



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 Registered Nurse License Number 697596 § AGREED
issued to MELISSA MARIE ASTON § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the B considered the matter of MELISSA MARIE ASTON, Registered Nurse License Number 697 hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9),(10)&(12) Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on December 28, 2009, 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 informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received a Baccalaureate Degree in Nursing from Texas Christian - Harris College, Fort Worth, Texas, on May 1, 2003. Respondent was licensed to practice professional nursing in the State of Texas on July 8, 2003.
5. Respondent's professional nursing employment history includes:

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| 08/03 - 09/05 | RN | Cooks Children's Medical Center Fort Worth, TX |
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Respondent's professional nursing employment history (continued):

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|-----------------|---------|---|
| 10/05 - 06/06 | Unknown | |
| 07/06 - 09/06 | RN | Community Hospice of Texas, Fort Worth, TX |
| 02/07 - 09/07 | RN | Guardian Healthcare Fort Worth, TX |
| 09/07 - 12/08 | RN | Texas Health Management Group/IntegCare Hospice Grapevine, TX |
| 01/09 - Present | Unknown | |

6. At the time of the incident referenced in Finding of Fact Number Nine (9), Respondent was employed as a Registered Nurse with Community Hospice of Texas, Fort Worth, Texas, and had been in this position for approximately two (2) months.
7. On or about February 6, 2006, Respondent entered a plea of Guilty and was subsequently Convicted of DRIVING WHILE INTOXICATED (a Class B Misdemeanor offense committed on October 20, 2005), filed in the County Criminal Court No. 4 of Tarrant County, Fort Worth, Texas, under Cause No. 0998354. As a result of the conviction, Respondent was sentenced to confinement in the Tarrant County Jail for a period of sixty-five (65) days. Additionally, Respondent was ordered to pay a fine and court costs.
8. In response to Finding of Fact Number Seven (7), Respondent admits to the offense and states that she voluntarily admitted herself into an in-patient rehabilitation facility, which was successfully completed on December 23, 2005. Additionally, Respondent states that while she was in rehabilitation, she was diagnosed with bipolar disorder. Respondent states that she is currently on the proper medication and treatment and has not had a bipolar episode in a year and has not had a drink in almost two (2) years. Respondent states that she was not employed as a nurse at the time of the incident.
9. On or about September 3, 2006, while employed as a Registered Nurse with Community Hospice of Texas, Fort Worth, Texas, Respondent lacked the fitness to practice professional nursing in that she had an unsteady gait, she was unable to focus enough to count IV pumps, she had slurred speech, and her pupils were dilated. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

10. In response to Finding of Fact Number Nine (9), Respondent states that she was asked to leave work but states that she was not impaired. Respondent states that she had been treated for hypertension for approximately five (5) years and that her blood pressure was 200/120 when she arrived at home that evening. Respondent states that when her blood pressure is that elevated, she gets light headed and loses balance. Additionally, Respondent states that she offered at that time to be tested for the presence of drugs or alcohol but was denied. Furthermore, Respondent states that she voluntarily admitted herself into a rehabilitation facility. Respondent states that she took time away from nursing to get the treatment she needed.
11. On or about October 17, 2008, through November 26, 2008, while employed as a Registered Nurse with Texas Health Management Group/IntegrCare Hospice, Grapevine, Texas, Respondent called in four (4) prescriptions, totaling three hundred thirty-six (336) tablets, of Hydrocodone 10/325 for a patient. Additionally, during this time, the pharmacy refused to refill these prescriptions on at least two (2) occasions stating that it was too early to refill. Furthermore, on or about December 6, 2008, after the medications were delivered to the patient's home, Respondent insisted on seeing the patient personally, even though her position was a Clinical Service Manager. Respondent failed to complete nurse's notes or document the purpose of her visits. Respondent's conduct was likely to injure the patient in that the administration of narcotics in excess of, or without physicians' orders, could result in the patient suffering from adverse reactions.
12. In response to Finding of Fact Number Eleven (11), Respondent states that Texas Health required two (2) of their Clinical Service Managers to help by continuing to see patients until additional staff could be hired. Respondent states that she did not insist on seeing patients and that it was not her idea to continue to see the patients once she was promoted to the Clinical Services Manager position. Additionally, Respondent states that the patient in question was known to Texas Health as a drug-seeker. Respondent states that the patient had 'fired' several other nurses within the company because they would question him on the amount of Hydrocodone he was taking. Respondent states that this was well known by the entire staff and it was discussed many times. Furthermore, many other nurses requested medication for the patient.
13. On or about December 1, 2008, while employed as a Registered Nurse with Texas Health Management Group/IntegrCare Hospice, Grapevine, Texas, Respondent approached the Medical Director for pain medication and was given a prescription for Hydrocodone 10/325 for thirty (30) days. Additionally, Respondent attempted to contact the Medical Director several times on December 14, 2008, seeking additional medication. Furthermore, Respondent's employment was terminated on December 9, 2008. Respondent's use of Hydrocodone may indicate a chemical dependency on Hydrocodone which may affect her ability to safely practice professional nursing.

