

Petitioner's vocational nursing employment history continued:

2/07 - 03/08	LVN Charge Nurse	Valley View Health Care Eastland, Texas
03/08 - 10/08	LVN Charge Nurse	DeLeon Nursing & Rehab DeLeon, Texas
10/08 - Present	Not employed in Nursing	

5. On or about October 22, 2008, Respondent voluntarily surrendered her license to practice nursing through an Order of the Board. A copy of the Findings of Fact, Conclusions of Law, and Order dated October 22, 2008, is attached and incorporated, by reference, as part of this Order.
6. On or about April 28, 2017, Petitioner submitted a Petition for Reinstatement of License to practice vocational nursing in the State of Texas.
7. Petitioner presented the following in support of said petition:
 - 7.1. Letter of support, dated April 6, 2017, from Stacia May, RN, Director Of Nursing, Eastland Nursing and Rehabilitation, states she has known Petitioner for the past seven (7) months, but has been her supervisor for the past two (2) months. Petitioner is employed as a dietary aide and as a nursing aid for Eastland Nursing & Rehab. Petitioner has a great rapport with the residents, family member and her fellow co-workers.
 - 7.2. Letter of support, dated March 24, 2017, from Ingrid Nabors, Manager of Payless Fuels, DeLeon, Texas, states she hired Petitioner as a clerk. After the initial training period, Petitioner became an invaluable asset to the business. Petitioner was responsible for thousands of dollar daily and Ms. Nabors entrusted her with a store key. Petitioner was always willing to cover any shift for others who were unable to come in and was prompt and neat in her appearance.
 - 7.3. Letter of support, dated March 26, 2017, from Carol L. Lewis, LVN, LMT, states Petitioner is a dependable, hard working employee and very conscientious about her work ethic. She would love to work with Petitioner in a nursing capacity and asks that the Board consider reinstating petitioner's license.
 - 7.4. Letter of support, from Vicki Doyle, states she is a retired Physics teacher and was an adjunct Chemistry professor for TSTC nursing and environmental programs. She has known the Petitioner for most of her life, as they grew up together in the small town of Gorman, Texas. Her mother had a mild heart attack years back and Petitioner

was her nurse. Petitioner was caring, competent and knowledgeable about the medicines her mom was receiving and the side effects she could have. The nursing field needs experienced competent nurses who are friendly and hard working.

- 7.5. Letter of support, dated April 2, 2017, from Diana Blankenship, MA, CCC-SLP, states she has known Petitioner since junior high school. Petitioner has always been an honest and loyal friend. They lost touch for a few years and recently reconnected when Ms. Blankenship moved back to their small town. Petitioner was always available as a good support for her to talk to and she has seen a lot of positive changes in Petitioner over the past year. Petitioner has more confidence, independence and overall positive attitude.
- 7.6. Letter of support, dated April 2, 2017, from Burma L. Brummitt, RN, states knowing the Petitioner for many years and knowing her passion for nursing, especially the geriatric field, Ms. Brummitt feels she has straightened out her life. Petitioner has made tremendous strides to distance herself from the elements which caused her to lose her license and has remained in gainful employment since making the changes in her lifestyle. Its with this observation of Petitioner in her work life along with her personal and home life, Ms. Brummitt feels she has changed and will again be an asset to the healthcare field.
- 7.7. Documentation of the required continuing education contact hours.
8. The Executive Director considered evidence of Petitioner's past behavior in light of the character factors set out in 22 Tex. Admin. Code §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character and relicensure.
9. Relicensure of Petitioner poses no direct threat to the health and safety of patients or the public provided Petitioner complies with the stipulations outlined in this Order.
10. The Executive Director's review of Petitioner's eligibility for relicensure has been made on the basis of Petitioner's disclosures.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Pursuant to Section 301.467, Texas Occupations Code, the Board may refuse to issue or renew a license, and may set a reasonable period that must lapse before reapplication. Pursuant to 22 TEX. ADMIN. CODE §213.26, the Board may impose reasonable conditions that a Petitioner must satisfy before reissuance of an unrestricted license.

3. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 Tex. Admin. Code §213.27, and pursuant to 22 Tex. Admin. Code §213.33, the Board is satisfied that the individual is able to consistently conform her conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.
4. This Order is conditioned upon the accuracy and completeness of Petitioner's disclosures. Any subsequently discovered discrepancies will result in investigation and possible disciplinary action, up to revocation of Petitioner's license(s).

