

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse §
License Number 194243 §
issued to STEPHEN DALE MERRICK §

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 194243, issued to STEPHEN DALE MERRICK, 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's license to practice vocational nursing in the State of Texas is currently in delinquent status.
2. Respondent waived representation by counsel, informal conference, notice and hearing.
3. Respondent received a Certificate in Vocational Nursing from Howard College, Big Spring, Texas, on May 14, 2004. Respondent was licensed to practice vocational nursing in the State of Texas on August 5, 2004.

4. Respondent's vocational nursing employment history includes:

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| 06/04 - 08/04 | GVN/LVN | VA Medical Center Big Spring, Texas |
| 09/04 - 09/05 | LVN | Scenic Mountain Medical Center Big Spring, Texas |

Respondent's vocational nursing employment history continued:

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|-----------------|---------|--|
| 10/05 - 07/06 | LVN | Big Spring State Hospital Big Spring, Texas |
| 08/06 - 09/06 | Unknown | |
| 10/06 - 04/07 | LVN | Big Spring State Hospital Big Spring, Texas |
| 05/07 - present | Unknown | |

5. On May 14, 2007, Respondent was notified by the Texas Board of Nursing of the following allegations:
 - 5.1 On or about June 30, 2006, while employed with Big Spring State Hospital, Big Spring, Texas, Respondent misappropriated Hydrocodone from the facility and patients thereof, in that Respondent admitted that he opened blisterpacks that contained Hydrocodone and replaced the Hydrocodone with generic Tylenol that was similar in appearance.
 - 5.2 On or about June 30, 2006, while employed with Big Spring State Hospital, Big Spring, Texas, Respondent admitted to his employer that he had a problem with Hydrocodone and that he had engaged in the intemperate use of Hydrocodone.
 - 5.3 On or about December 27, 2006, while employed with Big Spring State Hospital, Big Spring, Texas, Respondent engaged in the intemperate use of Tramadol in that Respondent produced a specimen for a drug screen which resulted positive for Tramadol.
 - 5.4 On or about April 5, 2007, while employed with Big Spring State Hospital, Big Spring, Texas, Respondent engaged in the intemperate use of Propoxyphene in that Respondent produced a specimen for a drug screen which resulted positive for Propoxyphene.
6. On October 26, 2007, Respondent returned License Number 194243 and submitted a notarized statement to the Texas Board of Nursing voluntarily surrendering the right to practice vocational nursing in Texas. A copy of the notarized 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 a violations of Section 301.452(b)(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(G),(8) and (10)(A)(D)(E).
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 194243, heretofore issued to STEPHEN DALE MERRICK, 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 "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying himself 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 31st day of October, 2007.

TEXAS BOARD OF NURSING

By:



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

Stephen Dale Merrick
P.O. Box 103
Big Spring, TX. 79721

October 23, 2007

Randi P. Capone
Board of Nurse Examiners
333 Guadalupe, Suite 3-460
Austin, Texas 78701

Re: Stephen Dale Merrick
LVN # 194243

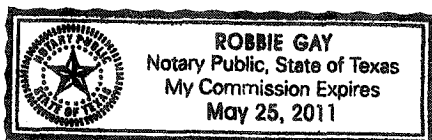
Dear Ms. Capone,

After careful thought and consideration, I am surrendering my LVN license to the Board of Nurse Examiners for the State of Texas effective this date. Due to my ongoing medical issues, I feel that I would not be able to meet the conditions that have been set forth. I am currently receiving treatment for heart disease, diabetes, depression, and chronic pain. I am aware that I was in violation of the Nurse Practice Act by my actions of July 2006, and want to accept responsibility for those actions; however, I must consider the toll on my physical and mental health of working to regain my license.

Sincerely,



Stephen D. Merrick



Robbie Gay
in the County of *Houston*
Date: *October 23, 2007*

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| LICENSED VOCATIONAL NURSE | |
| BOARD OF NURSE EXAMINERS FOR THE STATE OF TEXAS 333 Guadalupe #3-460, Austin, Texas 78701 | |
| A CERTIFICATE OF REGISTRATION TO PRACTICE VOCATIONAL NURSING ISSUED BY THE BOARD OF NURSE EXAMINERS FOR THE STATE OF TEXAS | |
| LVN LIC. NO. | EXPIRES LAST DAY OF: |
| 194243 | JUN 200 |
| STEPHEN DALE MERRICK PO BOX 103 BIG SPRING TX 79721 0103 | |
| <i>Robbie Gay</i> EXECUTIVE DIRECTOR | <i>Stephen D. Merrick</i> LVN SIGNATURE REQUIRED |