



BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse
License Number 129943
issued to TRACIE ELAINE BUSHING

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REINSTATEMENT
AGREED ORDER

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.
William P. Thomas
Executive Director of the Board

On this day came to be considered by the Texas Board of Nursing, hereinafter referred to as the Board, the Petition for Reinstatement of Vocational Nurse License Number 129943 by TRACIE ELAINE BUSHING, hereinafter referred to as Petitioner.

An informal conference was held on June 2, 2009, at the office of the Texas Board of Nursing, in accordance with Section 301.464, Texas Occupations Code.

Petitioner appeared in person. Petitioner was notified of her right to be represented by legal counsel and elected to waive representation by counsel. In attendance were Mary Beth Thomas, PhD, RN, Director of Nursing, Executive Director's Designee; Robert Kyle Hensley, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director of Enforcement; and Carolyn Hudson, Investigator.

FINDINGS OF FACT

1. Prior to institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Petitioner waived representation by counsel, notice and hearing, and consented to the entry of this Order.
3. Petitioner received a Certificate in Vocational Nursing from Temple Junior College, Temple, Texas, on July 1, 1990. Petitioner was originally licensed to practice vocational nursing in the State of Texas on November 28, 1990.

4. Petitioner's vocational nursing employment history includes:

1990 - 1996	LVN	Scott and White Hospital Temple, Texas
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1997 - 1998	Not employed in nursing	
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5. On March 10, 1998, the Board of Vocational Nurse Examiners for the State of Texas accepted the voluntary surrender of Petitioner's license to practice vocational nursing in the State of Texas. A copy of the March 10, 1998, Order is attached and incorporated, by reference, as a part of this Order.
6. On or about November 20, 2008, Petitioner submitted a Petition for Reinstatement of her License to practice vocational nursing in the State of Texas.
7. Petitioner presented the following in support of her petition:
- 7.1. Letter of support, dated June 30, 2008, written by Edward Fasolino, MD, Family Medicine, Scott & White, Belton, Texas, states that Petitioner was prescribed Wellbutrin and is in good health. Dr. Fasolino states that Petitioner has no medical concerns that would prevent her from performing her nursing duties.
- 7.2. Letter of support, dated May 15, 2008, written by Chrystal Choats, Assistant Principal, Belton Middle School, Belton, Texas, states that Petitioner is employed by Belton ISD at Belton Middle School as a paraprofessional in a special education classroom. Petitioner is committed, positive, proactive, and a considerate person. Ms. Choats states that Petitioner is a dedicated employee and works well with students and peers. Ms. Choats states that Petitioner's judgment has proven to be sound and rational. Ms. Choats recommends reinstatement of Petitioner's nursing license.
- 7.3. Letter of support, dated May 19, 2008, written by Valerie Dorman, Special Education Teacher, Belton Middle School, Belton, Texas, states that Petitioner served as a substitute paraprofessional in her classroom and she was a selfless advocate for children. Petitioner worked with children with a variety of disabilities including emotionally disturbed and mentally retarded, and became a favorite of all the children. Ms. Dorman stated that Petitioner helps students express their wants and needs in a natural and productive way. Ms. Dorman recommends reinstatement of Petitioner's nursing license.

- 7.4. Letter of support, dated June 29, 2008, written by Missy Neeley, Clarke Elementary, Temple, Texas, states that she has known Petitioner for the last few years in different capacities ranging from professional to personal. Petitioner works daily with students of varying levels of learning and emotional disabilities, and she is kind and empathetic while maintaining a high level of expectation that encourages the students to reach their highest potential. Ms. Neeley recommends reinstatement of Petitioner's nursing license.
- 7.5. Letter of support, written by Cindy Hotz, states that she has known Petitioner for a year, and she is a person of good character. Petitioner has overcome her battles and deals with them in positive ways. Ms. Hotz recommends reinstatement of Petitioner's nursing license.
- 7.6. Verification of successful completion of twenty (20) Type I Continuing Education Contact Hours.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Pursuant to Section 301.467, Texas Occupations Code, the Board may refuse to issue or renew a license, and may set a reasonable period that must lapse before reapplication. Pursuant to 22 TEX. ADMIN. CODE §213.26, the Board may impose reasonable conditions that a Petitioner must satisfy before reissuance of an unrestricted license.

