

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 199317  
ISSUED TO  
TRACEY LYN CASTALANO

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BEFORE THE ELIGIBILITY  
AND DISCIPLINARY  
COMMITTEE OF THE BOARD  
OF NURSE EXAMINERS OF THE  
STATE OF TEXAS



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 A. Thomas*  
Executive Director of the Board

**ORDER OF THE BOARD**

TO: TRACEY LYN CASTALANO  
5703 JACKSON ST., NO. 210  
ALEXANDRIA, LA 71305

During open meeting held in Austin, Texas, on June 12, 2007, 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 file a written response to the Formal Charges as required by 22 TEX. ADMIN. CODE § 213.16.

The Committee of the Board of Nurse Examiners 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 of the violations alleged in the Formal Charges were given to Respondent in this matter, Respondent has failed to file an answer in accordance with 22 TEX. ADMIN. CODE § 213.16.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056 and 22 TEX. ADMIN. CODE § 213.16.

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 to set aside the default order (22 TEX. ADMIN.CODE § 213.16(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 199317, previously issued to TRACEY LYN CASTALANO, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 199317, previously issued to TRACEY LYN CASTALANO, 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 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 12th day of June, 2007.

BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

BY:

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

CERTIFICATE OF SERVICE

I hereby certify that on the 18 day of June, 07, 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):

TRACEY LYN CASTALANO  
5703 JACKSON ST., NO. 210  
ALEXANDRIA, LA 71305

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

**In the Matter of Permanent License** § **BEFORE THE BOARD**  
**Number 199317, Issued to** § **OF NURSE EXAMINERS**  
**TRACEY LYN CASTALANO, Respondent** § **FOR THE STATE OF TEXAS**

### **FORMAL CHARGES**

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, TRACEY LYN CASTALANO, is a Vocational Nurse holding license number 199317, 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 September 6, 2005, Respondent failed to comply with the Eligibility Agreed Order issued to her on July 14, 2005, 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 One (1) of the Order which states, in pertinent part:

(1) Applicant shall, within forty-five (45) days of initial licensure, apply to and be accepted into the TPAPN, which shall include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00) payable to TPAPN....

A copy of the July 14, 2005, Eligibility Agreed Order, Findings of Fact and Conclusions of Law, is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) and (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

**BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.**

**CONTINUED ON NEXT PAGE.**

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

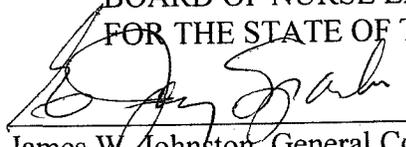
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bne.state.tx.us](http://www.bne.state.tx.us).

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 Chemical Dependency, which can be found at the Board's website, [www.bne.state.tx.us](http://www.bne.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: Agreed Order dated July 14, 2005.

Filed this 27<sup>th</sup> day of April, 2007.

BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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

Victoria Cox, Assistant General Counsel  
State Bar No. 00789585

E. Joy Sparks, Assistant General Counsel  
State Bar No. 18874600

BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701

P: (512) 305-6824

F: (512) 305.8101 or (512)305-7401

Attachments: Agreed Order dated July 14, 2005.

BEFORE THE BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

\*\*\*\*\*

In the Matter of	§	ELIGIBILITY
TRACEY LYN CASTALANO	§	
APPLICANT for Eligibility for	§	AGREED ORDER
Licensure	§	

On the date entered below, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the Application for Licensure by Endorsement and supporting documents filed by TRACEY LYN CASTALANO, hereinafter referred to as APPLICANT, together with any documents and information gathered by staff and APPLICANT's Certificate contained herein. Information received by the Board produced evidence that APPLICANT may have violated Section 301.452(b)(8)(9)&(12), Texas Occupations Code.

