

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 186858
ISSUED TO
CYNTHIA HERNANDEZ

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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. Roman
Executive Director of the Board

ORDER OF THE BOARD

TO: Cynthia Hernandez
1107 E. Sabine St.
Victoria, Texas 77901

During open meeting held in Austin, Texas, on June 9, 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 appear as required by 22 TEX. ADMIN. CODE Ch. 213.

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 regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

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 for rehearing (22 TEX. ADMIN.CODE § 213.2(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 186858, previously issued to CYNTHIA HERNANDEZ, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 186858, previously issued to CYNTHIA HERNANDEZ, 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 June, 2009.

TEXAS BOARD OF NURSING


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

Re: Permanent Certificate Number 186858
Issued to Cynthia Hernandez
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of June, 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):

Cynthia Hernandez
1107 E. Sabine St.
Victoria, Texas 77901

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

**In the Matter of Permanent License
Number 186858, Issued to
CYNTHIA HERNANDEZ, Respondent**

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**BEFORE THE TEXAS
BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, CYNTHIA HERNANDEZ, is a Vocational Nurse holding license number 186858, 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 January 19, 2009, Respondent's license to practice practical nursing in the State of Ohio was INDEFINITELY SUSPENDED for not less than eighteen (18) months retroactive to January 2008, by the Ohio Board of Nursing, Columbus, Ohio. A Copy of the Ohio Board of Nursing Consent Agreement, dated January 19, 2009, is attached and incorporated, by reference, as a part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8), Texas Occupations Code

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of revocation of Respondent's license to practice 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).

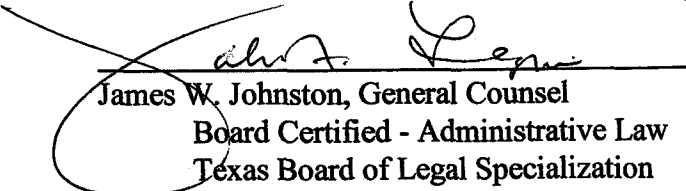
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder and Fraud, Theft & Deception which 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: Ohio Board of Nursing Consent Agreement dated January 19, 2009.

Filed this 13th day of April, 2009.

TEXAS BOARD OF NURSING


James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Renee Koslan Abel, Assistant General Counsel
State Bar No. 24036103

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

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

TEXAS BOARD OF NURSING

333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6824
F: (512) 305-8101 or (512)305-7401

Attachments: Ohio Board of Nursing Notice of Immediate Suspension and Opportunity for Hearing dated July 18, 2008

0999/D

Case #07-3401



Ohio Board of Nursing

www.nursing.ohio.gov

17 South High Street, Suite 400 • Columbus, Ohio 43215-7410 • (614) 466-3947

**CONSENT AGREEMENT
BETWEEN
CYNTHIA SUE HERNANDEZ, L.P.N.
AND
OHIO BOARD OF NURSING**

This Consent Agreement is entered into by and between **CYNTHIA SUE HERNANDEZ, L.P.N. (MS. HERNANDEZ)** and the Ohio Board of Nursing (Board), the state agency charged with enforcing Chapter 4723. of the Ohio Revised Code (ORC), and all administrative rules promulgated thereunder.

MS. HERNANDEZ voluntarily enters into this Consent Agreement with attachments being fully informed of her rights under Chapter 119, ORC, including the right to representation by legal counsel and the right to a formal adjudicative hearing on the issues considered herein.

This Consent Agreement with attachments contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Consent Agreement with attachments.

BASIS FOR ACTION

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4723.28, ORC, to deny, permanently revoke, revoke, suspend, or place restrictions on any license issued by the Board; reprimand or otherwise discipline a licensee; or impose a fine of five hundred dollars (\$500.00) or less per violation. Section 4723.28(B)(4), ORC, authorizes the Board to discipline a licensee who has been convicted of, pled guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for Intervention in Lieu of Conviction for any felony. Section 4723.28(B)(5), ORC, authorizes the Board to discipline a licensee who has been convicted of, pled guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for Intervention in Lieu of Conviction for violating any municipal, state, county or federal drug law. Section 4723.28(B)(13), ORC, authorizes the Board to discipline a licensee for obtaining or attempting to obtain money or

CYNTHIA SUE HERNANDEZ, L.P.N.

