

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse License Number 156409 § AGREED
issued to WILLIAM ROBERT HOLMESLY § ORDER

An investigation by the Texas Board of Nursing, hereinafter referred to as the Board, produced evidence indicating that WILLIAM ROBERT HOLMESLY, hereinafter referred to as Respondent, Vocational Nurse License Number 156409, may have violated Section 301.452(b)(10)&(12), Texas Occupations Code.

An informal conference was held on November 6, 2007, at the office of the Texas Board of Nursing, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was notified of his right to be represented by legal counsel and elected to waive representation by counsel. In attendance were Katherine A. Thomas, MN, RN, Executive Director; Victoria Cox, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Earl E. Stearns, Senior Investigator; and Douglas Boone, 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 representation by counsel, 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 Weatherford College, Weatherford, Texas, on November 14, 1995. Respondent was licensed to practice vocational nursing in the State of Texas on February 14, 1996.

5. Respondent's professional vocational nursing employment history includes:

| | | |
|-----------------|----------------------------|---|
| 02/96 - 12/96 | GVN/LVN | Ashford Hall Irving, Texas |
| 07/96 - 01/97 | LVN Charge Nurse | Pioneer Rehabilitation and Care Center Irving, Texas |
| 01/97 - 05/05 | LVN Charge Nurse | Renaissance Park Multi-Care Fort Worth, Texas |
| 05/05 - 6/05 | Not Employed in Nursing | |
| 07/05 - Present | Continuous Care LVN | American Hospice Fort Worth, Texas |

6. On December 5, 1995, Respondent's license to practice vocational nursing was SUSPENDED with said SUSPENSION STAYED and placed on PROBATION for a period of one (1) year, by the Board of Vocational Nurse Examiners for the State of Texas. A copy of the December 5, 1995, Agreed Order, Findings of Fact and Conclusions of Law is attached and incorporated, by reference, as part of this Order.
7. At the time of the initial incident, Respondent was employed as a vocational nurse with Renaissance Park Multi-Care, Fort Worth, Texas, and had been in this position for approximately eight (8) years and four (4) months.
8. On or about May 12, 2005, while employed at Renaissance Park Multi-Care, Fort Worth, Texas, Respondent may have lacked fitness to practice vocational nursing in that he may have been suffering from depression and exhibited the following behaviors while on duty : crying; banging his head against the cabinet doors; hitting trash dumpsters; cursing and berating other staff. Respondent's condition could have affected his ability to make rational, accurate, and appropriate decisions regarding patient care, thereby placing the patient in potential danger.
9. On or about May 12, 2005, while employed at Renaissance Park Multi-Care, Fort Worth, Texas, Respondent was verbally abusive to a patient in that he screamed and cursed at the patient. Respondent's conduct was likely to cause emotional injury to the patient and could have interfered with, or disrupted this patient's treatment.

10. In response to Findings of Fact Numbers Eight (8) and Nine (9), Respondent states that on February 23, 2004, his wife of 12 years died unexpectedly from complications with her diabetes (Diabetic Lactose Acidosis), and then 3 months later, his oldest child died in a tragic auto accident while running an errand for him. These events caused depression.
11. On or about October 14, 2004 through January 5, 2006, Respondent presented himself to Stephen J. Karten, Ph.D., Director, Karten Psychological Services, Fort Worth, Texas, for twelve (12) sessions of psychotherapy. Dr. Karten states that Respondent's diagnosis was V62.82 Bereavement, and that Respondent's treatment plan goal was to learn additional coping skills for loss. Dr. Karten also states that Mr. Holmesly fully participated in these sessions.
12. Several reference letters from Respondent's colleagues and supervisors have been received by the Texas Board of Nursing for use in the investigation of this case. The letters include the following:

Paula King, RN, East Team Leader, American Hospice, Fort Worth, Texas, states that she has worked with Mr. Holmesly for several years and has "always found him to be very professional and reliable. . . he consistently provides quality nursing care which exceeds expectations . . . and his gentle manner brings comfort not only to his patients, but to their families as well." RN King strongly recommended that Mr. Holmesly "be allowed to continue caring for our hospice patients and their families";

Karen Britzky, RN, Patient Care Coordinator, American Hospice, Fort Worth, Texas, states: Mr. Holmesly is "a nurse that I have observed over the last year on many occasions as being a very competent nurse. I have never had the occasion to question his judgment and feel his work is thorough, yet very compassionate. . . I respect Bill as a colleague and would feel fortunate to have him care for any of my own family members";

Pamela Carranza, RN, American Hospice, Fort Worth, Texas, states: "I have been honored to work with Bill . . . Bill is probably the most talented nurse I have every had contact with in the Continuous Care setting. . . he works 12 hour shifts caring for patients who are in a crisis situation . . . Bill has a true heart for Hospice";