APPLICANT waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on February 18, 2004, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about September 3, 2003, Applicant submitted a Application for Licensure by Endorsement requesting a determination of eligibility for licensure in compliance with 301.260 *et seq.*, Texas Occupations Code.
2. Applicant waived representation, notice, administrative hearing, and judicial review.
3. Applicant graduated with a Diploma in Vocational Nursing from South Louisiana Regional Technical Institute, Houma, Louisiana, on September 11, 1992.
4. Applicant provided a "yes" to the question that reads: "*Have you been hospitalized with a psychiatric occurrence within the past three (3) years?*"

5. Applicant provided a "yes" to the question that reads: *"Have you been engaged in the intemperate use of drugs within the past three (3) years?."*
6. Applicant provided a "yes" to the question that reads: *"Have you engaged in the intemperate use of alcohol within the past three (3) years?."*
7. A letter dated January 13, 2002, was submitted by Michelle R. Simon, MD, TGMC, Outpatient Psychiatric Services. Dr. Simon states that Applicant has been a patient for six (6) months and recommended intensive outpatient treatment for Applicant's substance abuse. Applicant's treatment consisted of biweekly outpatient group sessions; frequent drug testing; and one Alcoholics Anonymous meeting per day.
8. Applicant provided a "yes" to the question that reads: *"Have you ever had disciplinary action against your nursing license?."*
9. On February 10, 2003, Applicant was issued a Consent Order by the Louisiana State Board of Practical Nurse Examiners, placing her practical nursing license on probation for two (2) years, for intemperate or addictive use of habit forming drugs. A copy of the February 10, 2003, Louisiana Consent Order is attached and incorporated by reference as part of this Order.
10. Applicant presented proof of one (1) consecutive year of sobriety.
11. The Board received letters of support/recommendation for Applicant from the following:
  - A letter of reference dated August 26, 2003, was submitted on behalf of Applicant by Waybrun J. Hebert, III, DPM, Foot Specialist of Louisiana, Inc., Houma, Louisiana.
  - A letter of reference dated August 26, 2003, was submitted on behalf of Applicant by Chris Castalano.
  - A letter of reference dated September 23, 2003, was submitted on behalf of Applicant by Bridget Joseph.
  - A letter of reference was submitted on behalf of Applicant by Jodi A. Rouse, Chauvin, Louisiana.
  - A letter of reference was submitted on behalf of Applicant by Shelly Lagarde, RN, DON, Audubon Guest House, Thibodaux, Louisiana.
12. The safety of patients and the public requires that all persons licensed to practice nursing be fit, sober, and able to consistently practice nursing in autonomous roles under demanding and stressful conditions.

13. The Executive Director considered evidence of Applicant's substance abuse and subsequent rehabilitation as provided in §213.29, 22 Texas Administrative Code.
14. Licensure of Applicant poses no direct threat to the health and safety of patients or the public, provided Applicant complies with the stipulations outlined in this Order.
15. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Applicant.
16. Applicant has sworn that, with the exception of matters disclosed in connection with the Application for Licensure by Endorsement, her past behavior conforms to the Board's professional character requirements. Applicant presented no evidence of behavior which is inconsistent with the Board's character requirements in 22 Texas Administrative Code §213.27.
17. Applicant's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

#### CONCLUSIONS OF LAW

1. The Board of Nurse Examiners has jurisdiction over this matter pursuant to Section 301.453 *et seq.*, Texas Occupations Code.
2. Applicant has submitted an application in compliance with Section 301.260 *et seq.*, Texas Occupations Code.
3. Applicant shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452 *et seq.*, Texas Occupations Code.
4. The Board of Nurse Examiners may license an individual who has a history of substance abuse, after consideration of the criteria set out in 22 Texas Administrative Code §213.29, the Board determines the Applicant does not currently pose a direct threat to the health and safety of patients or the public.
5. The Board may, in its discretion, order an Applicant, upon initial licensure as a vocational nurse, to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED that the application of TRACEYLYN CASTALANO, APPLICANT, is hereby conditionally GRANTED and shall be subject to conditions.

(1) APPLICANT shall obtain and read the Texas Nursing Practice Act, and the Rules and Regulations Relating to Nurse Education, Licensure and Practice.

(2) IT IS FURTHER ORDERED that APPLICANT 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 §231.01 *et seq.*, and this Order.

IN ADDITION, IT IS THEREFORE FURTHER AGREED and ORDERED that APPLICANT, upon initial licensure, SHALL comply with the following conditions for such a time as is required for APPLICANT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) APPLICANT SHALL, within forty-five (45) days of initial licensure, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, APPLICANT SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Board of Nurse Examiners.

(3) APPLICANT SHALL comply with all requirements of the TPAPN contract during its term.