ORDER

IT IS THEREFORE AGREED, subject to ratification by the Texas Board of Nursing, that the petition of TRACIE ELAINE BUSHING, license number 129943, to practice vocational nursing in the state of Texas, be and the same is hereby GRANTED, AND SUBJECT TO THE FOLLOWING CONDITIONS SO LONG AS THE PETITIONER complies 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 the stipulations contained in this Order:

IT IS FURTHER AGREED and ORDERED that while Petitioner's license is encumbered by this Order, Petitioner may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas and the Board of Nursing in the party state where Petitioner wishes to work.

(1) PETITIONER SHALL NOT seek employment or practice nursing for compensation until she has completed the following pre-licensure conditions and obtained a license to practice vocational nursing from the Board.

(2) PETITIONER SHALL apply for a "Six-Month Clinical Permit" for the limited purpose of completing a refresher course. PETITIONER SHALL NOT, in any way, attempt to use this clinical permit for any purpose other than attending this course.

(3) PETITIONER SHALL, within one (1) year of entry of this Order and prior to practicing as a vocational nurse, successfully complete a nursing refresher course. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include Nurses. The course's content shall include: 1) the role and scope of the vocational nurse; 2) a review of the nursing process to include focused assessment, planning, implementation and evaluation; 3) pharmacology review; 4) medication administration review for all standard routes of administration; 5) documentation, ethical and legal implications for nursing practice; and 6) current CPR certification. This course shall include a minimum of the clinical components, providing direct patient care supervised by another nurse, as stated on the Board's website, <ftp://www.bon.state.tx.us/6mth-lvn.pdf>.

(4) Upon completion of the refresher course, PETITIONER SHALL return the clinical permit to the office of the Board, and PETITIONER SHALL CAUSE the sponsoring institution to notify the Board, on a form provided by the Board, of Petitioner's successful completion of the refresher course, including the required clinical component.

(5) Upon verification of successful completion of the agreed pre-licensure conditions of reinstatement, as set out in this Order, PETITIONER SHALL pay all re-registration fees and be issued a license to practice vocational nursing in the State of Texas, which shall bear the appropriate notation. Said license issued to TRACIE ELAINE BUSHING, shall be subject to the following agreed post-licensure stipulations:

(6) PETITIONER SHALL pay a monetary fine in the amount of three hundred fifty dollars (\$350.00). PETITIONER SHALL pay this fine within forty five (45) days of relicensure. Payment is to be made directly to the Board of Nurse Examiners in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(7) PETITIONER SHALL, within one (1) year of relicensure, successfully complete a course in nursing jurisprudence and ethics. PETITIONER 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) contact 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. PETITIONER 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 PETITIONER's successful completion of the course. This course is to be taken in addition to any other courses stipulated in this Order, if any, and 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.state.tx.us/about/stipscourses.html>.

IT IS FURTHER AGREED, SHOULD PETITIONER PRACTICE AS A VOCATIONAL NURSE IN THE STATE OF TEXAS, PETITIONER WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR TWO (2) YEARS 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 VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(8) PETITIONER SHALL notify all future employers in vocational nursing of this Order of the Board and the stipulations on PETITIONER's license. PETITIONER 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.

(9) PETITIONER SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Petitioner by the Board, to the Board's office within five (5) days of employment as a vocational nurse.

(10) For the first year of employment as a vocational nurse under this Order, PETITIONER SHALL be directly supervised by a Registered Nurse or a Licensed Vocational Nurse. Direct supervision requires another professional or vocational nurse to be working on the same unit as PETITIONER and immediately available to provide assistance and intervention. PETITIONER SHALL work only on regularly assigned, identified and predetermined unit(s). The PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(11) For the remainder of the stipulation period, PETITIONER SHALL be supervised by a Registered Nurse or a Licensed Vocational Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as PETITIONER, 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 Petitioner is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(12) PETITIONER SHALL NOT practice as a vocational nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Petitioner is regularly assigned for one (1) year of employment as a vocational nurse.

(13) PETITIONER SHALL NOT practice as a vocational nurse in any critical care area for one (1) year of employment as a vocational nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(14) PETITIONER SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a vocational nurse.

(15) PETITIONER SHALL CAUSE each employer to submit, on forms provided to the Petitioner by the Board, periodic reports as to Petitioner's capability to practice vocational nursing. These reports shall be completed by the Registered Nurse or Licensed Vocational Nurse who supervises the PETITIONER. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) months for two (2) years of employment as a vocational nurse.

(16) PETITIONER 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, PETITIONER 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 PETITIONER SHALL submit to an evaluation by a Board**

approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.

