



Katherine A. Thomas
Executive Director of the Board

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.

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Vocational Nurse License Number 123063 §
issued to JOANNA LEE HOWARD § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JOANNA LEE HOWARD, Vocational Nurse License Number 123063, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(2),(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 May 30, 2012, by Katherine A. Thomas, MN, RN, FAAN, 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 Vernon Regional Junior College, Vernon, Texas, on August 19, 1988. Respondent was licensed to practice vocational nursing in the State of Texas on December 8, 1988.
5. Respondent's complete nursing employment history is unknown.

6. On or about May 11, 2010, Respondent submitted a License Renewal Form to the Texas Board of Nursing in which she answered "Yes" 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 judgment/punishment/action?"

Respondent disclosed that on or about April 15, 2010, Respondent pled Guilty and was convicted of DEADLY CONDUCT, a Class A misdemeanor offense committed on November 3, 2009, in the County Court, Knox County, Texas, under Cause No. 9580. As a result of the conviction, Respondent was sentenced to confinement in the Knox County Jail for a period of one hundred eighty (180) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of one (1) year, and ordered to pay restitution in the amount of three hundred seventy-seven dollars and forty cents (\$377.40), along with a fine and court costs.

7. In response to Finding of Fact Number Six (6), Respondent states she was prescribed Xanax after her husband left her. Not using good judgement, she got behind the wheel while she was feeling very drowsy and ran her car into a ditch. The police came and she was charged with DWI. When she went to court she was convicted of deadly conduct because she had not been drinking, and because she could have killed herself or someone else. She will never take Xanax again.
8. However, Respondent failed to disclose that on or about January 19, 2010, Respondent was arrested by the Texas Highway Patrol Regional 5 District A, Lubbock, Texas, and subsequently charged under Cause No. 6163, for POSSESSION DANGEROUS DRUG, a Class A misdemeanor offense. On or about July 20, 2010, Cause No. 6163 was dismissed in County Court, Stonewall County, Texas, because of insufficient evidence; however, the criminal charge was still pending at the time Respondent submitted the renewal to the Board.

9. Respondent also failed to disclose that on or about or about January 20, 2010, Respondent was arrested by the Stonewall County Sheriff's Office, Aspermont, Texas, for THEFT PROPERTY \geq \$50 < \$500, a Class B misdemeanor offense. On July 20, 2010, prosecution rejected the charge without a pre-trial diversion; however, the criminal charge was still pending at the time Respondent submitted the renewal to the Board.
10. In response to Findings of Fact Numbers Eight (8) and Nine (9), Respondent states she apologizes for not informing the Board of the charges from January 2009. She thought since the charges were dismissed she didn't have to disclose them. When the incident occurred, she had been sleeping in the back seat of her car, while her best friend drove her home, because Respondent was very sick. The next thing she knew she was thrown on the floor board of the car. The car was totaled because the driver, her best friend, was under the influence. The police came and searched the car. The police found pills in Respondent's purse, which were not in their original bottles. The charge was dismissed because it was proven that they were prescribed to her.

After she was released from jail, she walked two blocks to get something to eat. Upon arriving at the restaurant she as instructed by an officer that she needed to return to the police station to be questioned about a missing cell phone and coat, which belonged to her friend. Upon arrival to the station, Respondent's possessions were searched and no phone was found. Once she returned to the restaurant, she was approached by another officer and informed that her purse needed to be searched for possession of a stolen phone and coat. The phone was mysteriously found in her purse the second time. When she tried to defend herself, the officer in charge insisted that she was being too emotional and as a result she was charged with theft. The phone and coat belonged to friend and couldn't have been stolen, as the police were told by her friend.

11. On or about May 15, 2012, Respondent submitted a License Renewal Form to the Texas Board of Nursing in which she answered "Yes" 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 judgment/punishment/action?"

Respondent disclosed that on or about March 27, 2012, Respondent was arrested by the Archer County Sheriff's Office, Archer County, Texas, and subsequently charged under Cause No. CR-2012-00066 for DRIVING WHILE INTOXICATED 1ST OFFENSE, a Class B misdemeanor offense committed on July 14, 2011. On or about April 11, 2012, Cause No. CR-2012-00066 was dismissed in the County Court, Archer County, Texas, in accordance with a plea bargain agreement because Respondent pled Guilty to Cause No. CR-2012-00067.

Respondent also disclosed that on or about April 11, 2012, Respondent pled Guilty to POSSESSION OF MARIJUANA UNDER 2OZ, a Class B misdemeanor offense committed on July 14, 2011, in the County Court, Archer County, Texas, under Cause No. CR-2012-00067. 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 one (1) year, and ordered to pay a fine and court costs.

12. In response to Finding of Fact Number Eleven (11), Respondent states she had another wreck on July 14, 2011, and she was taken to the hospital via helicopter. The wreck had nothing to do with drugs or alcohol, just anger. She was angry because she found marijuana in her daughter's car. She later found out that she had a warrant out for her arrest, but she was not arrested because she just had spinal surgery. On March 27, 2012, she was informed by the Sheriff that she had to go to court on charges of DWI and Possession of Marijuana. She admits that there was a quarter ounce of pot in her purse, but the marijuana was her daughter's. Respondent took a plea bargain and was informed that the DWI would be dismissed, and after a year the Possession of Marijuana charge would be wiped from her record completely. Archer County dropped the DWI because her blood test showed no alcohol and no marijuana were found in her system. Respondent will be attending marijuana and victim impact class. When her back is healed, her physician is sending her to rehab to get off the pain pills. Respondent feels that Archer County has punished her enough, and the Board should not punish her further.

Respondent adds that she has been a nurse for over twenty years and has never been in trouble until her husband left her, and she had two spinal surgeries. She feels that twenty plus years of good behavior should mean something.

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)(2),(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(I)&(13).
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 123063, heretofore issued to JOANNA LEE HOWARD, 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.texas.gov/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. *Board-approved courses may be found at the following Board website address: <http://www.bon.texas.gov/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	Meperidine
Barbiturates	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 and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

(9) RESPONDENT SHALL CAUSE her probation officer to submit written reports on forms provided to the Respondent by the Board. The reports shall indicate the RESPONDENT'S compliance with the court ordered probation. The reports shall be furnished each and every three (3) month period until RESPONDENT is released from probation.

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 violation(s) 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 23 day of July, 2012
Joanna L. Howard
JOANNA LEE HOWARD, Respondent

Sworn to and subscribed before me this 23rd day of July, 2012
Melissa M. Hays
Notary Public in and for the State of Texas

SEAL



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 23rd day of July, 2012, by JOANNA LEE HOWARD, Vocational Nurse License Number 123063, and said Order is final.

Effective this 11th day of September, 2012.



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