



5. On December 11, 2006, Respondent's license to practice vocational nursing was Suspended by the Board of Nurse Examiners for the State of Texas. The suspension was Stayed, and Respondent was placed on Probation for three (3) years. A copy of the December 11, 2006, Agreed Order, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this Order.
6. On or about April 28, 2008, Respondent failed to comply with the Agreed Order issued to her on December 11, 2006, 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 Thirteen (13) of the Agreed Order which states, in pertinent part:

(13) Respondent shall abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synethic opiates....
7. On or about February 14, 2008, February 19, 2008, and April 21, 2008, Respondent failed to comply with the Agreed Order issued to her on December 11, 2006, 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 Fourteen (14) of the Agreed Order which states, in pertinent part:

(14) Respondent shall submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol....
8. On December 12, 2008, Respondent submitted a statement to the Board expressing her desire to voluntarily surrender the right to practice vocational nursing in the State of Texas. A copy of the December 12, 2008, statement is attached and incorporated, by reference, as part of this Order.

#### 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 a violation of Section 301.452(b)(1), (9), and (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12 (10) (D), & (11)(B).
4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.

6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 165665, heretofore issued to LORI ANN BABINEAU, to practice vocational nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice vocational nursing, use the title of "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying herself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse during the period in which the license is in surrendered status.
2. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure and shall not petition for reinstatement until at least one (1) year has elapsed since the effective date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition for reinstatement.

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



Effective this 23rd day of January, 2009.

TEXAS BOARD OF NURSING

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

BEFORE THE BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

\*\*\*\*\*

In the Matter of Vocational Nurse	§	AGREED
License Number 165665	§	ORDER
issued to LORI ANN BABINEAU	§	

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of LORI ANN BABINEAU, License Number 165665, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on October 24, 2006, 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 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 Great Plains Vocational Tech, Lawton, Oklahoma, on July 19, 1996. Respondent originally became licensed to practice vocational nursing in the State of Texas on November 5, 1997.
5. Respondent's vocational nursing employment history is unknown.

6. On or about November 17, 2005 through November 22, 2005, Respondent engaged in the intemperate use of methamphetamines and marijuana, while a patient at Memorial Health System, Lufkin, Texas, in that she submitted a specimen for a drug screen which resulted positive for methamphetamines and marijuana. Furthermore, while at the Memorial Medical Center Emergency Room she admitted to several Angelina County Sheriff's Office deputies that she had been under the influence of methamphetamines and marijuana. Possession of methamphetamines and marijuana is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of methamphetamines and marijuana by a Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
7. On or about November 17, 2005 through November 22, 2005, Respondent lacked fitness to practice vocational nursing in that she exhibited bizarre behavior. Subsequently, the Angelina County Sheriff's Department was dispatched to a residence in Lufkin, Texas, because she appeared to be in an "altered state," including but not limited to: blood shot eyes, resisting detention from the Angelina County Sheriff's Department, and her inability to stand up. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
8. On or about September 14, 2006, Respondent plead guilty to the charge of, "Possession of a Controlled Substance-Methamphetamine," a State Jail Felony offense committed on April 2, 2006, in the Angelina County, Texas, 159th Judicial District Court, Cause No. 26576. Respondent's finding of guilt was deferred and she was placed on probation for a period of four (4) years, and ordered to pay restitution in the amount of one hundred forty dollars (\$140.00).
9. Respondent states July 4, 2006 as her date of sobriety.
10. Respondent began a residential treatment program at Franklin House North, Beaumont, Texas on July 4, 2006 and successfully completed this program on August 10, 2006.
11. 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.

### 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 a violations of Section 301.452(b)(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(G),(10)(A),(B)&(C),& (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 165665, heretofore issued to LORI ANN BABINEAU, including revocation of Respondent's vocational license to practice nursing in the State of Texas.

### ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that Vocational Nurse License Number 165665, previously issued to LORI ANN BABINEAU, to practice vocational nursing in Texas is hereby SUSPENDED and said suspension is enforced until Respondent has obtained twelve (12) consecutive months of sobriety. Any relapse prior to the completion of the twelve (12) consecutive months of sobriety will result in an extension of the enforced suspension until such twelve (12) consecutive months of sobriety and additional treatment have been attained.

