



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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Registered Nurse § AGREED
License Number 589944 § ORDER
issued to RICHARD HOBSON SIMMONS §

On this day the Board of Nurse Examiners for the State of Texas, hereinafter refer to as the Board, considered the matter of RICHARD HOBSON SIMMONS, Registered Nurse License Number 589944, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10), Texas Occupations Code. Respondent waived informal conference, notice and hearing, and agreed to the entry of this Order offered on August 8, 2006, by Katherine A. Thomas, MN, RN, Executive Director.

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 informal conference, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received an Associate Degree in Nursing from Houston Baptist University, Houston, Texas, on November 13, 1992. Respondent received a Baccalaureate Degree in Nursing from the University of Texas at Tyler, Tyler, Texas, on December 15, 2000. Respondent was licensed to practice professional nursing in the State of Texas on March 23, 1993.

5. Respondent's professional nursing employment history includes:

November 1992 to April 1994	GN/Staff Nurse Good Shepherd Medical Center Longview, Texas
October 1993 to September 1995	Staff Nurse Meadow Pines Hospital Longview, Texas
October 1994 to March 1995	Staff Nurse Samaritan Home Health Care Longview, Texas
March 1995 to August 1996	Staff Nurse Amedisys Home Health of Texas Longview, Texas
August 1997 to September 1997	Director of Nursing Samaritan Home Health Care Longview, Texas
September 1997 to March 2002	Staff Nurse Highland Pines Nursing and Rehabilitation Longview, Texas
March 2002 to January 2004	Director of Nursing Havencare Nursing and Rehabilitation Longview, Texas
January 2004 to April 2004	Employment Unknown
April 2004 to April 2005	Staff Nurse/Assistant Director of Nursing Clairmont Longview Longview, Texas
April 2005 to July 2005	Staff Nurse Henderson Memorial Hospital Henderson, Texas
July 2005 to September 2005	Employment Unknown

Respondent's professional nursing employment history continued:

September 2005 to February 2006	Director of Nursing Grove Gardens Care Center Marshall, Texas
February 2006 to April 2006	Employment Unknown
April 2006 to Present	Staff Nurse Pathways Hospital Longview, Texas

6. At the time of the incident in Findings of Fact Numbers seven (7) and eight (8), Respondent was employed as a Staff Nurse/Assistant Director of Nursing with Clairmont Longview, Longview, Texas, and had been in this position for eleven (11) months. At the time of the incident in Finding of Fact Number nine (9), Respondent was employed as a Director of Nursing with Grove Gardens Care Center, Marshall, Texas, and had been in this position for one (1) month.
7. On or about March 28, 2005, while employed with Clairmont Longview, Longview, Texas, Respondent misappropriated Vicodin, Ultracet, and Duragesic patches belonging to the facility and patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
8. On or about March 28, 2005, while employed with Clairmont Longview, Longview, Texas, Respondent failed to follow the policy and procedure for the wastage of Vicodin, Ultracet, and Duragesic patches. Respondent's conduct was likely to deceive the facility pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
9. On or about October 18, 2005, while employed as the Director of Nursing at Grove Gardens Care Center, Marshall, Texas, Respondent inappropriately instructed a Licensed Vocational Nurse to complete and transfer missing information from the pressure sore assessment collective form to a separate individual form for each patient. Respondent's conduct could have resulted in nonefficacious treatment and unsafe or ineffective client care.
10. On June 1, 2006, Respondent underwent a Forensic Psychological Evaluation with Dr. Timothy J. Proctor, Ph.D., PLLC, who concluded based on his evaluation, Respondent's disclosure, and the polygraph examination, that should the Board decide to allow Mr. Simmons to maintain his licensure, the following additional recommendations are put forth:
 - A. Referral to TPAPN;
 - B. Random urine drug screening be conducted with regularity to ensure that he is refraining from drug use;

- C. Completion of an ethics course to provide additional education regarding his responsibilities and duties as a nurse; and
 - D. A period of supervised probation for at least one year.”
11. On June 2, 2006, Eric Jay Holden, Polygraph Examiner concluded, “Deception Indicated” when, Respondent answered “no” to both of the relevant test questions: *"Have you ever used any narcotics that were prescribed for a patient?"* and *"Have you ever used any illegal drugs that you did not tell me about today?"*.
 12. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
 13. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to chemical dependency.
 14. Respondent's conduct described in Findings of Facts Number seven (7) and eight (8) resulted from Respondent's dependency on chemicals.
 15. Respondent'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. 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 violations of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12 (1)(B)(C),(6)(G)&(10)(C).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 589944, heretofore issued to RICHARD HOBSON SIMMONS, including revocation of Respondent's license to practice professional nursing in the State of Texas.
5. The Board may, in its discretion, order a 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 and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500) payable to TPAPN.

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

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

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

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§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.

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

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, SHOULD RESPONDENT 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 Respondent's license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

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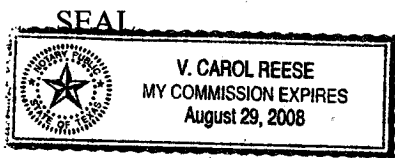
RESPONDENT'S CERTIFICATION

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. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Board of Nurse Examiners, 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 professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 24th day of August, 2006.

Richard H. Simmons
RICHARD HOBSON SIMMONS, Respondent

Sworn to and subscribed before me this 24th day of August, 2006.



V. Carol Reese


Notary Public in and for the State of TEXAS

Approved as to form and substance.
Clifton L. Holmes
Clifton L. Holmes, Attorney for Respondent

Signed this 24th day of August, 2006.

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby accept and enter the Agreed Order that was signed on the 24th day of August, 2006, by RICHARD HOBSON SIMMONS, Registered Nurse License Number 589944, and said Order is final.

Entered and effective this 29th day of August, 2006.



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