

Respondent's vocational nursing employment history continued:

August 2005 - April 2006

LVN
CLC Richland Hills
Richland Hills, Texas

May 2006 - Present

Unknown

6. At the time of the incidents, Respondent was employed as a Licensed Vocational Nurse with CLC Richland Hills, Richland Hills, Texas, and had been in this position for eight (8) months.
7. On or about March 29, 2006, while employed with CLC Richland Hills, Richland Hills, Texas, Respondent misappropriated Darvocet belonging to the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
8. On or about April 3, 2006, while employed with CLC Richland Hills, Richland Hills, Texas, Respondent engaged in the intemperate and/or unlawful use of Amphetamine, Methamphetamine, Marijuana, and Cocaine in that he produced a specimen for a drug screen which resulted positive for Amphetamine, Methamphetamine, Marijuana, and Cocaine. Possession of Amphetamine, Methamphetamine, Marijuana, and Cocaine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Amphetamine, Methamphetamine, Marijuana, and 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 patients' conditions, 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.
9. Regarding the conduct outlined in Finding of Fact Number Seven (7), Respondent admits to the "written misappropriation" of Darvocet. Respondent states that he was made to sign for "written misappropriations" on a prior shift in order to make the narcotic count correct. Respondent states that the narcotic count sheets would be off due to entries not being done until a whole work day had passed.
10. Regarding the conduct outlined in Finding of Fact Number Eight (8), Respondent states that he was suspended from his position with CLC Richland Hills on or about March 29, 2006, and that he believed that he would be terminated. Respondent states that as a result, he became depressed and did some things he would not normally do. Respondent states that over a week had gone by since the initial incident and he had not worked for the facility in days, or practiced nursing at the time of the drug screen. Respondent adds that he has a diagnosis of Bipolar Disorder for which he takes Benzodiazepines.

11. 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.
12. 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.
13. Respondent's conduct described in the preceding Findings of Fact resulted from Respondent's dependency on chemicals.
14. 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)(9) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5), (6)(G) & (10)(A) & (D).
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 72693, heretofore issued to ROGER LEE WINNETT, 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 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.

(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.

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.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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 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.

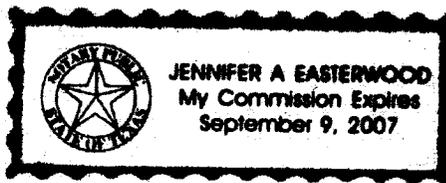
Signed this 9 day of AUG, 2007.

Roger Lee Winnett
ROGER LEE WINNETT, Respondent

Sworn to and subscribed before me this 9 day of Aug, 2007.

SEAL

Jennifer Easterwood
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 9th day of August, 2007, by ROGER LEE WINNETT, Vocational Nurse License Number 72693, and said Order is final.

Entered and effective this 14th day of August, 2007.


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