IT IS FURTHER ORDERED that Permanent Certificate Number 165665 previously issued to LORI ANN BABINEAU, upon receipt of this Order, be immediately delivered to the office of the Board of Nurse Examiners for the State of Texas.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate 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 the 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, upon verification of successful completion of the approved inpatient treatment and twelve (12) consecutive months of sobriety as set out in this Order, the Suspension will be stayed, and RESPONDENT will be placed on probation for three (3) years with the following agreed terms of probation:

(1) 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 Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

(2) RESPONDENT SHALL pay all re-registration fees, if applicable, and be issued a license to practice vocational nursing in the State of Texas with the appropriate notation.

(3) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete a course in nursing jurisprudence. 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. 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, and documentation of care. 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 can be found on the Board's website [www.bne.state.tx.us](http://www.bne.state.tx.us) (under BNE events).*

(4) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete a course in nursing ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. The course shall be a minimum of six (6) contact hours in length. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify RESPONDENT's successful completion of the course. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Board approved courses may be found on the Board's website [www.bne.state.tx.us](http://www.bne.state.tx.us) (under BNE events).*

**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 PROBATION CONDITIONS FOR THREE (3) YEAR(S) 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 LICENSED VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:**

(5) 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 vocational nurse.

(7) For the first year of employment as a Licensed Vocational Nurse under this Order, RESPONDENT SHALL be directly supervised by a Licensed Vocational Nurse or Registered Nurse. Direct supervision requires another professional nurse to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). The 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) For the remainder of the probation period, RESPONDENT SHALL be supervised by a Licensed Vocational Nurse or Registered Nurse who is on the premises. The supervising LVN or RN 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 LVN or RN 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 NOT practice as a licensed vocational nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Respondent is regularly assigned for one (1) year of employment as a licensed vocational nurse.

(10) RESPONDENT SHALL NOT practice as a licensed vocational nurse in any critical care area for one (1) year of employment as a licensed vocational nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(11) RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a licensed vocational nurse.

(12) 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 vocational nursing. These reports shall be completed by the Licensed Vocational Nurse or Registered Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising Licensed Vocational Nurse or Registered Nurse to the office of the Board at the end of each three (3) months for three (3) years of employment as a vocational nurse.

(13) 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.**

(14) 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 second three (3) 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.

(15) RESPONDENT SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. RESPONDENT SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT's progress in therapy, rehabilitation and capability to safely practice vocational nursing. The report must indicate whether or not the RESPONDENT's stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the probation period, or until RESPONDENT is dismissed from therapy.

(16) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and RESPONDENT SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least; the date of each meeting, the name of each group attended, and the signature and printed name of the chairperson of each group attended by RESPONDENT. RESPONDENT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) months. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

(17) 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 vocational nursing in the State of Texas.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

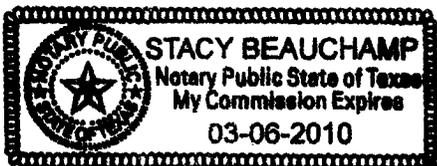
RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I 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 15 day of November, 2006.  
Lori Ann Babineau  
LORI ANN BABINEAU, Respondent

Sworn to and subscribed before me this 15<sup>th</sup> day of November, 2006.

SEAL



Stacy Beauchamp  
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 15th day of November, 2006, by LORI ANN BABINEAU, Vocational Nurse License Number 165665, and said Order is final.

Effective this 11th day of December, 2006.



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

LORI ANN BABINEAU  
159 MCCLENDON DR.  
DIBOLL, TEXAS 75941

Texas LVN License # 165665

October 3, 2008

Dear Texas Board of Nursing:

I no longer desire to be licensed as a vocational nurse. Accordingly, I voluntarily surrender my license to practice in Texas. I waive representation by counsel and consent to the entry of an Order which outlines requirements for reinstatement of my license. I understand that I will be required to comply with the Board's Rules and Regulations in effect at the time I submit any petition for reinstatement.

Signature Lori Babineau

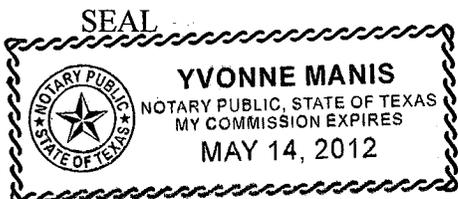
Date 12-10-08

Texas LVN License Number 165665

The State of Texas

Before me, the undersigned authority, on this date personally appeared Lori Ann Babineau, who, being duly sworn by me, stated that she executed the above for the purpose therein contained and that she understood same.

Sworn to before me the 10<sup>th</sup> day of December, 2008.



Yvonne Manis  
Notary Public in and for the State of Texas