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anything of value by intentional misrepresentation or material deception in the course of practice.

- B. **MS. HERNANDEZ's** license to practice nursing as a licensed practical nurse, PN #118388, in the State of Ohio, has been suspended since July 2008. **MS. HERNANDEZ's** Ohio nursing license was initially issued in April 2005. **MS. HERNANDEZ** voluntarily placed her Ohio license on inactive status on January 7, 2008. **MS. HERNANDEZ** also holds a Texas license to practice nursing as a licensed practical nurse.
- C. **MS. HERNANDEZ** knowingly and voluntarily admits to the legal and factual allegations set forth in the Notice of Immediate Suspension and Opportunity for Hearing issued by the Board on July 18, 2008, (July 2008 Notice), a copy of which is attached hereto and incorporated herein
- D. In or about December 2007, **MS. HERNANDEZ** submitted a written statement to the Board admitting to diverting approximately 90 tablets of Percocet from the Otterbein-Cridersville Retirement facility in Cridersville, Ohio.
- E. **MS. HERNANDEZ** was cooperative with the Assistant Director of Nursing and the Board Investigator.
- F. **MS. HERNANDEZ** successfully completed group and individual counseling for her chemical dependency at We Care Center of Hardin County ("We Care Center") as evidenced by a letter from We Care Center, dated December 18, 2008.
- G. **MS. HERNANDEZ** states that her sobriety date is November 2007.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, **MS. HERNANDEZ** knowingly and voluntarily agrees with the Board to the following terms, conditions, and limitations:

SUSPENSION OF LICENSE

- 1. **MS. HERNANDEZ's** license to practice nursing as a licensed practical nurse is hereby indefinitely suspended for not less than eighteen (18) months retroactive to January 2008. **MS. HERNANDEZ** may submit a written request for reinstatement after January 2010 and after the conditions for reinstatement are met.

CONDITIONS FOR REINSTATEMENT

CYNTHIA SUE HERNANDEZ, L.P.N.

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3. **MS. HERNANDEZ** shall obey all federal, state, and local laws, and all laws and rules governing the practice of nursing in Ohio.
4. **MS. HERNANDEZ** shall comply with all of the terms and conditions stated of her sentence, probation, and Intervention in Lieu of Conviction in Anglaize County Court of Common Pleas, Case No. 2008-CR-28.
5. **MS. HERNANDEZ** shall appear in person for interviews before the full Board or its designated representative as requested by the Board or its designee.
5. Prior to reinstatement, **MS. HERNANDEZ** shall enter into a Consent Agreement with the Board for probationary terms, conditions, and limitations determined by the Board for a minimum period of **THREE (3) PROBATION YEARS** following reinstatement.
6. Within six (6) months prior to requesting reinstatement, **MS. HERNANDEZ** agrees that she will submit a request to the Bureau of Criminal Identification and Investigation (BCII) to conduct a criminal records check of **MS. HERNANDEZ**, including a check of Federal Bureau of Investigation (FBI) records, and shall cause BCII to submit **MS. HERNANDEZ's** criminal records check reports to the Board. **MS. HERNANDEZ** agrees that a request for reinstatement will not be considered by the Board until the completed criminal records check, including the FBI check, has been received by the Board.

Monitoring of Rehabilitation and Treatment

7. **MS. HERNANDEZ** shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to her by another who has full knowledge of **MS. HERNANDEZ's** history of chemical dependency and recovery status and is authorized by law to prescribe, administer, or dispense drugs. **MS. HERNANDEZ** shall self-administer the prescribed drugs only in the manner prescribed.
8. **MS. HERNANDEZ** shall abstain completely from the use of alcohol.
9. Within three (3) months immediately prior to requesting reinstatement by the Board, **MS. HERNANDEZ** shall, at her own expense, obtain a chemical dependency evaluation by a Board approved chemical dependency professional and shall provide the Board with complete documentation of this evaluation. Prior to the evaluation, **MS. HERNANDEZ** shall provide the chemical dependency professional with a copy of this Consent Agreement and attached July 2008 Notice. Further, **MS. HERNANDEZ** shall execute releases to permit the chemical dependency professional to obtain any information deemed appropriate and necessary for the evaluation. The chemical dependency professional shall submit a written opinion to the Board that

CYNTHIA SUE HERNANDEZ, L.P.N.

