

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 162647 §
issued to JAN SHIRLEY DAVIS § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JAN SHIRLEY DAVIS, Vocational Nurse License Number 162647, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(12), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on April 4, 2008, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

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 the Concorde Career Institute, Anaheim, California, on August 18, 1995. Respondent was licensed to practice vocational nursing in the State of Texas on June 4, 1997.
5. Respondent's vocational nursing employment history is unknown.
6. On or about March 26, 2001, Respondent entered a plea of No Contest and was convicted

of DRIVING WHILE INTOXICATED - CLASS B, (a Class B misdemeanor offense committed on August 22, 2000), in the County Court at Law No. 2 and Probate Court, Brazoria County, Texas, under Cause No. 113,187S. As a result of the conviction, Respondent was sentenced to confinement in the Brazoria County Jail for a period of three (3) days; with three (3) days credit given for time served. Additionally, Respondent was ordered to pay a fine and court costs.

7. On or about October 30, 2006, Respondent entered a plea of Guilty and was convicted of RECKLESS DRIVING, (a Class B misdemeanor offense committed on January 19, 2006), in the County Court at Law No. 2 of Brazoria County, Texas, under Cause No. 147460. As a result of the conviction, Respondent was sentenced to confinement in the Brazoria County Jail for a period of thirty (30) days; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of ten (10) months. Additionally, Respondent was ordered to pay a fine and court costs.
8. On or about November 21, 2007, Respondent submitted a written statement related to Finding of Fact number Six (6), in which she stated "I was on my way home from work, on the main street in town, and was pulled over by the Angleton Police Department two miles from my home. When they came to my window, they asked for my insurance and registration. I was very polite and lawful. They then asked me to step out of the car, and asked me if I had been drinking. They offered me a breathalyzer test which I denied. Then one of the officers searched me and found a small amount of marijuana. I was taken to jail, and paid \$600. I was convicted of a DUI and the marijuana possession case was dismissed."
9. On or about November 21, 2007, Respondent submitted a written statement related to Finding of Fact number Seven (7), in which she stated "On January 20, 2006, I had just completed one week of vacation and was under the care of my personal physician, taking prescribed medicine and antibiotics. I was on my way to work. At the light, I fell asleep at the wheel. I was escorted to BMH Hospital where I have blood and urine. In July of 2007, my DUI was reduced to a reckless driving misdemeanor. I was sentenced to a 10 month probation along with the completion of a 12 hour drug and alcohol class. I was also sentenced to complete 24 hours of community service, however it was waived due to my current medical history."
10. On December 13, 2007, The Board requested Respondent to undergo an evaluation by an Addictionologist. In a letter dated March 28, 2008, Lawrence G. Root, M.D., a Board-approved Addictionologist, stated he evaluated Respondent on February 12, 2008. Dr. Root indicated Respondent is taking Hydrocodone and Xanax for medical problems including a "bulging disc" and a colostomy. She is also currently taking an antidepressant for depression. Respondent appeared anxious during the interview. Dr. Root found her short and long term memory to be intact. Respondent denied any severe symptoms resulting from her depression.

Dr. Root expressed concern over her ability to maintain sobriety and appropriately take her

prescribed medications, due to her poor judgment and insight into problems. Respondent has repeated similar behavior over a period of years that resulted in two convictions.

Dr. Root recommends Respondent participate in short term therapy to ensure her compliance with her medication regimen as prescribed, and that she learn and demonstrate additional coping skills. Dr. Root believes that she can do this while she continues to work as a nurse, and after therapy, she would be better prepared to consistently avoid behavior identified by the Nursing Board as unprofessional conduct.

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 violations of Section 301.452(b)(10)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5)&(13).
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 162647, heretofore issued to JAN SHIRLEY DAVIS, 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 WARNING 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 Vocational 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 JAN SHIRLEY DAVIS, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification 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 Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; 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/disciplinary action](http://www.bon.state.tx.us/disciplinary_action).*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A LICENSED VOCATIONAL NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH 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 THE USE OF A VOCATIONAL NURSE (LVN) 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 conditions 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) 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 regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, 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.

(7) RESPONDENT SHALL participate in pain management therapy with a Board approved Medical Doctor or Doctor of Osteopathy, licensed by the Texas Medical Board, and certified as a Diplomat with the American Board of Pain Medicine. RESPONDENT

SHALL CAUSE the physician to submit written reports to the Board, which shall include, at a minimum, the clinical indications and rationale for the chronic use of controlled substances, RESPONDENT's progress and compliance with pain management therapy, and a prognosis as to RESPONDENT's ability to safely practice vocational nursing in a direct patient care setting.

Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the stipulation period, or until RESPONDENT no longer requires the use of controlled substances.

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 May, 2008.

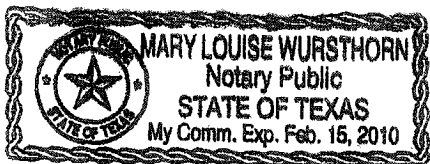
Jan Shirley Davis
JAN SHIRLEY DAVIS, Respondent

Sworn to and subscribed before me this 7th day of May, 202008

SEAL


Mary Louise Wursthorn

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 May, 2008, by JAN SHIRLEY DAVIS, Vocational Nurse License Number 162647, and said Order is final.

Effective this 10th day of June, 2008.



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