

IN THE MATTER OF
PERMANENT VOCATIONAL NURSE
LICENSE NUMBER 181300
ISSUED TO
CHERRYL MARIE GALVAN

§
§
§
§
§

BEFORE THE TEXAS
BOARD OF NURSING

ELIGIBILITY AND
DISCIPLINARY COMMITTEE



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Patricia A. Williams
Executive Director of the Board

ORDER OF THE BOARD

TO: CHERRYL MARIE GALVAN
814 N. 3RD
CONROE, TX 77301

During open meeting held in Austin, Texas, on Tuesday, August 14, 2012, the Texas Board of Nursing Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's license(s) to practice nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing [22 TEX. ADMIN.CODE § 213.16(j)]. All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Vocational Nurse License Number 181300, previously issued to CHERRYL MARIE GALVAN, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

Entered this 14th day of August, 2012.

TEXAS BOARD OF NURSING

BY:



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Attachment: Formal Charge filed June 12, 2012.

In the Matter of Permanent License	§	BEFORE THE TEXAS
Number 181300, Issued to	§	
CHERRYL MARIE GALVAN, Respondent	§	BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, CHERRYL MARIE GALVAN, is a Vocational Nurse holding license number 181300, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about August 1, 2011, Respondent entered a plea of Guilty and was subsequently Convicted of DRIVING WHILE INTOXICATED (a Class B Misdemeanor offense committed on October 17, 2010), which was filed in the County Court No. 1 of Montgomery County, Conroe, Texas, under Cause No. 10-263011. As a result of the conviction, Respondent was sentenced to confinement in the Montgomery County Jail for a period of three (3) days, with three (3) days of credit given as time already served. Additionally, Respondent was ordered to pay a fine and court costs.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

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CHARGE II.

On or about October 17, 2010, Respondent failed to comply with the Agreed Order issued to her on April 29, 2010, by the Texas Board of Nursing. Respondent's non-compliance is the result of her failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN). Stipulation Number Three (3) of the Agreed Order dated April 29, 2010, reads, in pertinent part:

- (3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term.

Additionally, Respondent demonstrated non-compliance with TPAPN in that on or about October 17, 2010, Respondent was arrested for DRIVING WHILE INTOXICATED and on or about August 1, 2011, Respondent entered a plea of Guilty and was subsequently Convicted of DRIVING WHILE INTOXICATED.

Furthermore, on or about November 15, 2010, through December 2, 2010, Respondent failed to make required daily telephone calls on five (5) occasions. Lastly, on or about November 16, 2010, Respondent failed to submit a specimen for a drug screen when selected.

On December 3, 2010, Respondent was dismissed from TPAPN and her case was referred to the Board.

A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated April 29, 2010, is attached and incorporated by reference as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(9)&(11)(B).

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NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1,200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.texas.gov.

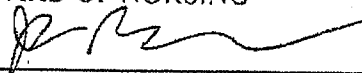
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Guidelines for Criminal Conduct and on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, which can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.texas.gov/disciplinaryaction/discp-matrix.html.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order, dated April 29, 2010.

Filed this 12 day of June, 2012.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Abel, Assistant General Counsel
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel
State Bar No. 24066924

John R. Griffith, Assistant General Counsel
State Bar No. 24079751

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel
State Bar No. 24052269

John F. Legris, Assistant General Counsel
State Bar No. 00785533

TEXAS BOARD OF NURSING
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6811
F: (512) 305-8101 or (512) 305-7401

Attachments: Order of the Board, dated April 29, 2010
D/2012.05.11

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse	§	AGREED
License Number 181300	§	
issued to CHERRYL MARIE GALVAN	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of CHERRYL MARIE GALVAN, Vocational Nurse License Number 181300, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 4528c, sec. 10(3)&(9), Tex. Rev. Civ. Stat., (eff. 09/01/1993), and Section 4528c, sec. 10(9), Tex. Rev. Civ. Stat., (eff. 09/01/1995), and Section 301.452(b)(2),(3)&(10), Texas Occupations Code (eff. 09/01/2009). Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on January 19, 2010, 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 proceedings, 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 Montgomery College, Conroe, Texas, on April 20, 2001. Respondent was licensed to practice vocational nursing in the State of Texas on September 18, 2001.
5. Respondent's vocational nursing employment history is unknown.

