

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse §
License Number 142663, issued to § AGREED ORDER
GARY LYNN CHEATWOOD §

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of GARY LYNN CHEATWOOD, Vocational Nurse License Number 142663, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(8)(9)(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on October 31, 2007, 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 holds a license to practice vocational nursing in the State of Texas which is currently delinquent. Respondent designates Georgia as his home State.
4. Respondent received a Certificate in Vocational Nursing from Angelina College, Lufkin, Texas, in September 1989. Respondent was licensed to practice vocational nursing in the State of Texas on July 20, 1993.
5. Respondent's complete vocational nursing employment history is unknown.
6. At the time of the incidents in this Order, Respondent was working on the privilege associated with his Tennessee license.

7. On or about December 28, 2005, while employed with Prime Staff, Houston, Texas, and on assignment with Memorial Hermann-The Woodlands, The Woodlands, Texas, Respondent misappropriated or failed to take precautions to prevent the misappropriation of twenty-six (26) tablets of Norco. After Respondent accessed the Pyxis Medication Dispensing System an audit was performed which revealed the medications were missing. The Pyxis drawer had been pried and stuffed with tape. Respondent's conduct was likely to defraud the facility of the cost of the medication.
8. On or about December 28, 2005, while employed with Prime Staff, Houston, Texas, and on assignment with Memorial Hermann-The Woodlands, The Woodlands, Texas, Respondent made false entries in records in that he documented that he removed one (1) Norco tab from the Pyxis Medication Dispensing System for a patient; however, the audit revealed that Respondent had removed two (2) Norco tabs. Respondent's conduct was likely to deceive the hospital pharmacy and was likely to defraud the patient of the cost of the medication.
9. On or about December 30, 2005, while employed with Prime Staff, Houston, Texas, Respondent engaged in the intemperate use of Amphetamine, Codeine, and Propoxyphene in that Respondent produced a specimen for a drug screen which resulted positive for Amphetamine, Codeine, and Propoxyphene. Possession of Amphetamine, Codeine, and Propoxyphene is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Amphetamine, Codeine, and Propoxyphene by a Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, 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.
10. On or about February 20, 2006, while employed with Prime Staff, Houston, Texas, and on assignment with Select Specialty Hospital, Houston, Texas, Respondent made false entries in the medical record of patient E.B, in that Respondent documented a physician's order for Vicodin which was not authorized by the physician. The physician denied giving the verbal order for Vicodin. Respondent's conduct exposed the patient unnecessarily to a risk of harm in that the administration of Vicodin without a physician's order could have resulted in the patient suffering from adverse reactions.
11. On or about February 20, 2006, while employed with Prime Staff, Houston, Texas, and on assignment with Select Specialty Hospital, Houston, Texas, Respondent made false entries in the medical record for patient E.B., in that Respondent withdrew two (2) tablets of Vicodin (Hydrocodone-APAP 5/500mg) from the Medication Dispensing System for patient E.B. and documented the administration of the medication in the Medication Administration Record and Nurses Notes at 1800; however, a drug screen performed on the patient revealed no Vicodin in his system and the physician denied giving an order for Vicodin. Respondent's conduct was likely to defraud the patient of the cost of the medication and resulted in an inaccurate medical record.

12. On or about February 20, 2006, while employed with Prime Staff, Houston, Texas, and on assignment with Select Specialty Hospital, Houston, Texas, Respondent misappropriated medications, including Vicodin belonging to the facility and its patients. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.
13. On or about February 20, 2006, while employed with Prime Staff, Houston, Texas, and on assignment with Select Specialty Hospital, Houston, Texas, Respondent engaged in the intemperate use of drugs, including Vicodin. The use of drugs, including Vicodin 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 condition, 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.
14. On or about September 5, 2007, Respondent's Tennessee license to practice vocational nursing and his multistate licensure privilege in the State of Tennessee was Suspended with the suspension enforced for thirty (30) days until Respondent submitted to an evaluation by the Tennessee Professional Assistance Program (TNPAP) and followed the recommendation of the evaluation. If a contract with the TNPAP is recommended, the license shall be placed on Probation to run concurrent with the TNPAP contract but no less than three (3) years in duration. A copy of the Tennessee Findings of Fact, Conclusions of Law and Consent Order dated September 5, 2007, is attached and incorporated by reference as part of this Order.
15. 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.
16. 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.
17. Respondent's conduct described in Findings of Fact Numbers Seven (7) through Fourteen (14) resulted from Respondent's impairment by dependency on chemicals.
18. 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)(8)(9)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(B)(C)(D) and 217.12(6)(A)(G),(10)(A)(B)(C)(D),&(11)(B).
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 142663, heretofore issued to GARY LYNN CHEATWOOD, including revocation of Respondent's license to practice vocational 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 an alternative peer assistance program approved by the Board and acceptable under the criteria established by Chapter 467, Health and Safety Code:

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.

Tennessee Alternative to Texas Peer Assistance Program for Nurses (TPAPN)

IT IS FURTHER AGREED and ORDERED that this Order constitutes written permission for Respondent to participate in the Tennessee Professional Assistance Program (TNPAP) for chemical dependency in lieu of participation in the Texas Peer Assistance Program for Nurses (TPAPN) provided RESPONDENT remains enrolled in the TNPAP for a minimum of two

(2) years or successfully completes the Tennessee program, whichever is longer in duration. RESPONDENT SHALL NOT practice in any other state during the term of the alternative program without prior written authorization from the Texas Board of Nursing.

IT IS FURTHER AGREED and ORDERED that SHOULD RESPONDENT desire to practice vocational nursing in the State of Texas, prior to completing his contract with the TNPAP, RESPONDENT SHALL petition the Board for such approval. RESPONDENT SHALL not work in the State of Texas on his Texas license or multistate privilege prior to receiving such approval.

Multistate Licensure

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 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 Tennessee pursuant to a multistate licensure privilege.

Remedy for Further Violation

IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the Tennessee Professional Assistance Program, 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.

IT IS FURTHER AGREED that, upon full compliance with the terms of this Order, RESPONDENT may be issued an unencumbered license and multistate licensure privilege, 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. 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 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 Texas Board of Nursing, 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.

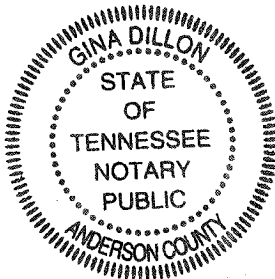
Signed this 13 day of Feb, 2008.



GARY LYNN CHEATWOOD, Respondent

Sworn to and subscribed before me this 13 day of Feb, 2008.

SEAL



Notary Public in and for the State of TN

MY COMMISSION EXPIRES:
January 18, 2011

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Agreed Order that was signed on the 13th day of February, 2008, by GARY LYNN CHEATWOOD, Vocational Nurse License Number 142663, and said Order is final.

Entered and effective this 25th day of February, 2008.



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