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includes any additional restrictions to be placed on MS. HERNANDEZ's license to practice, and stating whether MS. HERNANDEZ is capable of practicing nursing according to acceptable and prevailing standards of safe nursing care.

10. MS. HERNANDEZ shall provide the Board with satisfactory documentation of compliance with all aspects of the treatment plan developed by the chemical dependency professional described above until released. Further, MS. HERNANDEZ agrees that the Board may utilize the professional's recommendations and conclusions from the evaluation as a basis for additional terms, conditions, and limitations on MS. HERNANDEZ's license and that the terms, conditions, and limitations shall be incorporated in an addendum to this Consent Agreement.
11. For a minimum, continuous period of six (6) months immediately prior to requesting reinstatement, MS. HERNANDEZ shall submit, at her expense and on the day selected, blood or urine specimens for drug and/or alcohol analysis at a collection site specified by the Board at such times as the Board may request. Upon and after MS. HERNANDEZ's initiation of drug screening, refusal to submit such specimen, or failure to submit such specimen on the day she is selected, or in such a manner as the Board may request, shall constitute a violation of a restriction placed on a license for purposes of Section 4723.28(B), ORC. This screening shall require a daily call-in process. The specimens submitted by MS. HERNANDEZ shall be negative, except for substances prescribed, administered, or dispensed to her by another so authorized by law who has full knowledge of MS. HERNANDEZ's history of chemical dependency and recovery status.
 - a. Within thirty (30) days prior to MS. HERNANDEZ initiating drug screening, MS. HERNANDEZ shall provide a copy of this Consent Agreement and attached July 2008 Notice to all treating practitioners and shall provide to the Board a list of all treating practitioners, including addresses and telephone numbers and cause all treating practitioners to complete a medication prescription report that is to be mailed by the practitioner directly to the Board. The medication report is to be completed for any and all substances prescribed, administered, or dispensed to MS. HERNANDEZ.
 - b. After initiating drug screening, MS. HERNANDEZ shall be under a continuing duty to provide a copy of this Consent Agreement and attached July 2008 Notice, prior to initiating treatment, to additional treating practitioners, and to update the list of treating practitioners with the Board within forty-eight (48) hours of being treated by another practitioner. Further, MS. HERNANDEZ shall notify the Board of any and all medication(s) or prescription(s) received within twenty-four (24) hours of release from hospitalization or medical treatment.
12. For a minimum, continuous period of one (1) year immediately prior to requesting reinstatement, MS. HERNANDEZ shall attend a minimum of one (1)

CYNTHIA SUE HERNANDEZ, L.P.N.

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meeting per week of a support or peer group meeting approved in advance by the Board, or a Twelve Step program, and MS. HERNANDEZ shall provide satisfactory documentation of such attendance to the Board prior to reinstatement.

Psychiatric Evaluation and Treatment

13. Within three (3) months immediately prior to requesting reinstatement, MS. HERNANDEZ shall, at her own expense, obtain a psychiatric evaluation from a Board approved psychiatrist and shall provide the Board with complete documentation of such evaluation. Prior to the evaluation, MS. HERNANDEZ shall provide the psychiatrist with a copy of this Consent Agreement and attached July 2008 Notice and shall execute releases to permit the psychiatrist to obtain any information deemed appropriate and necessary for the evaluation. The psychiatrist shall submit a written opinion to the Board that includes diagnoses, recommendations for treatment and monitoring, any additional restrictions that should be placed on MS. HERNANDEZ's license, and a statement as to whether MS. HERNANDEZ is capable of practicing nursing according to acceptable and prevailing standards of safe nursing care.
14. MS. HERNANDEZ shall provide the Board with satisfactory documentation of compliance with all aspects of the treatment plan developed by the professional until released. Further, MS. HERNANDEZ agrees that the Board may use the professional recommendations and conclusions from the evaluation as a basis for additional terms, conditions, and limitations on MS. HERNANDEZ's license and that the terms, conditions, and limitations shall be incorporated in an addendum to this Consent Agreement.

