

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 159761 §
issued to ANNELLE JOHNSON § ORDER

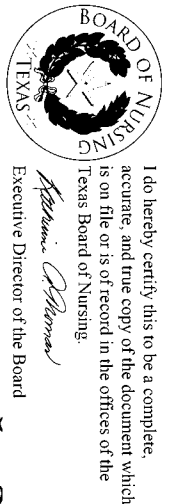
On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of ANNELLE JOHNSON, Vocational Nurse License Number 159761, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on June 24, 2011, 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(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 Trinity Valley Community College, Palestine, Texas, on August 9, 1996. Respondent was licensed to practice vocational nursing in the State of Texas on October 2, 1996.
5. Respondent's nursing employment history includes:

10/1996 to 11/2002	Staff LVN	East Texas Medical Center Hospital
		Athens, Texas



Respondent's nursing employment history continued.

12/2002 to 10/2004	LVN Charge Nurse	South Place Nursing Center Athens, Texas
11/2004 to 09/2005	LVN Charge Nurse PRN	Kemp Care Center Kemp, Texas
02/2005 to 04/2005	LVN Charge Nurse PRN	Bethany Place Athens, Texas
10/2005 to 02/2008	LVN Charge Nurse	Canton Health Care Canton, Texas
03/2008 to 10/2008	LVN Charge Nurse	Country Trails Care Center Grand Saline, Texas
10/2008 to 06/2009	Unknown	
06/2009 to Present	LVN Charge Nurse	Country Trails Care Center Grand Saline, Texas

6. At the time of the incident described in Finding of Fact Number Seven (7), Respondent was employed as an Licensed Vocational Nurse with Country Trails Care Center, Grand Saline, Texas, and had been in this position for approximately seven (7) months.
7. On or about October 27, 2008, while employed as a Licensed Vocational Nurse with Country Trails Care Center, Grand Saline, Texas, Respondent engaged in the intemperate use of Marijuana in that she provided a sample for a drug screen which resulted positive for Marijuana Metabolites. Possession of Marijuana is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Marijuana by a Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, 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.
8. In response to Finding of Fact Number Seven (7), Respondent denies using Marijuana. Respondent contends that the drug screen was conducted improperly and does not know how the screen resulted positive for Marijuana.
9. At the time of the incident described in Finding of Fact Number Ten (10), Respondent was employed as an Licensed Vocational Nurse with Country Trails Care Center, Grand Saline, Texas, and had been in this position for approximately three (3) months.

10. On or about September 22, 2009, while participating in the Texas Peer Assistance Program for Nurses (TPAPN), Extended Evaluation Program (EEP), engaged in the intemperate use of Alcohol in that she provided a sample for a random screening which resulted positive for Ethyl Glucuronide. The use of alcohol by a Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, 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.
11. In response to Finding of Fact Number Ten (10)), Respondent explains that she was sick and took over the counter medicines (Nyquil, Robitussin, and used Listerine).
12. On or about June 6, 2011, Respondent presented for Evaluation performed by John Lehman, Ph.D., Clinical Psychologist, who submitted the following Psychological Evaluation in pertinent part:
Summary:
Annelle Johnson is a 47 year old female presenting for an evaluation at the request of the Board. She came to the attention of the Board when in 2008 she tested positive for marijuana metabolites. The drug testing of several employees was being done because of concerns about missing drugs from the nursing home (opiates). She did not test positive for those, but did for marijuana. She had a chemical dependency evaluation and was referred into the EEP program with TPAPN. There is an indication that while in the EEP program she tested positive for alcohol in a random drug screen. In both cases she denies any wrongdoing. At a minimum, she does admit to using Nyquil or a similar product even though she knew she should not use it. She claims that she did not have money for other medication. She denies other alcohol, but no polygraph was requested. The first issue is chemical dependency. I do not have enough here to indicate she has a chemical dependency. I would not be surprised if she uses marijuana recreationally and she admits she drinks some, but no testing indicates a dependency. This is consistent with other evaluations, based on her report. The second issue is whether or not she is safe to practice. I think she has a laissez-faire attitude toward the rules, which is a concern. She works in a rural area where there is not much oversight. She may not always be as rule conscious as she should be. I would recommend the Board place her in 2 years of drug testing. If she violates the rules again, I would suggest they consider suspending her license.

Conclusions/recommendations:

1. Ms. Johnson does not meet the criteria for a chemical dependency or another Axis I psychological disorder. I cannot rule out that she may have abused alcohol or marijuana, however with her denials, without a polygraph or testing suggestive of that, I cannot give that diagnosis.
 - a. I would recommend the Board place her on two years of drug screening.
 - b. I believe a jurisprudence course would also be in order.
 - c. I do not see any treatment recommendations necessary at this time.

13. 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 violations of Section 301.452(b)(9)&(10), Texas Occupations Code and 22 TEX. ADMIN. CODE §217.12(1)(B),(9)&(10)(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 159761, heretofore issued to ANNELLE JOHNSON, including revocation of Respondent's license(s) to practice 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 REPRIMAND WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§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, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

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.

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are

encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse licensure compact 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, 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) 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/disciplinaryaction/stipscourses.html>.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program

provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding Board-approved courses may be found at the following Board website address:*
<http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A 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 TWO (2) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, 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(s). 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 on

RESPONDENT'S license(s). 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, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as 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 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) month period for two (2) year(s) of employment as a nurse.

(7) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT SHALL submit to a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.**

(8) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the stipulation period, random screens shall be performed at least once every three (3) months. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

Amphetamines
Barbiturates

Meperidine
Methadone

Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the RESPONDENT'S place of employment at any time during the stipulation period and require RESPONDENT to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the stipulation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order.

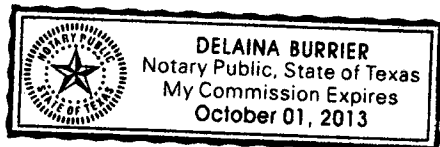
I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 18th day of July, 2011.

Annelle Johnson
ANNELLE JOHNSON, Respondent

Sworn to and subscribed before me this 18 day of July, 2011.

SEAL



Delaina Burrier

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 18th day of July, 2011, by ANNELLE JOHNSON, Vocational Nurse License Number 159761, and said Order is final.

Effective this 13th day of September, 2011.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas". The signature is fluid and cursive, with the first name "Katherine" being more prominent than the last name "Thomas".

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