14. In response to Finding of Fact Number Thirteen (13), Respondent states that she had told the staff, including the physician, that she was suffering from pneumonia. Respondent states that the physician offered to write a prescription for Hydrocodone 7.5/325mg with one (1) refill so that Respondent could go to the pharmacy that was in the same building and have it filled immediately. Additionally, Respondent states that she contacted the physician because she was trying to get the prescription transferred to a local pharmacy because she was no longer working in the building where the initial pharmacy was located.
15. On or about October 29, 2009, and December 4, 2009, Respondent underwent a forensic psychological evaluation, performed by Alexander Howe, Ph.D., Clinical Psychologist, Waco, Texas. Dr. Howe stated that Respondent presented a complexity of issues (medically and psychiatrically) that significantly impacted her performance as a Registered Nurse within the State of Texas. Given Respondent's history and current diagnoses, Dr. Howe recommended that Respondent re-consult a trained mental health provider who could address the diagnoses determined through the current evaluation. Dr. Howe proposed that given Respondent's enduring and minimally resolved physical health issues, her underlying and coexisting depressive disorder, and her past history of alcohol abuse/dependence, the potential for exacerbation of her depression and re-utilization of alcohol exists. Dr. Howe recommended that Respondent continue to participate in the available peer support groups in the community that address alcohol abuse/dependence, and investigate the assistance available from the Texas Peer Assistance Program for Nurses.
16. 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.
17. 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.
18. 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 violation of Section 301.452(b)(9),(10)&(12) Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(B)&(E),(4),(5)&(13).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 697596, heretofore issued to MELISSA MARIE ASTON, 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):

RESPONDENT SHALL deliver the wallet-sized license issued to MELISSA MARIE ASTON, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order.

(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 five hundred (\$500.00) dollars 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 multistate licensure 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 multistate licensure privileges, if any, to practice nursing in the State of Texas.

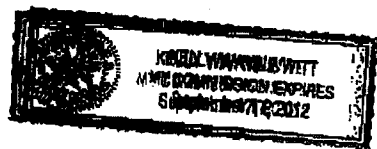
RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge 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 professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 9 day of February, 2010

Melissa Marie Aston
MELISSA MARIE ASTON, Respondent

Sworn to and subscribed before me this 9 day of February, 2010.



[Signature]
Notary Public in and for the State of Texas

Approved as to form and substance.

Taralynn R. Mackay
TARALYNN MACKAY, Attorney for Respondent

Signed this 17th day of February, 2010.

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 9th day of February, 20 10, by MELISSA MARIE ASTON, Registered Nurse License Number 697596, and said Order is final.

Entered and effective this 17th day of February, 20 10.



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