6. On or about July 20, 1994, Respondent was arrested by the Conroe Police Department, Conroe, Texas, for MAN/DEL/SELL/POSS CONTROLLED SUBSTANCE (a 1st Degree felony offense) and for THEFT >=\$20 BUT <\$200 (a Class B misdemeanor offense) and for POSS CS PG 1 < 28G (a Class A misdemeanor offense).

On or about December 12, 1994, Respondent entered a plea of Guilty and was convicted of DELIVERY OF CONTROLLED SUBSTANCE (a 1st Degree felony offense committed on April 5, 1994), in the District Court of Montgomery County, Texas, 284th Judicial District, under Cause No. 94-06-00832-CR. As a result of the conviction, Respondent was sentenced to confinement in the Institutional Division of the Texas Department of Criminal Justice for a period of six (6) years; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of six (6) years. Additionally, Respondent was ordered to pay a fine and court costs.

On or about May 10, 1995, Respondent entered a plea of Guilty and was convicted of THEFT BY CHECK (a Class B misdemeanor offense committed on February 14, 1994), in the County Court at Law No. 3 of Montgomery County, Texas, under Cause No. 110,692-03. As a result of the conviction, Respondent was sentenced to confinement in the Montgomery County Jail for a period of one hundred eighty (180) days. Additionally, Respondent was ordered to pay a fine and court costs.

7. In response to Finding of Fact Number Six (6), Respondent states she was with her second husband and he wanted drugs and had no job. She had a checking account, so he convinced her to write checks and use the money for drugs. Respondent did as she was told because she was afraid. Respondent states she was placed on probation for two years, violated her probation, and subsequently spent 20 days in the county jail.
8. On or about December 10, 1995, Respondent was arrested by the Conroe Police Department, Conroe, Texas, for RESIST ARREST SEARCH OR TRANSPORT.

On or about February 15, 1996, Respondent entered a plea of Guilty and was convicted of RESISTING ARREST (a Class A misdemeanor offense committed on December 10, 1995), in the County Court at Law No. 2 of Montgomery County, Texas, under Cause No. 95-120,838-02. As a result of the conviction, Respondent was sentenced to confinement in the Montgomery County Jail for a period of thirty (30) days.

9. On or about February 2, 1996, Respondent was arrested by the Conroe Police Department, Conroe, Texas, for BAIL JUMPING AND FAIL TO APPEAR, and for RESIST ARREST SEARCH OR TRANSPORT (Class A misdemeanor offenses).

On or about February 15, 1996, Respondent entered a plea of Guilty and was convicted of RESISTING ARREST (a Class A misdemeanor offense committed on February 2, 1996),

in the County Court at Law No. 2 of Montgomery County, Texas, under Cause No. 95-121,584-02. As a result of the conviction, Respondent was sentenced to confinement in the Montgomery County Jail for a period of thirty (30) days.

10. In response to Findings of Fact Numbers Eight (8) and Nine (9), Respondent states she was living on the streets. She sold an illegal narcotic to an undercover officer and was arrested.
11. On or about May 4, 2001, Respondent submitted an Application for Licensure by Examination to the Board of Vocational Nurse Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information, in that she answered "No" to the question: "Have you ever been convicted of a felony?" Respondent failed to disclose that on or about December 12, 1994, Respondent entered a plea of Guilty and was convicted of DELIVERY OF CONTROLLED SUBSTANCE (a 1st Degree felony offense), in Montgomery County, Texas.
12. On or about January 10, 2009, Respondent was arrested by the Conroe Police Department, Conroe, Texas, for POSS CS PG 3<28G - 9 COUNTS (Class A misdemeanor offenses), and for POSS DANGEROUS DRUG - 8 COUNTS (Class A misdemeanor offenses), and for POSS MARIJ < 2 OZ (a Class B misdemeanor offense). The prosecutor rejected 5 Counts of POSS PG 3<28G, all 8 Counts of POSS DANGEROUS DRUG and POSS MARIJ < 2 OZ.