Reporting Requirements of Licensee

15. MS. HERNANDEZ shall report to the Board, in writing, any violation of this Consent Agreement within thirty (30) days of the occurrence of the violation.
16. MS. HERNANDEZ shall sign release of information forms allowing health professionals and other organizations to submit requested documentation or information directly to the Board.
17. MS. HERNANDEZ shall submit any and all information that the Board may request regarding her ability to practice according to acceptable and prevailing standards of safe nursing practice.
18. MS. HERNANDEZ shall not submit or cause to be submitted any false, misleading, or deceptive statements, information, or documentation to the Board or to employers or potential employers.
19. MS. HERNANDEZ shall submit the reports and documentation required by this Consent Agreement on forms specified by the Board. All reporting and

CYNTHIA SUE HERNANDEZ, L.P.N.

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communications required by this Consent Agreement shall be made to the Compliance Unit of the Board.

20. MS. HERNANDEZ shall submit the reports and documentation required by this Consent Agreement to the attention of the Compliance Unit, Ohio Board of Nursing, 17 South High Street, Suite 400, Columbus, OH 43215-7410.
21. MS. HERNANDEZ shall verify that the reports and documentation required by this Consent Agreement are received in the Board office.
22. MS. HERNANDEZ shall inform the Board within five (5) business days, in writing, of any change in employment status or of any change in residential or home address or telephone number.

MS. HERNANDEZ further knowingly and voluntarily agrees with the Board to the following licensure restrictions:

Nursing Refresher Course

Upon reinstatement of her license and prior to working in a position where a nursing license is required, MS. HERNANDEZ shall complete and submit satisfactory documentation of completion of a nursing refresher course or an extensive orientation approved in advance by the Board or its designee.

MS. HERNANDEZ further knowingly and voluntarily agrees with the Board to the following TEMPORARY and PERMANENT licensure restrictions:

Temporary Narcotic Restrictions

Upon reinstatement, MS. HERNANDEZ shall not administer, have access to, or possess (except as prescribed for MS. HERNANDEZ's use by another so authorized by law who has full knowledge of MS. HERNANDEZ'S history of chemical dependency) any narcotics, other controlled substances, or mood altering drugs for a minimum of six (6) months in which MS. HERNANDEZ is working in a position that requires a nursing license. At any time after the six (6) month period previously described, MS. HERNANDEZ may submit a written request to the Board to have this restriction re-evaluated. In addition, MS. HERNANDEZ shall not count narcotics or possess or carry any work keys for locked medication carts, cabinets, drawers, or containers.

Permanent Practice Restrictions

Unless otherwise approved in advance by the Board or its designee, MS. HERNANDEZ shall not practice nursing as a licensed practical nurse (1) for agencies

CYNTHIA SUE HERNANDEZ, L.P.N.

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providing home care in the patient's residence; (2) for hospice care programs providing hospice care in the patient's residence; (3) for staffing agencies or pools; (4) as an independent provider where the nurse provides nursing care and is reimbursed for services by the State of Ohio through State agencies or agents of the State; or (5) for an individual or group of individuals who directly engage MS. HERNANDEZ to provide nursing services for fees, compensation, or other consideration or as a volunteer.

MS. HERNANDEZ shall not call in or order prescriptions or prescription refills for patients.

Unless otherwise approved in advance by the Board or its designee, MS. HERNANDEZ shall not function in a position or employment where the job duties or requirements involve management of nursing and nursing responsibilities, or supervising and evaluating nursing practice. Such positions include but are not limited to the following: Director of Nursing, Assistant Director of Nursing, Nurse Manager, Vice President of Nursing.

