

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse License Number 194958 § AGREED
issued to TONI DARICE ERVIN § ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 194958, issued to TONI DARICE ERVIN, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c) of the Texas Occupations Code.

Respondent waived informal conference and hearing, and agreed to the entry of this Order.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Respondent waived 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 Nursing from Ranger Junior College, Brownwood, Texas, on August 7, 2004. Respondent was licensed to practice vocational nursing in the State of Texas on September 16, 2004.
5. Respondent's employment history is unknown.
6. On or about July 3, 2008, Respondent submitted a renewal application to the Texas Board of Nursing in which she answered "Yes" to the following question: "Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:
 - A. been convicted of a misdemeanor?
 - B. been convicted of a felony?
 - C. pled nolo contendere, no contest, or guilty?

- D. received deferred adjudication?
 - E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
 - F. been sentenced to serve jail or prison time? court-ordered confinement?
 - G. been granted pre-trial diversion?
 - H. been arrested or any pending criminal charges?
 - I. been cited or charged with any violation of the law?
 - J. been subject of a court-martial; Article 15 violation; or received any form of military judgement/punishment/action?"
7. On or about July 31, 2007, Respondent entered a plea of Guilty to CRIMINAL MISCHIEF - DIVERSION OF UTILITY, (a Class A misdemeanor offense committed on January 5, 2007), in the County Court of Eastland County, Texas, under Cause No. 07-092. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay a fine and court costs. On March 27, 2008, an adjudication of guilt was entered in the County Court of Eastland County, Texas, under Cause No. 07-092. Respondent was sentenced to confinement in the Eastland County Jail for a period of one (1) day, with credit given for one (1) day. Additionally, Respondent was ordered to pay fine and court costs still owed.
 8. On or about March 27, 2008, Respondent entered a plea of Guilty to TAMPERING WITH A GOVERNMENTAL RECORD, (a State Jail Felony offense committed on February 6, 2008), in the 91st District Court, Eastland County, Texas, under Cause No. 21,709. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on probation for a period of three (3) years. Additionally, Respondent was ordered to pay a fine and court costs.
 9. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender his/her license to practice nursing in the State of Texas.

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)(3)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(13).

4. The evidence received is sufficient cause pursuant to Section 301.453(d), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 194958, heretofore issued to TONI DARICE ERVIN, including revocation of Respondent's license to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Vocational License Number 194958, heretofore issued to TONI DARICE ERVIN, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL immediately deliver the wallet-sized license, heretofore issued to TONI DARICE ERVIN, to the office of the Texas Board of Nursing.
2. RESPONDENT SHALL NOT practice vocational nursing, use the title "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.
3. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order.
4. 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 privilege, if any, to practice nursing in the State of Texas.

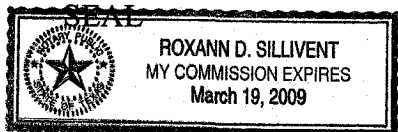
RESPONDENT'S CERTIFICATION

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 becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 17th day of October, 2008.

Toni Darice Ervin
TONI DARICE ERVIN, Respondent

Sworn to and subscribed before me this 17th day of October, 2008.



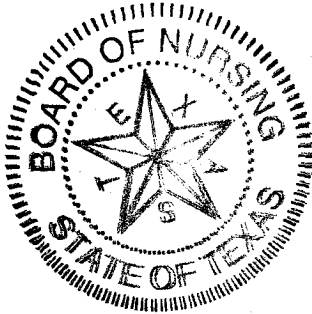
Roxann D. Sillivent
Notary Public in and for the State of Texas

Approved as to form and substance.


Heath E. Allen
HEATH E. ALLEN, Attorney for Respondent

Signed this 17th day of October, 2008.

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Vocational Nurse License Number 194958, previously issued to TONI DARICE ERVIN.



Effective this 22nd day of October, 2008.


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