Respondent was charged under Cause No. 09-246093-01 for POSS OF CONTROLLED SUBSTANCE-ALPRAZOLAM (a misdemeanor offense). On or about November 9, 2009, Cause No. 09-246093-01 was dismissed in the County Court at Law No. 1 of Montgomery County, Texas, for the reason: "The Defendant was convicted in another case; 09-246096."

Respondent was charged under Cause No. 09-246094-01 for POSS OF CONTROLLED SUBSTANCE-DIAZEPAM (a misdemeanor offense). On or about November 9, 2009, Cause No. 09-246094-01 was dismissed in the County Court at Law No. 1 of Montgomery County, Texas, for the reason: "The Defendant was convicted in another case; 09-246096."

Respondent was charged under Cause No. 09-246095-01 for POSS OF CONTROLLED SUBSTANCE-CODEINE (a misdemeanor offense). On or about November 9, 2009, Cause No. 09-246095-01 was dismissed in the County Court at Law No. 1 of Montgomery County, Texas, for the reason: "The Defendant was convicted in another case; 09-246096."

On or about November 9, 2009, Respondent entered a plea of Guilty and was convicted of POSSESSION OF CONTROLLED SUBSTANCE A (a Class A misdemeanor offense committed on January 10, 2009), in the County Court at Law No. 1 of Montgomery County, Texas, under Cause No. 09-246096. As a result of the conviction, Respondent was sentenced to confinement in the Montgomery County Jail for a period of three hundred sixty-five (365) days; however, the imposition of sentence of confinement was suspended, and Respondent

was placed on probation for a period of fourteen (14) months. Additionally, Respondent was ordered to pay a fine and court costs.

13. In response to Finding of Fact Number Twelve (12), Respondent states she was pulled over after working a sixteen hour shift. The officer claimed he smelled marijuana, which gave him probable cause to search her vehicle and purse. In her purse, he found a number of pills that he accused her of taking from her place of business, a nursing facility. In actuality, the medications were accumulated from left over prescriptions given to Respondent by her family. Because she is a nurse, her family gives her their left over and unused prescriptions to keep, in case they are needed later. In addition, Respondent had let a friend use her car, and the friend had left a half a marijuana cigarette in her vehicle.
14. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Article 4528c, TEX. REV. STAT. ANN, and under the provisions of Sections 301.401-301.419, Texas Occupations Code.
15. 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.
16. Respondent's conduct described in Findings of Fact Numbers Six (6) and Twelve (12) resulted from Respondent's impairment by dependency on chemicals.
17. 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 4528c, sec. 10(3)&(9), Tex. Rev. Civ. Stat., (eff. 09/01/1993), and Section 4528c, sec. 10(9), Tex. Rev. Civ. Stat., (eff. 09/01/1995), and Section 301.452(b)(2)(3)&(10), Texas Occupations Code, (eff. 09/01/2009), and 22 TEX. ADMIN. CODE §239.11(29)(A)(eff. through 09/28/2004), and 22 TEX. ADMIN. CODE §217.12(6)(I)&(13)(eff. after 09/28/2004).
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 181300, heretofore issued to CHERYL MARIE GALVAN, including revocation of Respondent's 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 TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, 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 participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her license to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *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 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 Texas Board of Nursing 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 EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or revocation of Respondent's license and multistate licensure privileges, if any, to practice 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 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 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 22 day of April, 2010.

Cherryl Marie Galvan
CHERRYL MARIE GALVAN, Respondent

Sworn to and subscribed before me this 22nd day of April, 2010.

SEAL




Sherryl Marie Taylor
Notary Public in and for the State of Texas

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 22nd day of April, 2010, by CHERRYL MARIE GALVAN, Vocational Nurse License Number 181300, and said Order is final.



Entered and effective this 29th day of April, 2010.


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

Re: Permanent Vocational Nurse License Number 181300
Issued to CHERRYL MARIE GALVAN
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of August, 2012, a true and correct copy of the foregoing
DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to
the following person(s):

CHERRYL MARIE GALVAN
814 N. 3RD
CONROE, TX 77301

BY:



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD