

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse License Number 148652 §
issued to ELAINE ANN BAILEY §



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

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 148652, issued to ELAINE ANN BAILEY, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal conference, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent is currently licensed to practice vocational nursing in the State of Texas.
2. Respondent waived representation by counsel, informal conference, notice and hearing.
3. Respondent received a Certificate in Vocational Nursing from Clarendon College, Clarendon, Texas, on August 12, 1994. Respondent was licensed to practice vocational nursing in the State of Texas on September 26, 1994.
4. Respondent's vocational nursing employment history includes:

09/94 - 02/02	Unknown	
03/02 - 11/02	LVN Charge Nurse	County Club Manor Amarillo, TX
12/02 - 01/03	LVN Charge Nurse	Hereford Care Center Hereford, TX

Respondent's vocational nursing employment history (continued):

04/03 - 09/03	LVN Charge Nurse	St. Ann's Nursing Home Panhandle, TX
10/03 - 12/03	Unknown	
01/04 - 03/04	LVN Charge Nurse	Amarillo Nursing Center Amarillo, TX
03/04 - 04/04	LVN Charge Nurse	Shamrock Care Inn Shamrock, TX
06/04 - 03/05	LVN	McLean Care Center McLean, TX
12/05 - 08/06	LVN Charge Nurse	Amarillo Nursing Center Amarillo, TX
9/06 - present	Unknown	

5. On or about October 18, 2006, the Board of Nursing for the State of Texas notified Respondent of the following allegations:

- 5.1. On or about February 6, 1987, Respondent entered a plea of Guilty and was Convicted of DELIVERY OF A SIMULATED CONTROLLED SUBSTANCE (a Felony offense committed on January 4, 1987) in the 316th District Court of Hutchinson County, Stinnett, Texas, under Cause No. 994. Respondent was sentenced to confinement in the Texas Department of Corrections for a period of three (3) years. The imposition of confinement was suspended, and Respondent was placed on probation for a period of three (3) years and ordered to pay a fine and court costs.
- 5.2. On or about August 1, 1994, Respondent submitted an Application For Licensure By Examination to the Texas Board of Vocational Nurse Examiners in which she provided false, deceptive, and/or misleading information in that she answered "No" to the following question: "Have you ever been convicted of a felony or misdemeanor other than a minor traffic violation?"

On or about February 6, 1987, Respondent entered a plea of Guilty and was Convicted of DELIVERY OF A SIMULATED CONTROLLED SUBSTANCE (a Felony offense committed on January 4, 1987) in the 316th District Court of

Hutchinson County, Stinnett, Texas, under Cause No. 994. Respondent was sentenced to confinement in the Texas Department of Corrections for a period of three (3) years. The imposition of confinement was suspended, and Respondent was placed on probation for a period of three (3) years and ordered to pay a fine and court costs.

- 5.3. On or about December 18, 1997, Respondent entered a plea of Guilty to CRIMINAL TRESPASS (a Class B Misdemeanor offense committed on December 1, 1997) in the County Court of Donley, Clarendon, Texas, under Cause No. 10158. An adjudication of guilt was deferred, and Respondent was placed on probation for a period of six (6) months and ordered to pay a fine and court costs. On or about June 17, 1998, Respondent was discharged from probation, granted under Cause No. 10158, in the County Court of Donley County, Texas.
- 5.4. On or about April 21, 2004, Respondent submitted an Employment Application to the Shamrock Nursing Center, Shamrock, Texas, in which she provided false, deceptive, and/or misleading information in that she answered "No" to the following question: "Have you ever pled guilty or nolo contendere, been convicted of, received probation, deferred adjudication or pretrial diversion for any criminal offense, other than minor traffic citations?"

On or about February 6, 1987, Respondent entered a plea of Guilty and was Convicted of DELIVERY OF A SIMULATED CONTROLLED SUBSTANCE (a Felony offense committed on January 4, 1987) in the 316th District Court of Hutchinson County, Stinnett, Texas, under Cause No. 994. Respondent was sentenced to confinement in the Texas Department of Corrections for a period of three (3) years. The imposition of confinement was suspended, and Respondent was placed on probation for a period of three (3) years and ordered to pay a fine and court costs.

On or about December 18, 1997, Respondent entered a plea of Guilty to CRIMINAL TRESPASS (a Class B Misdemeanor offense committed on December 1, 1997) in the County Court of Donley, Clarendon, Texas, under Cause No. 10158. An adjudication of guilt was deferred, and Respondent was placed on probation for a period of six (6) months and ordered to pay a fine and court costs.

- 5.5. On or about May 22, 2004, while employed as a licensed vocational nurse with Shamrock Nursing Center, Shamrock, Texas, Respondent failed to initiate appropriate, timely, and complete emergency interventions, including activation of the 911 Emergency Management System and cardiopulmonary resuscitation, when Resident V.M. was discovered to be without respirations or vital signs, but warm to the touch. Respondent's conduct may have contributed to the Resident's demise.

- 5.6. On or about December 7, 2004, Respondent submitted an Employment Application to the Amarillo Nursing Center, Amarillo, Texas, in which she provided false, deceptive, and/or misleading information in that she answered "No" to the following question: "Have you ever been convicted of a felony?"

On or about February 6, 1987, Respondent entered a plea of Guilty and was Convicted of DELIVERY OF A SIMULATED CONTROLLED SUBSTANCE (a Felony offense committed on January 4, 1987) in the 316th District Court of Hutchinson County, Stinnett, Texas, under Cause No. 994. Respondent was sentenced to confinement in the Texas Department of Corrections for a period of three (3) years. The imposition of confinement was suspended, and Respondent was placed on probation for a period of three (3) years and ordered to pay a fine and court costs.

- 5.7. On or about March 10, 2005, while employed as a licensed vocational nurse with McLean Care Center, McLean, Texas, Respondent admitted that she engaged in the intemperate use of Marijuana. Possession of Marijuana is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Marijuana by a Licensed 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.
- 5.8. On or about March 10, 2005, while employed as a licensed vocational nurse with McLean Care Center, McLean, Texas, Respondent left her nursing assignment without notifying the appropriate personnel. Respondent's conduct was likely to injure patients in that leaving the nursing assignment could have resulted in patients not getting the care that they needed.
- 5.9. On or about August 4, 2006, while employed as a licensed vocational nurse with Amarillo Nursing Center, Amarillo, Texas, Respondent admitted that she engaged in the intemperate use of Marijuana. Possession of Marijuana is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Marijuana by a Licensed 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.
6. On September 5, 2007, the Board of Nursing for the State of Texas received Respondent's wallet-sized license and a notarized statement from Respondent stating her desire to voluntarily surrender her license to practice vocational nursing in Texas. A copy of this

statement is attached and incorporated by reference as part of this Order.

7. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
8. 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 violations of Article 4528c, sec.10(a)(2)&(9), TEX. REV. CIV. STAT. ANN., and Section 301.452(b)(2),(9),(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§239.11(8),(28)&(29)(A)(effective to September 28, 2004), and 217.12(6)(H)(I), (10)(A),(11)(B)&(12) (effective on September 28, 2004).
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.

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ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 148652, heretofore issued to ELAINE ANN BAILEY, 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 "licensed 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 surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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.

Effective this 11th day of September, 2007.

TEXAS BOARD OF NURSING

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