Brooxie Irlbeck, RN, Co-worker, states: "I have worked with Bill on numerous continuous care cases with Hospice over the past year. From that experience, I know that he is a very knowledgeable and dependable nurse. . . I would highly recommend him to continue in the capacity as a LVN for hospice patients, especially those on continuous care"; and

Merrye Peregrino, RN, states: "Since August 2006, I have had several opportunities to work with Bill Holmesly . . . Mr. Holmesly is conscientious, thorough, kind and extremely knowledgeable in his profession. . . . The families of the patients have been appreciative and grateful for the care that he has provided for their loved ones".

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)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5)&(6)©).
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 156409, heretofore issued to WILLIAM ROBERT HOLMESLY, 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 Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a REPRIMAND 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 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 Texas Board of Nursing 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 WILLIAM ROBERT HOLMESLY, to the office of the Texas Board of Nursing 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.bon.state.tx.us/about/stipscourses.html>.*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A 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 on regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, 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.

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 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 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 7th day of DECEMBER, 2007.

William Robert Holmesly
WILLIAM ROBERT HOLMESLY, Respondent

Sworn to and subscribed before me this 7 day of December, 2007.



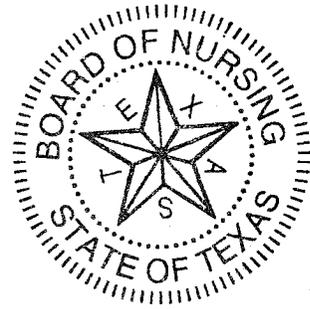
[Signature]
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 7th day of December, 2007, by WILLIAM ROBERT HOLMESLY, Vocational Nurse License Number 156409, and said Order is final.

Effective this 17th day of January, 2008.

Katherine A. Thomas

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



00156409



BOARD OF VOCATIONAL NURSE EXAMINERS

333 Guadalupe
Tower 3, Suite 400
Austin, TX 78701

December 11, 1996

William Holmesly
525 Crosby Ave.
Ft. Worth, TX 76108

Dear Mr. Holmesly:

You have successfully completed your term of probation as stipulated by the Board of Vocational Nurse Examiners.

All pertinent information will remain in your permanent records. We urge you in the future to promote and uphold the ethical standards a Licensed Vocational Nurse should practice.

If you have any questions concerning this matter, please do not hesitate to contact our office.

Sincerely,

Carolyn Hudson

Carolyn Hudson
Investigator

BOARD OF VOCATIONAL NURSE EXAMINERS

STATE OF TEXAS

VS.

WILLIAM ROBERT HOLMESLY

COUNTY OF TRAVIS

AGREED BOARD ORDER

On this day came to be considered by the Board of Vocational Nurse Examiners the matter of WILLIAM ROBERT HOLMESLY, an Applicant for Licensure by Examination, hereinafter called Applicant.

By letter, the Board of Vocational Nurse Examiners sent preliminary notice to Applicant of its intent to take disciplinary action with respect to said Application for Licensure, as a result of a subsequent investigation. Said investigation produced evidence indicating that Applicant has been convicted of a crime of the grade of felony or a crime of a lesser grade which involves moral turpitude, in violation of Article 4528c, Section 10 (a) (3), Revised Civil Statutes of Texas, in the following manner:

a. On or about September 20, 1995, Applicant submitted his Application for Licensure by Examination to the Board of Vocational Nurse Examiners for the State of Texas. On said Application, Applicant answered "yes" to the question(s) asking: "Have you ever been convicted of a felony or misdemeanor other than a minor traffic violation?".

b. On or about February 13, 1984, Applicant was convicted of the felony offense of Possession of a Controlled Substance, in the Criminal District Court #4 of Tarrant County, Texas, under Cause No. 0219735D. As a result of said conviction, Applicant was placed on probation for a period of five (5) years.

AGREED BOARD ORDER

RE: WILLIAM ROBERT HOLMESLY, Exam Applicant

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c. Said conviction is inconsistent with the basic duties and responsibilities inherent in the occupation of vocational nursing in that said occupation requires knowledge and familiarity of drugs, and compliance with drug laws.

By Applicant's signature on this Order, Applicant neither admits nor denies the truth of the matters previously set out in this Order with respect to the above mentioned investigation. By Applicant's signature on this Order, Applicant acknowledges that they have read and understood this Order and have approved it for consideration by the Board.

By their notarized signature on this Order, Applicant does hereby waive the right to a formal Complaint, Notice of Hearing, and a Public Hearing held before an Administrative Law Judge with the State Office of Administrative Hearings, and to judicial review of this disciplinary action. Notice of this disciplinary action will appear in the Board's newsletter sent to Texas employers.

