



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 Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 117296 §
issued to VIOLA JEAN DIAZ § ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 117296, issued to VIOLA JEAN DIAZ, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice 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(s).
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 Cisco Junior College, Ballinger, Texas, on February 18, 1987. Respondent was licensed to practice vocational nursing in the State of Texas in May 20, 1987.
5. Respondent's employment history is unknown.
6. On or about April 25, 1995, Respondent pled Nolo Contendere and was convicted of DRIVING WHILE INTOXICATED, a Class B misdemeanor offense committed on April 22, 1995, in the County Court of Coleman County, Texas, under Cause No. 23,185. As a

result of the conviction, Respondent was sentenced to confinement in the Coleman County Jail for a period of one hundred and eighty (180) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of twenty-four (24) months, and ordered to pay a fine and court costs.

7. On or about November 14, 1995, Respondent pled Guilty and was convicted of DRIVING WHILE LICENSE SUSPENDED, a Class B misdemeanor offense committed on September 23, 1995, in the County Court of Coleman County, Texas, under Cause No. 23354. As a result of the conviction, Respondent was ordered to pay a fine and court costs.
8. On or about December 15, 2000, Respondent pled Nolo Contendere and was convicted of DRIVING WHILE INTOXICATED 2ND, a Class A misdemeanor offense committed on September 25, 2000, in the County Court at Law No 2 of Bell County, Texas, under Cause No. 2000-08725. As a result of the conviction, Respondent was sentenced to confinement in the Bell County Jail for a period of thirty (30) days, with three (3) days given as credit, and ordered to pay a fine and court costs.
9. On or about April 5, 2002, Respondent pled Nolo Contendere and was convicted of DRIVING WHILE INTOXICATED 2ND, a Class A misdemeanor offense committed on April 28, 2001, in the County Court at Law of Bell County, Texas, under Cause No. 2C0105274. As a result of the conviction, Respondent was sentenced to confinement in the Bell County Jail for a period of three hundred sixty-five (365) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of twenty-four (24) months, and ordered to pay a fine and court costs.
10. On or about January 16, 2006, Respondent submitted a Texas Online Renewal Document to the Board of 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 been convicted, adjudged guilty by a court, plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests (excluding minor traffic violations) since your last renewal? This includes expunged offenses and deferred adjudications with or without prejudice of guilt. Please note that DUIs, DWIs, and PI's must be reported and are not considered minor traffic violations. (One time minor in possession [MIP] or minor in consumption [MIC] does not need to be disclosed; therefore, you may answer "No." If you have two or more MIPs or MICs, you must answer "Yes".)"

Respondent failed to disclose that on or about July 26, 2005, Respondent was arrested by the Belton Police Department, Belton, Texas, for two (2) counts of DRIVING WHILE INTOXICATED 2ND, Class A misdemeanor offenses, and the charges were pending at the time of renewal.

Respondent also failed to disclose that on or about October 16, 2005, Respondent was arrested by the Belton Police Department, Belton, Texas, for DRIVING WHILE LICENSE INVALID, a Class A misdemeanor offense and the charge were pending at the time of renewal.

11. On or about October 26, 2006, Respondent pled Guilty to DRIVING WHILE INTOXICATED WITH A CHILD PASSENGER, a State Jail felony offense committed on July 26, 2005, in the 27th Judicial District Court of Bell County, Texas, under Cause No. 58543. 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 five (5) years, and ordered to pay a fine and court costs.

On or about July 22, 2010, Respondent's probation granted under Cause No. 58543 was revoked, a judgment of Guilt was entered, and Respondent was sentenced to confinement in the State Jail Division of the Texas Department of Criminal Justice for a period of one (1) year, to run concurrently.

12. On or about January 8, 2008, Respondent submitted an Online Renewal Document to the Texas Board of Nursing, in which she provided false, deceptive, and/or misleading information in that she answered "No" to the 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 have 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?"

Respondent failed to disclose that on or about October 26, 2006, Respondent pled Guilty to DRIVING WHILE INTOXICATED WITH A CHILD PASSENGER, a State Jail felony offense committed on July 26, 2005, in the 27th Judicial District Court of Bell County, Texas, under Cause No. 58543. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt.

13. On or about July 22, 2010, Respondent pled Guilty and was convicted of DRIVING WHILE INTOXICATED, III, a 3rd Degree felony offense committed on March 3, 2010, in the 27th District Court of Bell County, Texas, under Cause No. 66329. As a result of the conviction, Respondent was sentenced to confinement in the Institution Division of the Texas Department of Criminal Justice for a period of three (3) years, which shall run concurrently, and ordered to pay court costs.
14. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender his/her license(s) to practice nursing in the State of Texas.
15. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
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.

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 violation of TEX. REV. STAT. ART. 4528c, Section 10(a)(9) (effective through September 1, 1995), Section 302.402(a)(10), Texas Occupations Code (effective through September 1, 2001), Section 301.452(b)(2),(3),(4)&(10), Texas Occupations Code, 22 TEX. ADMIN. CODE §239.11(29)(a) (effective September 1, 1993), and 22 TEX. ADMIN. CODE §217.12(6)(I)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Vocational License Number 117296, heretofore issued to VIOLA JEAN DIAZ, including revocation of Respondent's license(s) 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 117296, heretofore issued to VIOLA JEAN DIAZ, 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 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.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. 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 nurse licensure compact 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. 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 24 day of February, 2012.



VIOLA JEAN DIAZ, Respondent

Sworn to and subscribed before me this 24 day of February, 2012.

SEAL

Notary Public in and for the State of _____

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 117296, previously issued to VIOLA JEAN DIAZ.



Effective this 15th day of March, 2012.

A handwritten signature in cursive script, reading 'Katherine A. Thomas', is written over a horizontal line.

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