

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.
Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 139072 §
issued to ANGELA DENISE TOMECEK § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of ANGELA DENISE TOMECEK, Vocational Nurse License Number 139072, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Article 4528(c), sec. 10(9), TEX. REV. CIV. STAT. ANN.(eff. 09/01/1993), Section 302.402(a)(10), Texas Occupations Code (eff. date 09/01/1999), and Section 301.452(b)(3)&(10), Texas Occupations Code (eff. date 09/01/2007). Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on December 1, 2010, 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.
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 McLennan Community College, Waco, Texas, on August 28, 1992. Respondent was licensed to practice vocational nursing in the State of Texas on December 6, 1992.
5. Respondent's nursing employment history is unknown.

6. On or about June 16, 1994, Respondent entered a plea of Guilty Nolo Contendere and was convicted of POSS MARIJUANA <=2 OZ (a Class B misdemeanor offense committed on April 11, 1994), in the County Court at Law of McLennan County, Texas, under Cause No. 941407CR1. As a result of the conviction, Respondent was sentenced to confinement in the McLennan County Jail for a period of one hundred (100) days; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of twelve (12) months. Additionally, Respondent was ordered to pay a fine and court costs.
7. In response to Finding of Fact Number Six (6), Respondent states that she had been clean and sober, submitting to random blood and alcohol testing, when marijuana was found. She attended drug classes as directed, paid the fines and submitted urine tests.
8. On or about September 12, 2000, Respondent entered a plea of Guilty to POSSESSION OF A CONTROLLED SUBSTANCE, TO-WIT: METHAMPHETAMINE UNDER ONE GRAM (a 3rd Degree felony offense committed on February 3, 2000), in the 264th District Court of Bell County, Texas, under Cause No. 51,071. 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 ten (10) years. Additionally, Respondent was ordered to pay a fine and court costs. Further, Respondent was ordered to serve a term of confinement in the State Jail for a period of no more than one hundred eighty (180) days.

On or about September 27, 2000, a First Order Amending Conditions of Community Supervision was entered, modifying the stipulations, including the deletion of the State Jail confinement condition, and including adding a stipulation requiring Respondent to serve a term of no less than three (3) months or more than twenty-four (24) months in the Central Texas Treatment Center, a substance abuse treatment facility.

On or about August 24, 2004, a Second Order Amending Conditions of Community Supervision was entered, modifying the stipulations, including an order to surrender herself to Bell County Jail on August 24, 2004, and remain in the Bell County Jail until transported to Substance Abuse Felony Punishment Facility (SAFPF), and then to remain in SAFPF for no more than one (1) year.

On March 17, 2008, an Order to Adjudicate was entered for the reasons:

- A. Defendant tested positive for marijuana and methamphetamine on February 13, 2008.
- B. Defendant tested positive for marijuana and methamphetamine on March 20, 2006.
- C. Defendant tested positive for marijuana and methamphetamine on August 24, 2004.

- D. Defendant tested positive for marijuana and methamphetamine on July 16, 2004.
- E. Defendant failed to report to the community Supervision Officer for the months of March and June, 2004.
- F. Defendant failed to report to the community Supervision Officer for the months of September and November 2007.
- G. Defendant failed to pay her supervision fee for each month of the direct supervision period.
- H. Defendant failed to participate in substance abuse testing and submit a urine/saliva/breath specimen at the direction of the Community Supervision Officer.

On or about October 16, 2008, Respondent entered a plea of Guilty and was convicted of POSSESSION OF A CONTROLLED SUBSTANCE, TO WIT: METHAMPHETAMINE UNDER ONE GRAM (a State Jail felony offense committed on February 3, 2000, sentenced as a Class A misdemeanor under sec 12.44(a) PC, Date of Original Community Supervision Order September 12, 2000), in the 264th District Court of Bell County, Texas, under Cause No.51071. As a result of the conviction, Respondent was sentenced to confinement in the Bell County Jail for a period of one (1) year. Respondent received credit for one hundred sixty-six (166) days of incarceration.

- 9. In response to Finding of Fact Number Eight (8), Respondent states that her youngest daughter's father, who had been struggling with drugs over the holidays, came to visit. The police were thirty minutes behind him. Respondent asked him if he had any drugs on him, and he told her "No," which was a lie. The police searched Respondent's house and car, only finding drugs on him. However, she was still charged and received ten years deferred adjudication. She finally reported it when it was adjudicated. She couldn't handle Probation coming to her work, calling her work and scheduling appointments during her work, making it more and more difficult. She states she spent seven days in jail and got time served.
- 10. On October 8, 2010, Respondent met with Dr. Troy Martinez, Psy.D., Corpus Christi, Texas. Dr. Martinez used, as the basis of his evaluation, a clinical interview with Respondent; Personality Assessment Inventory; Substance Abuse Subtle Screening Inventory; review of available records and a Polygraph Report performed by Larry Serna, Licensed Polygraph Examiner, dated October 19, 2010. As a result of this evaluation, Dr. Martinez strongly recommends that, should the Board endorse Respondent's fitness to practice nursing, Respondent be referred to TPAPN and be held to the highest standards and procedures for monitoring active use of illicit drugs, including but not limited to participation in outpatient substance abuse treatment, random drug testing, and periodic polygraph examination targeting illicit substance use and general criminal behavior.

11. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Article 4528c, TEX. REV. STAT. ANN. and of Sections 301.401-301.419, Texas Occupations Code.
12. 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.
13. Respondent's conduct described in Findings of Fact Numbers Six (6) and Eight (8), resulted from Respondent's impairment by dependency on chemicals.
14. 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 Article 4528(c), Sec. 10(9), TEX. REV. CIV. STAT. ANN.(eff. 09/01/1993), Section 302.402(a)(10), Texas Occupations Code (eff. date 09/01/1999), and Section 301.452(b)(3)&(10), Texas Occupations Code (eff. date 09/01/2007), is a violation of 22 TEX. ADMIN. CODE §239.11(28) (eff. dates 09/01/1993 and 09/01/1999) and 22 TEX. ADMIN. CODE §217.12(11)(B)&(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 139072, heretofore issued to ANGELA DENISE TOMECEK, including revocation of Respondent's license 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 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 is 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 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 to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 7 day of January, 2011.

Angela D. Tomecek
ANGELA DENISE TOMECEK, Respondent

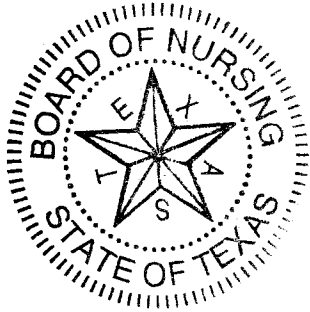
Sworn to and subscribed before me this 7 day of January, 2011.

SE




Pam Hatzenbuehler
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 7th day of January, 2011, by ANGELA DENISE TOMECEK, Vocational Nurse License Number 139072, and said Order is final.



Entered and effective this 18th day of January, 2011.


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