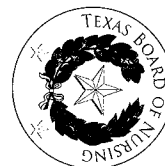


IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 115732  
ISSUED TO  
GAYNELL ARNEY

§  
§  
§  
§  
§  
§  
§  
§

BEFORE THE ELIGIBILITY  
AND DISCIPLINARY  
COMMITTEE  
OF THE TEXAS  
BOARD OF NURSING



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. Johnson*  
Executive Director of the Board

**ORDER OF THE BOARD**

TO: Gaynell Arney  
P.O. Box 1646  
Hemphill, Texas 75948

During open meeting held in Austin, Texas, on Tuesday December 13, 2011, the 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 of the Texas Board of Nursing 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 to practice vocational 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 Eligibility and Disciplinary 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 Certificate Number 115732, previously issued to GAYNELL ARNEY, to practice vocational 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 vocational nursing in the State of Texas.

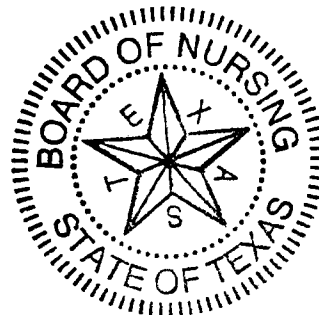
Entered this 13<sup>th</sup> day of December, 2011.

TEXAS BOARD OF NURSING



BY:

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



Re: Permanent Certificate Number 115732  
Issued to GAYNELL ARNEY  
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 13<sup>th</sup> day of December, 2011, 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):

Gaynell Arney  
P.O. Box 1646  
Hemphill, Texas 75948

BY:



---

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

**In the Matter of Permanent License  
Number 115732, Issued to  
GAYNELL ARNEY, Respondent**

§  
§  
§

**BEFORE THE TEXAS  
BOARD OF NURSING**

### **FORMAL CHARGES**

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, GAYNELL ARNEY, is a Vocational Nurse holding license number 115732, which is in delinquent 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 December 21, 1994, Respondent entered a plea of No Contest to OBTAIN DANGER DRUG BY FRAUD TELEPHONE CALL (a Class B misdemeanor offense committed on October 14, 1994), in the County Court of Shelby County, Texas, under Cause No. 9418712. As a result, the proceedings against Respondent were deferred without entering adjudication of guilt, and Respondent was placed on probation for a period of twelve (12) months. Additionally, Respondent was ordered to pay a fine and court costs.

The above action constitutes grounds for disciplinary action in accordance with TEX. REV. CIV. STAT. ART. 4528c, Sec 10(a)(3)&(9)(eff 9/1/93 through 8/31/99), and is a violation of 22 TEX. ADMIN. CODE §239.11(6)&(29)(A)(eff 9/1/93 through 9/28/04).

#### **CHARGE II.**

On or about March 14, 1995, Respondent entered a plea of Guilty to OBTAIN DANGER DRUG BY FORGED PRESCRIPTION (a Class B misdemeanor offense committed on January 13, 1995), in the County Court at Law of Nacogdoches County, Texas, under Cause No. 23695. As a result, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of twelve (12) months. Additionally, Respondent was ordered to pay a fine and court costs.

On or about October 1, 1996, Respondent's probation granted under Cause No. 23695 was revoked, in the County Court at Law of Nacogdoches County, Texas. As a result, Respondent was adjudged Guilty and sentenced to confinement in the Nacogdoches County Jail for a period of forty-five (45) days. Additionally, Respondent was ordered to pay court costs.

The above action constitutes grounds for disciplinary action in accordance with TEX. REV. CIV. STAT. ART. 4528c, Sec 10(a)(3)&(9)(eff 9/1/93 through 8/31/99), and is a violation of 22 TEX. ADMIN. CODE §239.11(6)&(28)(A)&(B)(eff 9/1/93 through 9/28/04).

### CHARGE III.

On or about March 14, 1995, Respondent entered a plea of Guilty to OBTAIN DANGER DRUG BY FORGED PRESCRIPTION (a Class B misdemeanor offense committed on January 13, 1995), in the County Court at Law of Nacogdoches County, Texas, under Cause No. 339-95. As a result, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of twelve (12) months. Additionally, Respondent was ordered to pay a fine and court costs.

On or about October 1, 1996, Respondent's probation granted under Cause No. 339-95 was revoked, in the County Court at Law of Nacogdoches County, Texas. As a result, Respondent was adjudged Guilty and sentenced to confinement in the Nacogdoches County Jail for a period of forty-five (45) days. Additionally, Respondent was ordered to pay court costs.

The above action constitutes grounds for disciplinary action in accordance with TEX. REV. CIV. STAT. ART. 4528c, Sec 10(a)(3)&(9)(eff 9/1/93 through 8/31/99), and is a violation of 22 TEX. ADMIN. CODE §239.11(6)&(28)(A)&(B)(eff 9/1/93 through 9/28/04).

### CHARGE IV.

On or about April 4, 1997, Respondent entered a plea of Guilty to FRAUD (a 3<sup>rd</sup> Degree felony offense committed on January 18, 1995), in the 1<sup>st</sup> Judicial District Court of Sabine County, Texas, under Cause No. 5528. As a result, 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. Additionally, Respondent was ordered to pay a fine and court costs.

On or about March 28, 2001, Respondent's probation granted under Cause No. 5528 was revoked, in the 1<sup>st</sup> Judicial District Court of Sabine County, Texas. As a result, Respondent was adjudged Guilty and sentenced to confinement in the Texas Department of Criminal Justice Institutional Division for a period of five (5) years. Additionally, Respondent was ordered to pay court costs.

The above action constitutes grounds for disciplinary action in accordance with TEX. REV. CIV. STAT. ART. 4528c, Sec 10(a)(3)&(9)(eff 9/1/93 through 8/31/99) and TEX. OCC. CODE ANN. Section 302.402 (a)(3)&(10)(eff 9/1/99 through 2/1/04); and is a violation of 22 TEX. ADMIN. CODE §239.11(29)(A)(eff 9/1/93 through 9/28/04).

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#### CHARGE V.

On or about August 15, 2000, Respondent entered a plea of No Contest and was convicted of OBTAIN DANGER DRUG USING FORGED PRESCRIPT (a Class B misdemeanor offense committed on April 18, 2000), in the County Court at Law No. 1 of Angelina County, Texas, under Cause No. 000918. As a result of the conviction, Respondent was placed on probation for a period of one (1) year. Additionally, Respondent was ordered to pay a fine and court costs.

The above action constitutes grounds for disciplinary action in accordance with TEX. OCC. CODE ANN. Section 302.402 (a)(10)(eff 9/1/99 through 2/1/04), and is a violation of 22 TEX. ADMIN. CODE §239.11(6)&(29)(A)(eff 9/1/93 through 9/28/04).

#### CHARGE VI.

On or about August 12, 2003, Respondent entered a plea of Guilty and was convicted of OBTAINING DANGEROUS DRUG BY FORGED PRESCRIPTION (a Class B misdemeanor offense committed on June 27, 2003), in the County Court at Law of Nacogdoches County, Texas, under Cause No. 1198-03. As a result of the conviction, Respondent was sentenced to confinement in the Nacogdoches County Jail for a period of one hundred eighty (180) days; however, the imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of twenty-four (24) months. Additionally, Respondent was ordered to pay a fine and court costs.

The above action constitutes grounds for disciplinary action in accordance with Section 302.402(a)(10)(eff 9/1/99 through 2/1/04), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §239.11(6)&(29)(A)(eff 9/1/93 through 9/28/04).

#### CHARGE VII.

On or about July 30, 2007, Respondent entered a plea of Guilty and was convicted of EVADING DETENTION (a State Jail felony offense committed on September 13, 2005), in the 217<sup>th</sup> Judicial District Court of Angelina County, Texas, under Cause No. 25,943. As a result of the conviction, Respondent was sentenced to confinement in the Texas Department of Criminal Justice, State Jail Division for a period of two (2) years; however, the imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of four (4) years. 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)(3)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to 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, and TEX. OCC. CODE Ch. 53. 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 (\$1200.00).

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.state.tx.us](http://www.bon.state.tx.us).

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, and for Fraud, which can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at [www.bon.state.tx.us/disciplinaryaction/discp-matrix.html](http://www.bon.state.tx.us/disciplinaryaction/discp-matrix.html).

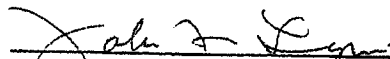
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NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order dated April 27, 1998.

Filed this 8th day of September, 2011.