(4) APPLICANT SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Applicant's multistate licensure privileges, if any, to practice vocational nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Applicant's license is encumbered by this Order, Applicant 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 Applicant wishes to work.

IT IS FURTHER AGREED, SHOULD APPLICANT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including revocation of a APPLICANT's license to practice vocational nursing in the State of Texas.

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APPLICANT'S CERTIFICATION

I am the Applicant in this matter. I have fully and truthfully disclosed all relevant information in conformity with Rule 213.29 at Texas Administrative Code. I certify that my past behavior, except as disclosed in my Application for Licensure by Endorsement, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of conviction, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

In connection with my application, I acknowledge that I have read and I understand Section 301.257, Texas Occupations Code, Section 301.452 (a),(b) and (c), Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and Board Rules 213.27, 213.28, and 213.29 at 22 Texas Administrative Code. I agree with all terms of this Order, including the Findings of Fact and Conclusions of Law and any stipulations set out in this Order. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to accepting any permit or license from the Board of Nurse Examiners.

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.

I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Executive Director of the Board of Nurse Examiners enter this Order.

Signed this 5<sup>th</sup> day of July, 2005.  
Tracey Lynn Castalano  
TRACEY LYN CASTALANO, APPLICANT

Sworn to and subscribed before me this 5<sup>th</sup> day of July, 2005.  
Allen G. Allen ID #65824

SEAL

Notary Public in and for the State of Louisiana

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Order of Conditional Eligibility that was signed on the 5<sup>th</sup> day of July, 2005, by TRACEY LYN CASTALANO, APPLICANT, for Temporary License/Endorsement Application, and said Order is final.

Entered and effective this 14<sup>th</sup> day of July, 2005.



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

LOUISIANA STATE BOARD OF PRACTICAL NURSE EXAMINERS  
3421 NORTH CAUSEWAY BOULEVARD, SUITE 203  
METAIRIE, LOUISIANA 70002-3711  
(504) 838-5791  
FAX (504) 838-5279  
www.lsbpne.com

In the matter of: **Tracey Castalano**  
**327 Louisiana Dr.**  
**Thibodaux, LA 70301**

License #921003

Date offered: **February 6, 2003**

Date offer expires: **Date offered + 20 calendar days**

## CONSENT ORDER

To facilitate a conclusion to the allegations against Tracey Castalano, LPN, the Louisiana State Board of Practical Nurse Examiners does hereby offer this Consent Order.

Based on the evidence submitted, the Board has concluded that Ms. Castalano is in violation of the following provisions of Louisiana Revised Statutes, Title 37, Chapter 11. Nurses, Part II. Practical Nurses, Section 969 as defined in the Louisiana Administrative Code, Title 46, Part XLVII. Nurses, Subpart 1, Practical Nurses, Section 306:

- Is habitually intemperate or is addicted to the use of habit-forming drugs

To avoid a formal hearing, Ms. Tracey Castalano consents to accept and abide by the following Orders of the Board:

1. That her license be placed on probation for 24 months beginning the day the signed Consent Order is received in the office. That she return her current license to the office with the Consent Order so that it can be stamped with the mandatory PROBATION stamp.
2. That the following stipulations will apply:
  - a) **PROBATION MONITORING FEE:** that licensee is to submit a \$250.00 probation monitoring fee, prior to the end of probation.
  - b) **PROBATIONARY LICENSE:** practical nursing license will be on probationary status for at least 24 months to run concurrent with employment as a Licensed Practical Nurse. License must be stamped **PROBATION**. Licensee must be employed a minimum of 10 days per month to be considered employed as a Licensed Practical Nurse.

