

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse §
License Number 201546 §
issued to OLIVIA ANN MCMURRAY §



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. Thomas
Executive Director of the Board

ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 201546, issued to OLIVIA ANN MCMURRAY, 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.

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

FINDINGS OF FACT

1. Respondent is currently licensed to practice vocational nursing in the State of Texas.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing.
3. Respondent received a Certificate in Vocational Nursing from Victoria College, Victoria, Texas on August 12, 2005. Respondent was licensed to practice vocational nursing in the State of Texas on November 8, 2005.
4. Respondent's vocational nursing employment history includes:

11/05 - 07/06	LVN	Twin Pines Nursing and Rehabilitation Victoria, Texas
08/06 - 09/06	LVN	Southbrooke Manor Nursing and Rehabilitation Edna, Texas

Respondent's vocational nursing employment history continued:

09/06 - 05/10	LVN	Port Lavaca Nursing and Rehabilitation Port Lavaca, Texas
06/10 - 01/12	Unknown	
02/12 - 03/12	LVN	Twin Pines Nursing and Rehabilitation Victoria, Texas
04/12	Unknown	

5. On or about February 23, 2011, Respondent was issued an Agreed Order by the Board which required her to participate in and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Finding of Fact, Conclusions of Law and Agreed Order dated February 23, 2011, is attached and incorporated herein by reference as part of this Order.
6. In a letter dated March 9, 2012, Respondent was notified by the Board of the following alleged violations of the Nursing Practice Act of the State of Texas:
 - On or about February 21, 2012, while employed with Twin Pines Nursing and Rehabilitation, Victoria, Texas, Respondent engaged in the intemperate use of alcohol in that she submitted a specimen for a drug screen which resulted positive for alcohol. Respondent also admitted to consuming alcohol.
 - On or about February 21, 2012, while employed with Twin Pines Nursing and Rehabilitation, Victoria, Texas, Respondent became non-compliant with the Agreed Order issued to her by the Texas Board of Nursing on February 23, 2011. Non-compliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) in that she submitted a specimen for a drug screen which resulted positive for alcohol. Respondent also admitted to consuming alcohol. Stipulation Number Three (3) of the Agreed Order dated February 23, 2011, states:

"(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her license(s) to practice nursing in the State of Texas current."
7. On April 9, 2012, the Board received a statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's statement, dated March 30, 2012, is attached and incorporated herein by reference as part of this Order.

8. 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.
9. 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 a violation of Section 301.452(b)(1)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(9)&(11)(B).
4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC§§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

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ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 201546, heretofore issued to OLIVIA ANN MCMURRAY, to practice vocational nursing in the State of Texas, is accepted by the Executive Director on behalf of 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 of "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 vocational nursing in the State of Texas.

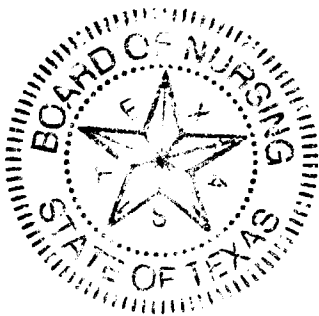
Effective this 9th day of April, 2012.

TEXAS BOARD OF NURSING

By:



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



BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 201546 §
issued to OLIVIA ANN MCMURRAY (BARNES) § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of OLIVIA ANN MCMURRAY (BARNES), Vocational Nurse License Number 201546, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10),(12)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on January 12, 2011, 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(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 Victoria College, Victoria, Texas on August 12, 2005. Respondent was licensed to practice vocational nursing in the State of Texas on November 8, 2005.
5. Respondent's complete vocational nursing employment history is unknown.
6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a Licensed Vocational Nurse with Port Lavaca Nursing and Rehab Center, Port Lavaca, Texas, and had been in this position for three (3) years and eight (8) months.

7. On or about May 27, 2010, while employed as a Licensed Vocational Nurse with Port Lavaca Nursing and Rehab Center, Port Lavaca, Texas, Respondent lacked fitness to practice vocational nursing in that she was arrested by the Port Lavaca Police Department, and subsequently found to have in her possession several types of narcotics. Additionally, Respondent admitted that she needed help for her addiction. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patients in potential danger.
8. The Respondent's conduct described in the preceding Finding of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
9. 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.
10. Respondent's conduct described in Finding of Fact Number Seven (7) was significantly influenced by Respondent's impairment by dependency on chemicals.
11. 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 violations of Section 301.452(b)(10),(12)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A)(B), and 22 TEX. ADMIN. CODE §217.12(1)(B),(4)&(5).
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 201546, heretofore issued to OLIVIA ANN MCMURRAY (BARNES), including revocation of Respondent's license(s) 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 (\$350.00) 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(s) 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 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 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(s) and 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. 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 15 day of February 2011.

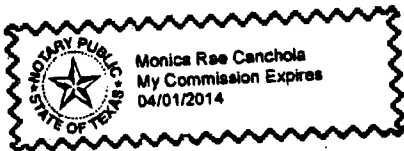
Olivia Ann McMurray (Barnes)
OLIVIA ANN MCMURRAY (BARNES) Respondent

Sworn to and subscribed before me this 15 day of February, 2011.

SEAL

Monica Rae Canchola


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 15th day of February, 2011, by OLIVIA ANN MCMURRAY (BARNES), Vocational Nurse License Number 201546, and said Order is final.



Entered and effective this 2nd day of February, 2011.


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

To Whom It May Concern:

03.30.12

I was told that the BON has no choice but to temporarily suspend my nursing license due to that fact of a positive UA for alcohol and me admitting to drinking a beer. Therefore I ~~at~~ Olivia A. Murray am voluntarily surrendering my nursing license.

I have not had another drink since that night on 03.20.12. I will prove to the BON that I am worthy of my nursing license and will ask for reinstatement at a later date. I have already started my 90/90 over, I have started an out-patient treatment program, and working on getting set up for random UA's. I know I made a huge mistake and lost my sobriety but that does not mean that I don't deserve to be a nurse.

Sincerely,
Olivia Murray

my address of record is:
P.O. Box 4
Vanderbilt, TX. 77991