TERMS OF ORDER

I. REINSTATEMENT OF LICENSURE

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that the petition of TONI DARICE ERVIN for reinstatement of license to practice nursing in the state of Texas be **GRANTED** and Vocational Nurse License Number 194958 is hereby **REINSTATED** in accordance with the terms of this Order.

II. COMPLIANCE WITH LAW AND APPLICABILITY

While under the terms of this Order, PETITIONER agrees to obtain, read, and comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Order.

- A. This Order SHALL be applicable to PETITIONER's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- B. PETITIONER may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where PETITIONER wishes to work.

III. REQUIREMENTS FOR VOCATIONAL NURSING REFRESHER COURSE, EXTENSIVE ORIENTATION, OR NURSING PROGRAM OF STUDY IN VOCATIONAL NURSING

Prior to practicing as a vocational nurse in the State of Texas, PETITIONER SHALL:

- A. Apply for a Six Month Temporary Permit to Complete Refresher Course, Extensive Orientation, or Nursing Program of Study in Vocational Nursing for the limited purpose of completing a refresher course, extensive orientation, or nursing program of study in vocational nursing. The application for the Six Month Temporary Permit is available on the Board's website (www.bon.texas.gov) under Forms / Applications / Six Month Permits / LVN Six Month Limited Permit. PETITIONER SHALL NOT, in any way, attempt to use the temporary permit for any purpose other than completing the refresher course, extensive orientation, or nursing program of study in vocational nursing.
- B. Successfully complete a Board approved refresher course, extensive orientation, or nursing program of study for vocational nursing. Petitioner MUST obtain Board approval of the nursing refresher course, extensive orientation, or nursing program, as applicable, prior to enrollment. In order for the course to be approved:
- (1) The target audience shall include vocational nurses;
 - (2) The course instructor must be a qualified registered nurse who meets or exceeds the Board's minimum criteria for eligibility as an instructor;
 - (3) The course's content shall, at a minimum, include:
 - (a) Review of NPA, Rules, Position Statements;
 - (b) Determination of Individual Scope of Practice and role in patient safety;
 - (c) Review of the clinical problem solving process for the provision of individualized, goal directed nursing care to include: (i) Collecting data & performing focused nursing assessments; (ii) Participating in the planning of nursing care needs for clients; (iii) Participating in the development & modification of the comprehensive nursing care plan for assigned clients; (iv) Implementing appropriate aspects of care within the LVN's scope of practice; and (v) Assisting in the evaluation of the client's responses to nursing interventions and the identification of client needs;
 - (d) Pharmacology review;
 - (e) Medication administration;
 - (f) Documentation, quality assurance, and legal implication for nursing practice; and
 - (g) Documentation of current CPR certification prior to beginning precepted clinical learning experience; and

- (4) The course must contain no less than a total of 80 hours of clinical practice providing direct patient care precepted by a qualified registered or vocational nurse. Home study courses and video programs will not be approved.
- C. **Upon completion of the refresher course, extensive orientation, or nursing program of study for vocational nursing,** PETITIONER SHALL return the temporary permit to the Board's office and PETITIONER SHALL CAUSE the sponsoring institution to notify the Board, on a form provided by the Board, of Petitioner's successful completion of the refresher course, including the required 80 hours of precepted clinical practice.
- D. **Upon verification of successful completion of the conditions** as set out in Paragraphs A through C of this Section, PETITIONER SHALL submit a completed License Reactivation Form for Vocational Nurses, which is available on the Board's website (www.bon.texas.gov) under Forms / Applications / Renewals / LVN - Reactivation form for a Licensed Vocational Nurse. PETITIONER shall pay all re-registration fees and, subject to meeting all other requirements for licensure in Texas, shall be issued the applicable license to practice vocational nursing in the State of Texas, which shall be subject to the terms of this Order.

IV. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, Petitioner SHALL successfully complete the following remedial education course(s) **within one (1) year of relicensure, unless otherwise specifically indicated:**

- A. **A Board-approved course in Texas nursing jurisprudence and ethics** that shall be a minimum of six (6) 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 Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. Home study courses and video programs will not be approved.
- B. The course **"Sharpening Critical Thinking Skills,"** a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension.

In order to receive credit for completion of this/these course(s), Petitioner SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. Petitioner SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at www.bon.texas.gov/compliance.*

V. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Order, all encumbrances will be removed from PETITIONER'S license(s) to practice nursing in the State of Texas and PETITIONER may be eligible for nurse licensure compact privileges, if any.