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- c) **NOTIFICATION OF CHANGES:** shall notify the Board in writing **immediately** (within 5 days) of any change in name, address, telephone number or employment. Licensee must provide the Board immediately with current address and telephone number.
- d) **DIRECT SUPERVISION:** will provide patient care only under direct supervision of a nurse, (RN or LPN), or physician.
- e) **EMPLOYER REPORTS:** upon obtaining employment as a Licensed Practical Nurse, licensee must request employer to submit a letter of hire **within 5 days of hire date**. If licensee is already employed at a facility at time of signature of agreement employer is to submit the enclosed form indicating facility is aware of probation and will agree to monitor respondent while on probation. Employer must submit evaluative reports quarterly. If unemployed or not employed as an LPN, the respondent must send a letter to the Board **monthly** stating the respondent's current employment status. Reports are due on or before the 10<sup>th</sup> day of January, April, July and October of each year.
- f) **PROHIBITED PRACTICE:** prohibited from working in temporary staffing or any other unsupervised setting such as staffing/agency/pool or home health setting.
- g) **INFORM EMPLOYER:** must provide a copy of this agreement to each employer immediately.
- h) **VERIFICATION OF COMPLIANCE WITH TREATMENT PLAN:** must submit evidence of continued compliance with treatment plan/ continued counseling. Psychologist/psychiatrist/counselor is to submit to the Board a minimum of quarterly evaluations of compliance with treatment plan. Upon discharge from treatment counselor is to submit to the Board a discharge summary to include any future recommendations. Licensee must sign the enclosed release of information form and submit it to his treatment center, counselor/practitioner of record, giving the Board the authority to discuss treatment recommendations and compliance with treatment plan at all times.
- i) **DRUG SCREENS:** must submit to and pay for random urine drug screens. Urine screens will be managed by a drug testing firm selected by the Board. You will receive information from the selected firm and drug screens begin as soon as your "color" selection is mandated on a random day of the month. Refusal to furnish a urine specimen, positive screen, failure to follow requested procedure in obtaining a specimen or failure to submit a specimen on date color is called will be considered non-compliance with the Board Order and grounds for further disciplinary action as stated in this agreement.

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j) **NEW REPORTS:** that receipt of any new verifiable reports of any violation(s) of the Nurse Practice Act will result in his license being immediately suspended for 2 years without an appearance before the Board.

4. That the fine of \$500.00 for the violations of the Nurse Practice Act be waived as long as the stipulations of this order are in force and in good standing.

Furthermore, Ms. Castalano is aware that failure to comply with the Orders of the Board may result in any or all of the following:

- a) **indefinite suspension of license,**
- b) **ineligibility for annual renewal of license,**
- c) **additional fines, costs and penalties up to \$500.00 per occurrence,**
- d) **increased probationary period if applicable,**
- e) **summary suspension, and/or**
- f) **revocation.**

LOUISIANA STATE BOARD OF PRACTICAL NURSE EXAMINERS  
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 www.lsbpne.com

CONSENT ORDER ACCEPTANCE

I, Tracey Castellan, agree that the Board has jurisdiction over this matter. I specifically waive my right to contest these findings in any subsequent proceedings before the Board. I understand that this Consent Order shall constitute as public record and is disciplinary action by the Board.

I further acknowledge and attest that I have fully cooperated with the Louisiana State Board of Practical Nurse Examiners in resolving these charges, and intend to comply with all stipulations of this order.

I voluntarily agree to sign and have witnessed the terms of this order for the purpose of avoiding a formal hearing with the Louisiana State Board of Practical Nurse Examiners.

I do say that I freely, knowingly and voluntarily enter into this order. I understand that I have a right to a hearing in this matter and I freely waive such right. I understand that I have a right to legal counsel prior to entering into this order.

I understand that this order is effective immediately upon signature of the Executive Director and will become an Order of the Board. It is understood that this order does not preclude the Board of Practical Nurse Examiners from requiring a formal hearing of my case. I further understand that should the Consent Order not be accepted by the Board, I agree that presentation to and consideration of the Consent Order, the documenting evidence and information by the Board shall not unfairly or illegally prejudice the Board or any of its members from participation in hearings or other proceedings pertaining to these or other matters regarding this respondent.

I further agree that if I request reinstatement of my license, I must demonstrate, to the satisfaction of the Board, that I pose no danger to the practice of nursing or to the public and that I can safely and competently perform the duties of a practical nurse. The Board, in reinstating my license will require a period of probation, along with supportive conditions or stipulations as outlined in the Board Order, to ensure that patients and the public are protected.

[Signature] 2/7/03  
 Signature of Respondent Date

Bonnie P. Mathews 2/7/03  
 Signature of witness # 1 Date

[Signature] 2/7/03  
 Signature of witness # 2 Date

Louisiana State Board of Practical Nurse Examiners

Claire Doody Glaviano 2/10/03  
 CLAIRE DOODY GLAVIANO Date  
 EXECUTIVE DIRECTOR