FAILURE TO COMPLY

The above described terms and conditions shall constitute "restrictions placed on a license" for purposes of Section 4723.28(B), ORC. If, in the discretion of the Board, MS. HERNANDEZ appears to have violated or breached any terms or conditions of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

DURATION/MODIFICATION OF TERMS

The terms, limitations, and conditions of this Consent Agreement, other than the permanent licensure restrictions, may be modified or terminated in writing at any time upon the agreement of both MS. HERNANDEZ and the Board.

The Board may only alter the indefinite suspension imposed if: (1) MS. HERNANDEZ submits a written request for reinstatement; (2) the Board determines that MS. HERNANDEZ has complied with all conditions of reinstatement; (3) the Board determines that MS. HERNANDEZ is able to practice according to acceptable and prevailing standards of safe nursing care based upon an interview with MS. HERNANDEZ and review of the documentation specified in this Consent Agreement; and (4) MS. HERNANDEZ has entered into a Consent Agreement with the Board for probationary terms, conditions, and limitations determined by the Board for a minimum period of THREE (3) YEARS following reinstatement.

ACKNOWLEDGMENTS/LIABILITY RELEASE

CYNTHIA SUE HERNANDEZ, L.P.N.
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MS. HERNANDEZ acknowledges that she has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

MS. HERNANDEZ waives all of her rights under Chapter 119, ORC, as they relate to matters that are the subject of this Consent Agreement.

MS. HERNANDEZ waives any and all claims or causes of action she may have against the Board, and its members, officers, employees and/or agents arising out of matters that are the subject of this Consent Agreement.

This Consent Agreement is not an adjudication order as discussed in Chapter 119, ORC. Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedures Act, Chapter 119, ORC.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, ORC. The information contained herein may be reported to appropriate organizations, data banks and governmental bodies.

EFFECTIVE DATE

MS. HERNANDEZ understands that this Consent Agreement is subject to ratification by the Board prior to signature by the Board President and shall become effective upon the last date of signature below.

Cynthia Sue Hernandez, L.P.N.
CYNTHIA SUE HERNANDEZ, L.P.N.

1-5-09
DATE

Lisa Klenke, MBA, RN
LISA KLENKE, President
Ohio Board of Nursing

1-16-09
DATE

Case #07-3401



Ohio Board of Nursing www.nursing.ohio.gov

17 South High Street, Suite 400 • Columbus, Ohio 43215-7410 • (614) 466-3947

July 18, 2008

**NOTICE OF IMMEDIATE SUSPENSION AND
OPPORTUNITY FOR HEARING**

Cynthia Sue Hernandez, L.P.N.
82 Resch Street
Kenton, Ohio 43326

and

433 Eliza Street
Kenton, Ohio 43326

Dear Ms. Hernandez:

In accordance with Section 2929.42 and/or 3719.12 of the Ohio Revised Code (ORC), the Ohio Board of Nursing (Board) has been notified that on or about June 6, 2008, in Auglaize County Court of Common Pleas Case No. 2008 CR 0028, you pled guilty to and were found eligible for Intervention in Lieu of Conviction for Possession of Drugs, a fifth-degree felony in violation of Section 2925.11(A)(C)(1)(a), Ohio Revised Code (ORC).

Section 3719.121 (C), ORC, states in pertinent part as follows:

On receiving notification pursuant to Section 2929.42 or 3719.12 of the Revised Code, the board under which a person has been issued a license, certificate or evidence of registration immediately shall suspend the license, certificate, or registration of that person on a plea of guilty to a finding by a jury or court of the person's guilt of, or conviction of, a felony drug abuse offense, a finding by a court of the person's eligibility for intervention in lieu of conviction, a plea of guilty to, or a finding by a jury or court of the person's guilt of, or the person's conviction of an offense in another jurisdiction that is essentially the same as a felony drug abuse offense, or finding by a court of the person's eligibility for treatment or intervention in lieu of conviction in another jurisdiction.

