

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse            §  
License Number 191881                       §  
issued to REBECCA JANE WELLS           §

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 191881, issued to REBECCA JANE WELLS, 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 is currently licensed to practice vocational nursing in the State of Texas.
- 2. Respondent waived representation by counsel, informal conference, notice and hearing.
- 3. Respondent received a Certificate in Vocational Nursing from Victoria College, Victoria, Texas, on August 8, 2003. Respondent was licensed to practice vocational nursing in the State of Texas on December 9, 2003.
- 4. Respondent's vocational nursing employment history includes:

December 2003 - March 2004	Staff Nurse
	DeTar Hospital Navarro
	Victoria, Texas

Respondent's vocational nursing employment history continued:

March 2004 - April 2004	Staff Nurse Jackson County Hospital Edna, Texas
June 2004 - January 2005	Staff Nurse Mid Coast Medical Clinic El Campo, Texas
February 2005 - May 2005	Staff Nurse TLC Staffing Victoria, Texas
March 2006 - September 2007	Staff Nurse Retama Manor Nursing Center Victoria, Texas
October 2007 - Present	Unknown

5. On June 21, 2005, Respondent was issued an Agreed Order by the Board of Nurse Examiners for the State of Texas which required her to participate in and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated June 21, 2005, is attached and incorporated, by reference, as part of this Order.
6. In a letter dated September 25, 2007, Respondent was notified by the Board of the following alleged violation of the Nursing Practice Act of the State of Texas:

On or about May 29, 2007, while employed with Retama Manor Nursing Center, Victoria, Texas, Respondent became non-compliant with the Agreed Order issued to her by the Board of Nurse Examiners for the State of Texas on June 21, 2005. Non-compliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) in that she submitted a specimen for a drug screen which resulted positive for hydromorphone. Respondent also missed four (4) prior drug screens and failed to submit monthly paperwork on a timely basis. Stipulation Number Three (3) of the Order dated June 21, 2005, states:

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

7. On or about February 6, 2008, Respondent submitted a notarized statement to the Board voluntarily surrendering the right to practice vocational nursing in Texas. The letter stated that Respondent no longer has a copy of her license. A copy of the notarized statement is attached and incorporated, by reference, as part of this Order.
8. 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.
9. 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 violation of Section 301.452(b)(1) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(9), (10)(D) & (11)(B).
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 191881, heretofore issued to REBECCA JANE WELLS, 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:

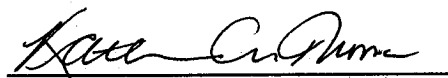
1. RESPONDENT SHALL NOT practice vocational nursing, use the title of vocational nurse or the abbreviation "LVN" or wear any insignia identifying herself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse during the period in which the license is surrendered.
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 13th day of February, 2008.

TEXAS BOARD OF NURSING

By:



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

February 6, 2008

Mr. Longoria,

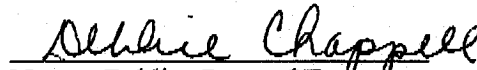
I, Rebecca J. Wells Kerth, voluntarily surrender my Texas LVN License #191881.

I do not have a physical license in my possession because it was stolen with my purse several months ago.



Rebecca J. Wells Kerth

Subscribed and sworn to before me on the 6<sup>th</sup> day of February, 2008 by Rebecca J. Wells Kerth.



Notary Public, State of Texas



BEFORE THE BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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JUN 27 2005

In the Matter of Vocational Nurse License Number 191881 § AGREED  
issued to REBECCA JANE WELLS § ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of REBECCA JANE WELLS, Vocational Nurse License Number 191881, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9) & (10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on May 11, 2005, 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 representation by counsel, informal conference, 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 Vocational Nursing from Victoria College, Victoria, Texas, on August 8, 2003. Respondent was licensed to practice vocational nursing in the State of Texas on December 9, 2003.
5. Respondent's vocational nursing employment history includes:

December 2003 - March 2004

Staff Nurse  
DeTar Hospital Navarro  
Victoria, Texas

Respondent's vocational nursing employment history continued:

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March 2004 - April 2004

Staff Nurse  
Jackson County Hospital  
Edna, Texas

June 2004 - January 2005

Staff Nurse  
Mid Coast Medical Clinic  
El Campo, Texas

February 2005 - Present

Unknown

6. At the time of the incident, Respondent was employed as a Licensed Vocational Nurse with Mid Coast Medical Clinic, El Campo, Texas and had been in this position for four (4) months.
7. On or about October 25, 2004, while employed with Mid Coast Medical Clinic, El Campo, Texas, Respondent engaged in the intemperate use of Cocaine in that Respondent produced a specimen for a drug screen which resulted in a positive test for Cocaine. Possession of Cocaine is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Cocaine by a Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's coordination, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
8. On April 15, 2005, Respondent submitted to a forensic psychiatric evaluation with a chemical dependency component, conducted by Troy Martinez, Psy.D. Dr. Martinez administered the Personality Assessment Inventory (PAI) and the Substance Abuse Subtle Screening Inventory 3<sup>rd</sup> Edition (SASSI-3). He supplemented his evaluation with a clinical interview and collateral telephone interview with acquaintances of the Respondent. Dr. Martinez concludes the following, "Objective test findings in addition to clinical interview confirm diagnostic criteria for cocaine dependence," adding that, impulsivity "represents a chronic personality trait, seemingly present since at least adolescence and having adverse influences on social/interpersonal, substance abuse/dependence, and vocational domains." The following are recommended for the Respondent by Dr. Martinez: opportunity to enter an approved treatment facility for chemical dependency, proof of verifiable documented sobriety for a twelve (12) month period, subsequent probationary Board monitoring for at least three (3) years including random drug testing and proof of support group attendance, and individual psychotherapy for a minimum of six (6) months with a focus on behavioral relapse prevention and cognitive-behavioral strategies targeting anxiety and stress management.

9. The Respondent's conduct described in the preceding Finding of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
10. 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.
11. Respondent's conduct described in Finding of Fact Number Seven (7) was significantly influenced by Respondent's dependency on chemicals.
12. 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 violation of Section 301.452(b)(9) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(10)(A) & (D) (effective 9/28/04).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against License Number 191881, heretofore issued to REBECCA JANE WELLS, including revocation of Respondent's vocational license to practice 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 three hundred fifty dollars (\$350) payable to TPAPN.

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(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 vocational 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.

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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 vocational nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

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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 violation 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 14 day of June, 2005.

[Signature]  
REBECCA JANE WELLS, Respondent

Sworn to and subscribed before me this 14 day of June, 2005.

SEAL

[Signature]


Notary Public in and for the State of Texas



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 14th day of June, 2005, by REBECCA JANE WELLS, Vocational Nurse License Number 191881, and said Order is final.

JUN 27 2005

Entered and effective this 21st day of June, 2005.

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