

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Vocational Nurse License Number 183590 § AGREED
issued to MADALYN MARIAN OBRIEN § ORDER

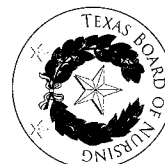
An investigation by the Board of Nurse Examiners for the State of Texas, herein referred to as the Board, produced evidence indicating that MADALYN MARIAN OBRI hereinafter referred to as Respondent, Vocational Nurse License Number 183590, may have violated Section 301.452(b)(10),(12)&(13), Texas Occupations Code.

An informal conference was held on July 10, 2007, at the office of the Board of Nurse Examiners, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Louis Leichter, Attorney at Law. In attendance were Mary Beth Thomas, MSN, RN, Director, Nursing Division, Executive Director's Designee; Victoria Cox, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Candace V. Heisserman, Investigator; and Jesse Thibodeau, Investigator

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 notice and hearing, and consented 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 St. Philips College, San Antonio, Texas, on December 13, 2001. Respondent was licensed to practice vocational nursing in the State of Texas on February 14, 2002.



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 R. Thomas
Executive Director of the Board

5. Respondent's vocational nursing employment history includes:

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|---------------|--|
| 2/02-5/02 | Staff Nurse Rosewood Rehabilitation and Care Center Converse, Texas |
| 6/02-7/02 | Unknown |
| 8/02-3/05 | Staff Nurse Manor Care (Trisun) Windcrest, Texas |
| 3/05-10/05 | Staff Nurse Paramount Rehabilitation and Nursing Center San Antonio, Texas |
| 11/05-Present | Staff Nurse Meridian Care San Antonio, Texas |

6. At the time of the incident, Respondent was employed as a Staff Nurse with Paramount Rehabilitation and Nursing Center, San Antonio, Texas, and had been in this position for approximately seven (7) months.
7. On or about October 24, 2005, while employed at Paramount Rehabilitation and Nursing Center, San Antonio, Texas, Respondent engaged in the use of alcohol prior to reporting to duty in that Respondent presented to duty with the smell of alcohol on her person and admitted to such conduct. The use of alcohol by a 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.
8. On or about October 24, 2005, while employed at Paramount Rehabilitation and Nursing Center, San Antonio, Texas, Respondent lacked fitness to practice vocational nursing in that she displayed the following behavior while on duty: screaming incoherently, throwing charts on the floor, laying down on the floor and crying, making suicidal comments, biting and kicking co-workers, and making verbal threats to co-workers. After exhibiting the above mentioned behavior, Respondent was relieved of her duty and transported to Northeast Methodist Hospital for mental health treatment. Respondent's conduct 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.

9. In response to Findings of Fact Numbers Seven (7) and Eight (8), Respondent states that she had an episode which may have been related to her epilepsy or possibly induced by medication and job stress. Respondent states that she was awake but not aware of her actions. On the night in question, Respondent states that wasn't aware of her surroundings or actions and was hospitalized and treated overnight. Respondent states that she was treated prior to and since this event and her doctor has changed her medications and cleared her to work.
10. Gary K. Wilson, M.D., states that Respondent is a patient under his care and carries a diagnosis of Major Depression, Post Traumatic Stress Disorder, and Epilepsy. Respondent reported to Dr. Wilson that on October 24, 2005, she had an extreme episode of rage, associated with confusion and amnesia. Dr. Wilson states that with the right treatment, Respondent is capable of continuing to work as a nurse.
11. On June 6, 2007, Respondent underwent a psychiatric interview and mental status examination performed by Robert E. Cantu, M.D., P.A. Dr. Cantu states that it his opinion that Respondent's seizure was due to significant changes made to her psychotropic and neurological medications in the weeks preceding the events which occurred on October 25, 2005, and not the intemperate use of alcohol. Dr. Cantu concluded that there was no clinical or historical evidence to suggest or support a diagnosis of alcohol/drug dependence or abuse. Respondent reported to Dr. Cantu that she has remained in psychotherapy with Dr. Wilson, on a scheduled regimen of every other week.
12. In a letter to the Board dated June 20, 2007, Veronica Benitez, RN, Director of Nurses, Meridian Care, San Antonio, Texas, states that Respondent was hired as a charge nurse at Meridian Care in November 2005. Ms. Benitez states that Respondent has proven to be very dependable, professional, and a clear asset to their company, and that her job knowledge and nursing judgment has reflected their philosophy for great patient care.
13. In a letter dated June 20, 2007, Alan Martone, Assistant Director of Nurses, Meridian Care, San Antonio, Texas, states that Respondent's professionalism, solid knowledge base, and ability to be flexible has proven her to be a very valuable asset to their company. Respondent has proven herself to be very dependable and a solid member of their patient care team.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, 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)(10),(12)&(13), Texas Occupations Code and 22 TEX. ADMIN. CODE §217.11(1)(T) and 22 TEX. ADMIN. CODE §217.12(1)(E),(4),(5),(6)(F)&(10)(A).
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 183590, heretofore issued to MADALYN MARIAN OBRIEN, 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 Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and 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 Vocational Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE § 211.01 *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 vocational 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 State of Texas 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 MADALYN

MARIAN OBRIEN, to the office of the Board of Nurse Examiners within ten (10) days of the date of this Order for appropriate notation.

(2) 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 Chemical Dependency, 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.bne.state.tx.us/about/stipscourses.html>.*

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 A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT.

THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE A VOCATIONAL NURSE LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD.

(3) 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.

(4) 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.

(5) For the duration of the stipulation period, 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.

(6) 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) months for one (1) year of employment as a nurse.

(7) RESPONDENT SHALL participate in psychotherapy with her treating psychiatrist, Gary K. Wilson, M.D. If Respondent should cease her professional relationship with Dr. Wilson, RESPONDENT SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. RESPONDENT SHALL CAUSE her treating psychiatrist or 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 stipulation period, or until RESPONDENT is dismissed from therapy.

(8) RESPONDENT SHALL CAUSE her treating neurologist to submit written reports, on forms provided by the Board, as to the RESPONDENT's 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 treatment 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 stipulation, or until RESPONDENT is dismissed from treatment.

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.

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

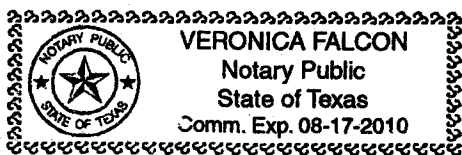
Signed this 01 day of August, 2007.

Madalyn O'Brien
MADALYN MARIAN OBRIEN, Respondent

Sworn to and subscribed before me this 01 day of August, 2007.

SEAL

Veronica Falcon
Notary Public in and for the State of Texas

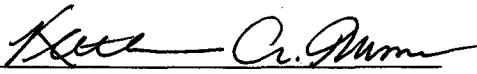


Approved as to form and substance.

Louis Leichter
LOUIS LEICHTER, Attorney for Respondent

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 1st day of August, 2007, by MADALYN MARIAN OBRIEN, Vocational Nurse License Number 183590, and said Order is final.

Effective this 11th day of September, 2007.


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