Texas on July 25, 2000.
5. Respondent's professional nursing employment history is unknown.

6. On or about January 3, 2008, Respondent entered a plea of Guilty to POSSESSION OF METHAMPHETAMINE (a State Jail felony offense committed on June 6, 2007), in the 36th Judicial district Court of San Patricio County, Texas, under Cause No. S-07-3379CR. As a result, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on community supervision for a period of three (3) years. Additionally, Respondent was ordered to pay restitution in the amount of three thousand six hundred forty dollars (\$3,640.00), and was ordered to pay a fine and court costs.

7. On or about April 13, 2008, Respondent submitted a Texas Board of Nursing - Online Renewal Document Registered Nurse to the Texas Board of Nursing wherein she provided false, deceptive and/or misleading information, in that she answered "No" to question "2" on the document, which reads in pertinent part:

2. Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

C. pled nolo contendere, no contest, or guilty.

D. received deferred adjudication.

E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty.

H. been arrested or have any pending criminal charges.

Specifically, On or about January 3, 2008, Respondent entered a plea of Guilty to POSSESSION OF METHAMPHETAMINE (a State Jail felony offense committed on June 6, 2007), in the 36th Judicial district Court of San Patricio County, Texas, under Cause No. S-07-3379CR. As a result, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on community supervision for a period of three (3) years. Additionally, Respondent was ordered to pay restitution in the amount of three thousand six hundred forty dollars (\$3,640.00), and you were ordered to pay a fine and court costs. Respondent's conduct was deceiving and may have affected the Board decision to license her.

8. In response to Finding of Fact Number (6), Respondent states that she lent the car to her soon to be ex-husband's cousin, which at that time, she did not know were related to her husband. When the cousin did not return the vehicle, Respondent went to pick it up herself. Respondent found the condition of the vehicle to be trashed, but drove it home in that condition. On the way home, Respondent was pulled over for an outstanding warrant. The vehicle was searched and a pipe was found with methamphetamine residue. Respondent states if she had known that a deferred adjudication would be considered a conviction, she would not have pled guilty. Respondent states she agreed because the divorce was financially devastating and the deferred adjudication appeared to be the most cost effective way to resolve the issue.

9. In response to Finding of Fact Number (9), Respondent states that she incorrectly marked the renewal form, but was unable to make the correction. Respondent states that she contacted the Board by phone and told them of her error.
10. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.
11. Ms. Johnson underwent a polygraph examination completed on August 1, 2008, by Larry Serna, Corpus Christi, Texas. Mr. Serna's conclusion was that there was "No deception indicated" regarding illegal drug use.

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)(2), (3), & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(C) & (I)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered License Number 671368, heretofore issued to PENNY CANDY JOHNSON, including revocation of Respondent's license to practice professional nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Registered License Number 671368, previously issued to PENNY CANDY JOHNSON, to practice professional nursing in Texas is hereby SUSPENDED for a period of three (3) years with the suspension STAYED and Respondent is hereby placed on PROBATION for three (3) years with the following agreed terms of probation:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate privilege, if any, to practice professional nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this order the 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.

(1) RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

(2) RESPONDENT SHALL deliver the wallet-sized license issued to PENNY CANDY JOHNSON, to the office of the Texas Board of Nursing within ten (10) days of the date of this Order.

(3) RESPONDENT SHALL, within one (1) year of the 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 Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; 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/disciplinaryaction/stipscourses.html>.

(4) RESPONDENT SHALL pay a monetary fine in the amount of five hundred (\$500). RESPONDENT SHALL pay this fine within forty-five (45) days of the 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.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A REGISTERED 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 PROBATION CONDITIONS FOR THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY SIX (36) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the probation conditions 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 probation conditions 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 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 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) month period for three (3) years of employment as a nurse.

(9) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.**

(10) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the probation

period, random screens shall be performed at least once every three (3) months.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the RESPONDENT's place of employment at any time during the probation period and require RESPONDENT to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the probation period.

Any positive result for which the nurse does not have a valid prescription will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board. Failure to report for a drug screen may be considered the same as a positive result and may result in further disciplinary action by this Board.

(11) RESPONDENT SHALL CAUSE her probation officer to submit written reports on forms provided to the Respondent by the Board. The reports shall indicate the RESPONDENT's compliance with the court ordered probation. The reports shall be furnished each and every three (3) month period until RESPONDENT is released from probation.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license, the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

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 professional nursing in the State of Texas.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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

Signed this ____ day of _____, 20__.

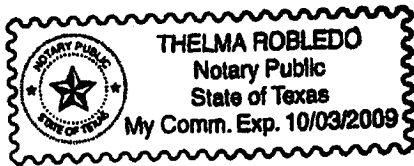
Penny Candy Johnson
PENNY CANDY JOHNSON, Respondent

Sworn to and subscribed before me this 30 day of January, 2009.

SEAL

Thelma Robledo

Notary Public in and for the State of Texas



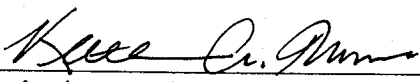
~~Approved as to form and substance.~~

~~TARALYN R. MACKAY, Attorney for Respondent~~

~~Signed this ____ day of _____, 20__.~~

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 30th day of January, 2009, by PENNY CANDY JOHNSON, Registered Nurse License Number 671368, and said Order is final.

Effective this 23rd day of July, 2009.


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