(17) PETITIONER 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 second 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.

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 PETITIONER's place of employment at any time during the stipulation period and require PETITIONER 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. PETITIONER 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 will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board. Failure to report for a drug screen may be considered the same as a positive result and may result in further disciplinary action by this Board.

(18) PETITIONER SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and PETITIONER SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by PETITIONER. PETITIONER SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) months. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from PETITIONER's license and PETITIONER shall be eligible for multistate licensure privileges, if any, to practice vocational nursing in the State of Texas.

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PETITIONER'S CERTIFICATION

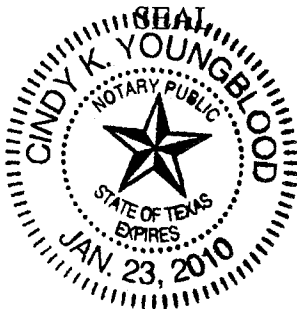
I understand that I have the right to legal counsel prior to signing this Reinstatement Agreed Order. I waive representation by counsel. I certify that my past behavior, except as disclosed in my Petition for Reinstatement of Licensure, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of convictions, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

I have reviewed this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. 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 agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to reinstating my license to practice vocational nursing in the state of Texas. 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 19th day of June, 2009.

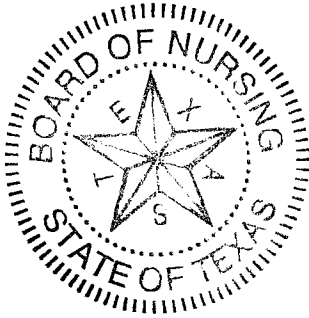
Tracie Elaine Bushing
TRACIE ELAINE BUSHING, Petitioner

Sworn to and subscribed before me this 19th day of June, 2009.

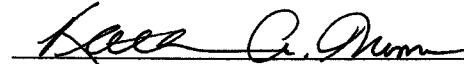


Cindy K. Youngblood
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 19th day of June, 2009, by TRACIE ELAINE BUSHING, Vocational Nurse License Number 129943, and said Order is final.



Effective this 23rd day of July, 2009.


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

00129943

BEFORE THE BOARD OF VOCATIONAL NURSE EXAMINERS
IN AND FOR THE STATE OF TEXAS

In the matter of Permanent
License Number 129943 issued
to TRACIE BUSHING

ORDER OF THE BOARD

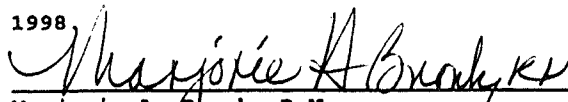
To: TRACIE BUSHING
7919 MCGREGOR PARK RD
TEMPLE, TX 76501

WHEREAS, TRACIE BUSHING has submitted to the Board an affidavit that he/she no longer desires to be licensed as a vocational nurse, and that he/she is voluntarily surrendering their license, the Board takes the following action:

ORDER

NOW THEREFORE, IT IS ORDERED that license number 129943, heretofore issued to TRACIE BUSHING, to practice vocational nursing in the State of Texas be, and the same is hereby revoked without formal charges, Notice of Hearing, or a formal hearing before the Board of Vocational Nurse Examiners.

Entered this the 10th day of March 1998.


Marjorie A. Bronk, R.N.
Executive Director
Board of Vocational Nurse Examiners

SWORN AND SUBSCRIBED to before me, the undersigned authority, on this the 10th day of March 1998.


NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

00129943

BOARD ORDER
RE: TRACIE BUSHING, LVN #129943
PAGE: 2

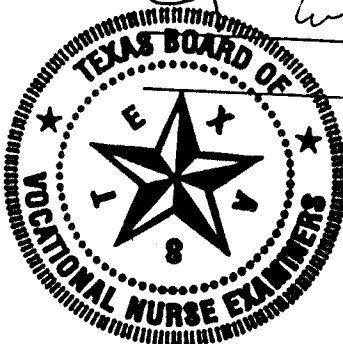
THE STATE OF TEXAS
COUNTY OF TRAVIS

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NOW COMES the undersigned members of the Board of Vocational Nurse Examiners, on this the 10th day of March 1998, who having heard the sworn statement executed by Tracie Bushing, have determined that said Tracie Bushing, has voluntarily surrendered her vocational nursing license number 129943, for revocation without the otherwise required formal charges, notice, or a hearing. Said license is hereby revoked by Order of a majority of the members of the Board.

