

BEFORE 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.
Katherine A. Thomas
Executive Director of the Board

In the Matter of Vocational Nurse License Number 178131 § AGREED
issued to TRACI ANN PIERCE § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board considered the matter of TRACI ANN PIERCE, Vocational Nurse License Number 178131 hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(2),(3)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on February 10, 2009, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Respondent waived representation by counsel, informal proceedings, 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 Kilgore College-Longview Central, Longview, Texas, on August 4, 2000. Respondent was licensed to practice vocational nursing in the State of Texas on October 16, 2000.
5. Respondent's vocational nursing employment history includes:

08/00 - 02/01	Charge Nurse	Gladewater Nursing Home Gladewater, TX
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Respondent's vocational nursing employment history (continued):

05/01 - 09/01	Charge Nurse	Cleaver Memorial CC Longview, TX
10/01 - 03/02	Charge Nurse	Clairmont Nursing Longview, TX
04/02 - 04/05	Unknown	
05/05 - 07/06	LVN	Excel Nursing Tyler, TX
08/06 - Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse at Excel Nursing, Tyler, Texas, and assigned to Neuro Restorative Specialty Services at University of Texas Health Center at Tyler (UTHCT), Tyler, Texas, and had been in this position for approximately one (1) month.
7. On or about May 8, 2005, through July 7, 2006, while employed as a Licensed Vocational Nurse at Excel Nursing, Tyler, Texas, and assigned to Neuro Restorative Specialty Services at University of Texas Health Center at Tyler (UTHCT), Tyler, Texas, Respondent misused a Cingular cellular telephone, provided by Neuro Restorative Specialty Services at UTHCT, Tyler, Texas and accumulated unauthorized charges totaling \$1,580.26. Furthermore, Respondent failed to return the cellular telephone when her employment ended on July 4, 2005. Respondent's conduct defrauded the facility of the cost of the cellular telephone and accumulated unauthorized charges totaling \$1,580.26.
8. On or about January 14, 2006, Respondent was arrested by the Texas Highway Patrol Region 1, District B, Tyler, Texas, for CRIMINAL MISCHIEF GREATER THAN OR EQUAL TO \$500 AND LESS THAN \$1,500 (a Class A Misdemeanor offense).

On or about March 14, 2007, Respondent entered a plea of Guilty to THEFT (a Class B Misdemeanor offense committed on May 16, 2005), filed in the County Court at Law in and for Smith County, Tyler, Texas, under Cause No. 001-85102-06. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of twelve (12) months. Additionally, Respondent was ordered to pay a fine, restitution, and court costs.

9. On or about December 31, 2006, Respondent submitted her Texas Online Renewal Document to the Board of Nurse Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information in that she answered "No" to the question:

Have you been convicted, placed on community supervision whether or not adjudicated guilty, sentenced to serve jail or prison time or granted pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country, or received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests whether or not on appeal (excluding minor Class C traffic violations)? This includes expunged offenses and deferred adjudications with or without prejudice of guilt. Please note that DUI's, DWI's, PI's must be reported and are not considered minor traffic violations. One time minor in possession [MIP] or minor in consumption [MIC] do not need to be disclosed; therefore, you may answer "No". If you have two or more MIP's or MIC's, you must answer "Yes". You may answer "No" if you have previously disclosed a criminal matter otherwise responsive to this question in a renewal and/or licensure form.

On or about January 14, 2006, Respondent was arrested by the Texas Highway Patrol Region 1, District B, Tyler, Texas, for CRIMINAL MISCHIEF GREATER THAN OR EQUAL TO \$500 AND LESS THAN \$1,500 (a Class A Misdemeanor offense) and subsequently charged with THEFT (a Class B Misdemeanor offense committed on May 16, 2005), filed in the County Court at Law in and for Smith County, Tyler, Texas, under Cause No. 001-85102-06.

10. In response to Finding of Fact Numbers Seven (7), Eight (8), and Nine (9), Respondent states that the cellular telephone was in her care, but was not the only staff member to use it. Respondent states that she settled the case in court and paid \$648.53 for the phone bill and an additional \$300 for the cost of the phone. Respondent states that she completed her probation and wrote a letter of apology to UTHCT. Respondent states that she did not disclose the incident on her December of 2006 renewal because she was not placed on probation until March of 2007.
11. Formal Charges were filed on November 24, 2008.
12. Formal Charges were mailed to Respondent on November 25, 2008.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.

2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation of Section 301.452(b)(2),(3)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(G),(H)&(I)&(13).
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 178131, heretofore issued to TRACI ANN PIERCE, including revocation of Respondent's license to practice vocational nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, 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.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice nursing in compact states.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to TRACI ANN PIERCE, to the office of the Texas Board of Nursing within ten (10) days from the date

of ratification of this Order.

(2) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty (\$250) dollars. RESPONDENT SHALL pay this fine within forty - five (45) days of entry of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with 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>.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A 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) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TELVE (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:

(4) 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.

(5) 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.

(6) 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.

(7) 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) month period for one (1) year of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT's license and RESPONDENT shall be eligible for multistate licensure privileges, if any, to practice nursing in the State of Texas.

RESPONDENT'S CERTIFICATION

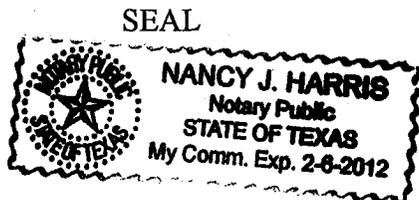
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 19 day of March, 2009.

Traci Ann Pierce
TRACI ANN PIERCE, Respondent

Sworn to and subscribed before me this 19th day of March, 2009.

Nancy J. Harris
Notary Public in and for the State of Upshur



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 19th day of March , 20 09 , by TRACI ANN PIERCE, Vocational Nurse License Number 178131, and said Order is final.

Effective this 23rd day of April , 20 09 .

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