ORDER OF THE BOARD

NOW THEREFORE, IT IS ORDERED, that WILLIAM ROBERT HOLMESLY is hereby allowed to write the examination for licensure and upon obtaining a passing score be issued a license to practice vocational nursing in the State of Texas. Said license shall be suspended, with said suspension stayed and placed on probation for a period of one (1) year.

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The probation of said license is subject to the following stipulations, to wit:

1. That if Applicant's place of employment, name, address or telephone number changes, Applicant is to notify the Board office immediately, or no later than ten (10) days after said change has occurred. Said notification shall be in the form of a written letter or report.
2. That Applicant shall comply with Federal, State, and local laws, and all the provisions of the Vocational Nurse Act and Rules and Regulations of the Board.
3. That by copy of this Board Order, Applicant shall provide notice of Board disciplinary action to his/her nursing employer(s) throughout the term of probation.
4. That Applicant shall cause his/her nursing employer(s) to submit satisfactory reports directly to the Board office on a monthly basis for the first six (6) months of probation. Thereafter, and throughout the remainder of said probation, Applicant shall cause his/her nursing employer(s) to submit satisfactory reports directly to the Board office on a quarterly basis.
5. That any period(s) of unemployment must be documented in writing by Applicant and submitted to the Board office, as provided in Stipulation No. 4.
6. That Applicant shall and hereby agrees to remain free of alcohol and all unprescribed controlled substances. Any controlled or legend medication must be prescribed by a physician knowledgeable about the disease of addiction, as well as Applicant's history, and it is incumbent upon Applicant to insure such physician knowledge. In all such cases, the prescribed drugs must be verified in writing to the Board by the prescribing physician.
7. That Applicant shall submit to random periodic blood alcohol and urine drug screen(s) upon demand of the Board staff throughout the term of probation. Said screen(s) shall be properly monitored with adherence to chain of custody procedures. The results of said screen(s) shall be submitted directly to the Board office by the laboratory. The expense of said screen(s) shall be borne by Applicant.
8. That Applicant shall provide the Board a telephone number by which Applicant may be contacted between the hours of 8:00 a.m. and 5:00 p.m. on weekdays. Applicant must maintain with the Board, during the term of this probation, a current telephone number in order for the Board to request random blood alcohol and urine drug screens, as provided in Stipulation No. 7.

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This Agreed Order shall not be effective or take effect and become enforceable in accordance with its terms until endorsed by a majority of the Board present and voting, at its next regularly called session.

Dated this the 24 day of October, 1995.

William R. Holmesly
Signature of Applicant

525 Crosby Ave.
Current Address

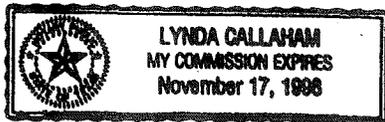
Ft. Worth, Tx. 76108
City, State and Zip

817 / 246-8940
Area Code and Telephone Number

The State of Texas
County of Tarrant

Before me, the undersigned authority, on this day personally appeared WILLIAM ROBERT HOLMESLY, who being duly sworn by me stated that he or she executed the above for the purpose therein contained, and that he or she understood same.

SWORN TO AND SUBSCRIBED before me this the 24th day of October, 1995.



Lynda Callahan
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My Commission Expires 11-17-98

Marjorie A. Bronk
Marjorie A. Bronk, RN
Agent for the Board of
Vocational Nurse Examiners

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SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this
the 10th day of November, 1946.



Linda Rae Kent
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

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ENDORSEMENT OF THE BOARD
To The Agreed Board Order
in the matter of William Robert Holmesly
Exam Applicant

At its regularly called session, on the 5th day of December, 1995, came on to be considered the indicated Agreed Board Order pertaining to William Robert Holmesly. The Board having reviewed the contents of said Order, the Order should be, and is hereby, endorsed as an Order of the Board and made an official act of the Board of Vocational Nurse Examiners for the State of Texas.

Said Order is rendered on this the 5th day of December, 1995.

Doris A. Parker RN
Vanyie Perry
Angie Dumas
Lucie S. Cherry
Paul Robinson
James Wood - [unclear]
Melba Lee - [unclear]

Olivia [unclear]
R. Adm. Williams

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CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of December, 1995,
a true and correct copy of the foregoing Order was served by placement in the
U.S. Mail, first class, and addressed to the following person(s):

William Robert Holmesly
525 Crosby Avenue
Fort Worth, Texas 76108

Marjorie A. Brown

Marjorie A. Brown, R.N.
Executive Director
Agent for the Board of Vocational Nurse Examiners