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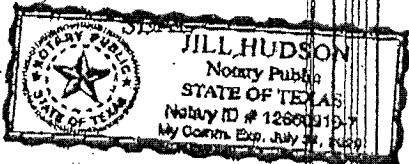
PETITIONER'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Reinstatement Agreed Order. I certify that my past behavior, except as disclosed in my Petition for Reinstatement of Licensure, 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 convictions, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

I have reviewed this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. 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 agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to reinstating my license(s) to practice nursing in the state of Texas. I understand that if I fail to comply with all terms and conditions of this Order, my license(s) to practice nursing in the State of Texas will be revoked, as a consequence of my noncompliance.

Signed this 23 day of August, 2017
Toni Darice Ervin
TONI DARICE ERVIN, Petitioner

Sworn to and subscribed before me this 23 day of August, 2017



Jill Hudson
Notary Public in and for the State of TEXAS

Approved as to form and substance,

Nancy Roper Willson
Nancy Roper Willson, Attorney for Petitioner

Signed this 24 day of August, 2017

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 23rd day of August, 2017, by TONI DARICE ERVIN, Vocational Nurse License Number 194958, and said Order is final.

Effective this 26th day of October, 2017.



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

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse License Number 194958 § AGREED
issued to TONI DARICE ERVIN § ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 194958, issued to TONI DARICE ERVIN, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c) of the Texas Occupations Code.

Respondent waived informal conference and hearing, and agreed to the entry of this Order.

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

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to 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 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 Nursing from Ranger Junior College, Brownwood, Texas, on August 7, 2004. Respondent was licensed to practice vocational nursing in the State of Texas on September 16, 2004.
5. Respondent's employment history is unknown.
6. On or about July 3, 2008, Respondent submitted a renewal application to the Texas Board of Nursing in which she answered "Yes" to the following question: "Have you, within the past-24 months or since your last renewal, for any criminal offense, including those pending appeal:
 - A. been convicted of a misdemeanor?
 - B. been convicted of a felony?
 - C. pled nolo contendere, no contest, or guilty?

- D. received deferred adjudication?
 - E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
 - F. been sentenced to serve jail or prison time? court-ordered confinement?
 - G. been granted pre-trial diversion?
 - H. been arrested or any pending criminal charges?
 - I. been cited or charged with any violation of the law?
 - J. been subject of a court-martial; Article 15 violation; or received any form of military judgement/punishment/action?"
7. On or about July 31, 2007, Respondent entered a plea of Guilty to CRIMINAL MISCHIEF - DIVERSION OF UTILITY, (a Class A misdemeanor offense committed on January 5, 2007), in the County Court of Eastland County, Texas, under Cause No. 07-092. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay a fine and court costs. On March 27, 2008, an adjudication of guilt was entered in the County Court of Eastland County, Texas, under Cause No. 07-092. Respondent was sentenced to confinement in the Eastland County Jail for a period of one (1) day, with credit given for one (1) day. Additionally, Respondent was ordered to pay fine and court costs still owed.
 8. On or about March 27, 2008, Respondent entered a plea of Guilty to TAMPERING WITH A GOVERNMENTAL RECORD, (a State Jail Felony offense committed on February 6, 2008), in the 91st District Court, Eastland County, Texas, under Cause No. 21,709. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on probation for a period of three (3) years. Additionally, Respondent was ordered to pay a fine and court costs.
 9. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender his/her license to practice nursing in the State of Texas.

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 Section 301.452(b)(3)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(13).

4. The evidence received is sufficient cause pursuant to Section 301.453(d), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 194958, heretofore issued to TONI DARICE ERVIN, including revocation of Respondent's license to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Vocational License Number 194958, heretofore issued to TONI DARICE ERVIN, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL immediately deliver the wallet-sized license, heretofore issued to TONI DARICE ERVIN, to the office of the Texas Board of Nursing.
2. RESPONDENT SHALL NOT practice vocational nursing, use the title "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.
3. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order.
4. 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 privilege, if any, to practice nursing in the State of Texas.

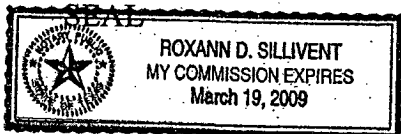
RESPONDENT'S CERTIFICATION

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 becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 17th day of October, 2008.

Toni Darice Ervin
TONI DARICE ERVIN, Respondent

Sworn to and subscribed before me this 17th day of October, 2008.



Roxann D. Sillivent
Notary Public in and for the State of Texas

Approved as to form and substance.


Heath E. Allen
HEATH E. ALLEN, Attorney for Respondent

Signed this 17th day of October, 2008.

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Vocational Nurse License Number 194958, previously issued to TONI DARICE ERVIN.



Effective this 22nd day of October, 2008.


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