Gillian K. Knauer
Linger Brenner
Debra Hamey
Shirley Cherry
Janet Wood-Young
Kathleen Powell
Wm M

[Signature]
Alvin Gini
Cathy Barnett
Bergie Lee
Betty Smith
Janette Bowers



0012994

BOARD ORDER
RE: TRACIE BUSHING, LVN #129943
PAGE: 3

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of March, 1998,
a true and correct copy of the foregoing Order was served by placement in the
U.S. Mail, first class, and addressed to the following person(s):

TRACIE BUSHING
7919 MCGREGOR PARK RD
Temple, TX 76501

Marjorie A. Bronk, R.N.
Marjorie A. Bronk, R.N.
Executive Director
Agent for the Board of Vocational Nurse Examiners

00129943

State of Texas

County of Bell*
*
*

AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared TRACIE BUSHING, who being by me duly sworn, deposes as follows:

My name is TRACIE BUSHING, I am over 18 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am a Licenses Vocational Nurse in the State of Texas and I am voluntarily surrendering my license to the Board of Vocational Nurse Examiners because I no longer desire to be licenses.

I understand that through this action the Board of Vocational Nurse Examiners may revoke my license without formal charges, notice, or a hearing.

I hereby waive my right to appeal or complain of any Order entered by the Board of Vocational Nurse Examiners accepting the voluntary surrender of my license.

I further understand that one (1) year from the date the Board of Vocational Nurse Examiners accepts the voluntary surrender of my License I may request reinstatement of my License by submitting a letter of request to the Board of Vocational Nurse Examiners.

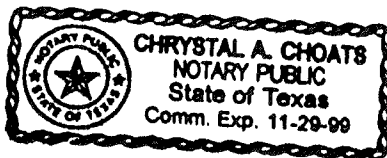
Tracie Marie Bushing
Affiant

7919 McGowan Park Road
Current Address

Wimpey TX 76501
City, State and Zip

254-986-8241
Telephone

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on the 2nd day of March, 1998.



Chrystal A. Choats
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My Commission expires 11-29-99

MAR 09 1998



BOARD OF

3

February 6, 1998

TRACIE BUSHING
7919 MCGREGOR PARK ROAD
TEMPLE TX 76502

Z 224 159 887

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to	Tracie Bushing
Street & Number	7919 McGregor Park Road
Post Office, State, & ZIP Code	Temple, TX 76502
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

PS Form 3800, April 1995

This office is in receipt of information alleging that while employed as a licensed vocational nurse at Scott & White Hospital in Temple, Texas, on or about May-June 1997, you diverted Phenergan. Furthermore, it is alleged that you obtained or attempted to obtain excess prescription medication by fraudulent means.

It has also been alleged that you are non-compliant with the Texas Peer Assistance Program for Nurses (TPAPN).

We have initiated an investigation into this matter to determine if you have violated any of the provisions of the Vocational Nurse Act of Texas (Article 4528c, V.A.C.S.).

You are afforded this opportunity to respond to the allegations that have been made and to show that you have complied with all requirements of the law, i.e., Article 4528c, Section 10, V.A.C.S., for the retention of your license to practice vocational nursing in Texas.

We have enclosed Order Forms for a copy of the Vocational Nurse Act and Rules and Regulations.

You may be interested in a provision of the Vocational Nurse Act for the Voluntary Surrender of a license. The return of the license along with your notarized statement that you no longer desire to be licensed, will enable the Board to revoke your license without formal charges, notice or a hearing. We are enclosing such an affidavit form for your consideration. To execute it, please sign the affidavit before a notary public and return it to the Board office, along with any vocational nursing license(s)/renewal form that you have in your possession.

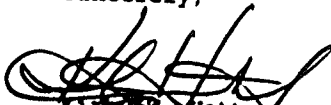
One (1) year from the date the Board accepts the voluntary surrender, you may request a reinstatement hearing by submitting a letter to the Board office. You must be present at your reinstatement hearing, and the Board will require that you provide evidence of rehabilitation/fitness to practice vocational nursing.

00129943

Tracie Bushing, LVN #129943
February 6, 1998
Page 2

Thank you for your attention. If you have any questions concerning this matter,
please contact the Investigation Division.

Sincerely,


Kirby W. Hutton
Investigator

KWH/vg

Enclosures: Voluntary Surrender Affidavit and Order Forms
(Certified Mail - RRR)