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

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) 305-6824  
F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Board dated April 27, 1998

D/2010.12.28



BEFORE THE BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

\*\*\*\*\*

In the Matter of Permanent Certificate     §  
Number 553697 issued to                     §  
GAYNELL ARNEY                                 §

ORDER OF THE BOARD

To:    Gaynell Arney  
       P. O. Box 1646  
       Hemphill, Texas 75948

On this day, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, accepted the voluntary surrender of Permanent Certificate Number 553697, issued to GAYNELL ARNEY, hereinafter referred to as Respondent. This action was taken in accordance with Article 4525.1(c), Revised Civil Statutes of Texas, as amended.

Respondent waived representation by counsel, informal conference, 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 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, notice and hearing, and consented to the entry of this order.
3. Respondent is currently licensed to practice professional nursing in Texas.
4. Respondent received an Associate Degree in Nursing from the University of New York Regents Program, Albany, New York, on May 15, 1989.

5. Respondent's professional employment history includes:

|                             |   |
|-----------------------------|---|
| 1989 to 1990                | Staff Nurse<br>Woodland Heights Medical Center<br>Jasper, Texas |
| 1989 to 1993                | Staff Nurse<br>Sabine County Hospital<br>Hemphill, Texas        |
| 1993 to 1994                | Agency Nurse<br>Jordan Health Care<br>Hemphill, Texas           |
| January 1994 to July 1994   | Agency Nurse<br>Concepts of Care<br>Jasper, Texas               |
| November 1995 to April 1996 | Weekend Staff Nurse<br>Hines Nursing Home<br>Pineland, TX       |

6. On or about July 27, 1994, Respondent, passed an unauthorized telephonic prescription for Lorcet, 36 tablets, at the K-Mart Pharmacy, Lufkin, Texas. Possession of a controlled substance through use of a fraudulent telephonically communicated prescription is prohibited by Chapter 481 (Controlled Substances Act) of the Texas Health & Safety Code. Respondent's conduct was likely to deceive, defraud and injure patients and the public.
7. On or about November 6, 1995, Respondent passed an altered prescription for Ultram, at Loper's Professional Pharmacy, Hemphill, Texas. Possession of a dangerous drug obtained by altered prescription is prohibited by Chapter 483 (Dangerous Drugs) of the Texas Health & Safety Code. Respondent's conduct was likely to deceive, defraud and injure patients and the public.
8. Charges were filed by the Board on February 13, 1998.
9. Charges were mailed to Respondent on February 17, 1998.
10. Respondent returned Permanent Certificate Number 553697 and submitted a notarized statement to the Board voluntarily surrendering the right to practice professional nursing in Texas.

CONCLUSIONS OF LAW

1. Pursuant to Article 4525, Revised Civil Statutes of Texas, as amended, 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 Article 4525(b)(9), TEX. REV. CIV. STAT. ANN., and 22 TEX. ADMIN. CODE §217.13(1)&(16).
4. The evidence received is sufficient cause pursuant to Article 4525(b), TEX. REV. CIV. STAT. ANN., to take disciplinary action against license number 553697, heretofore issued to Gaynell Arney.
3. Under Article 4525.1(c), Revised Civil Statutes of Texas, as amended, the Board has the authority to accept the voluntary surrender of a license.
4. Under Article 4525.1(d), Revised Civil Statutes of Texas, as amended, the Board may impose conditions for reinstatement of licensure.

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ORDER


NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Permanent Certificate Number 553697, heretofore issued to GAYNELL ARNEY, to practice professional nursing in the State of Texas, is accepted by the Executive Director on behalf of the Board of Nurse Examiners. In connection with this acceptance, the Board imposes the following conditions:

1. Respondent SHALL NOT practice professional nursing, use the title of "registered nurse" or the abbreviation "RN" or wear any insignia identifying herself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that Respondent is a registered nurse during the period in which the license is in surrender.
2. Respondent SHALL NOT petition for reinstatement until she can provide evidence of five (5) years of continuous sobriety.
3. Upon petitioning for reinstatement, Respondent SHALL satisfy all then existing requirements for relicensure.

Effective this 27th day of April, 1998.

BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

By:

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



Date Produced: 09/26/2011

STATE OF TEXAS

The following is the delivery information for Certified Mail™ item number 7199 9991 7030 2844 6347. Our records indicate that this item was delivered on 09/21/2011 at 02:32 p.m. in HEMPHILL, TX, 75948. The scanned image of the recipient information is provided below.

Signature of Recipient:

A handwritten signature in cursive script that reads "Rodney Arney".

Rodney Arney

Address of Recipient:

PO Box 1003

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,

United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

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