Section 2925.11(A)(C)(1)(a), ORC, Possession of Drugs, constitutes a felony drug abuse offense as defined in Section 2925.01 ORC.

Cynthia Sue Hernandez, L.P.N.

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WHEREFORE, PURSUANT TO SECTION 3719.121(C), ORC, YOU ARE HEREBY NOTIFIED THAT YOUR LICENSE TO PRACTICE NURSING AS A LICENSED PRACTICAL NURSE IS HEREBY SUSPENDED. Continued practice after receipt of this notice of suspension shall be considered engaging in the practice of nursing without a current, valid license, which is a violation of Section 4723.03(B), ORC. You are hereby ordered to surrender your Ohio license to practice nursing as a licensed practical nurse P.N. #118388, to the Board within ten (10) days of receipt of this notice.

You are further notified that in accordance with Chapter 119, ORC, the Board proposes under authority of Section 4723.28, ORC, to deny, revoke, permanently revoke, suspend or place restrictions on your license to practice nursing as a licensed practical nurse; reprimand or otherwise discipline you; or impose a fine of not more than five hundred dollars (\$500.00) per violation for the following reasons:

- I. On or about June 6, 2008, in Auglaize County Court of Common Pleas Case No. 2008 CR 0028, you pled guilty to and were found eligible for Intervention in Lieu of Conviction for Theft, a fourth-degree felony in violation of Section 2913.02(A)(1); Possession of Drugs, a fifth-degree felony in violation of Section 2925.11(A)(C)(1)(a), ORC; Forgery, a fifth-degree felony in violation of Section 2913.31(A)(1), ORC; and Attempted Theft, a fifth-degree felony in violation of Section 2923.02(A)(1)/2913.02(A)(1), ORC.

On or about December 15, 2007, in a written statement to the Board, you admitted that on October 31, 2007, you took ninety (90) Percocet from Otterbein-Cridersville Retirement Community in Cridersville, Ohio, where you were employed as a licensed practical nurse.

Section 4723.28(B)(4), ORC, authorizes the Board to discipline a licensee who has been convicted of, pled guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for Intervention in Lieu of Conviction for any felony. Section 4723.28(B)(5), ORC, authorizes the Board to discipline a licensee who has been convicted of, pled guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for Intervention in Lieu of Conviction for violating any municipal, state, county or federal drug law. Section 4723.28(B)(13), ORC, authorizes the Board to discipline a licensee for obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice.

Accordingly, the Board is authorized to impose one or more of the sanctions as cited in Section 4723.28, ORC.

In accordance with Chapter 119, ORC, you are hereby informed that you are entitled to a hearing on this matter. If you wish to request such hearing, the request must be made in writing and must be received in the Board office within thirty (30) days of the time of mailing this notice. As

Cynthia Sue Hernandez, L.P.N.

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required by Section 3719.121(C), ORC, the suspension ordered herein shall remain in effect until this hearing is held.

You are hereby further informed that if you timely request a hearing, you are entitled to appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the Board, or you may present your position, argument, or contentions in writing. At the hearing you may also present evidence and examine witnesses appearing for and against you.

Should you choose to request a hearing, please mail or deliver the request, in addition to any other correspondence regarding this matter to: Lisa Ferguson-Ramos, Compliance Unit Manager, 17 South High Street, Suite 400, Columbus, OH 43215-7410.

If the Board fails to receive a request for a hearing within thirty (30) days of the time of mailing of this notice, the Board may, in your absence and upon consideration of the factual and legal allegations set forth in the Notice of Immediate Suspension and Opportunity for Hearing, deny, permanently revoke, revoke, suspend or place restrictions on your license to practice nursing as a licensed practical nurse; reprimand or otherwise discipline you; or impose a fine of not more than five hundred dollars (\$500.00) per violation.

Sincerely,



Debra A. Broadnax, RN, MSN, CNS
Supervising Board Member

First Address Certified Mail Receipt No. 7008 0150 0003 3672 6204

Second Address Certified Mail Receipt No. 7008 0150 0003 3672 6211

cc: Leah O'Carroll, Assistant Attorney General