



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.
Suzanne Formby Marshall
Executive Director of the Board

DOCKET NUMBER 507-12-3911

IN THE MATTER OF § BEFORE THE STATE OFFICE
PERMANENT CERTIFICATE §
NUMBER 172993 § OF
ISSUED TO §
DEBBIE DENESE WHITEHORN § ADMINISTRATIVE HEARINGS

OPINION AND ORDER OF THE BOARD

TO: DEBBIE DENESE WHITEHORN
202 CASCA STREET
HALLSVILLE, TX 75650

SUZANNE FORMBY MARSHALL
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting on October 18-19, 2012, the Texas Board of Nursing (Board) considered the following items: (1) Order Number 2, *Dismissing Case*, issued by the Administrative Law Judge (ALJ) in the above cited matter; (2) Staff's recommendation that the Board revoke the Respondent's vocational nursing license by default; and (3) Respondent's recommendation to the Board regarding the above cited matter, if any.

On July 9, 2012, the ALJ convened a hearing on the merits in this matter. Staff of the Board was present for the hearing. However, the Respondent was not present at the hearing, and no one appeared on her behalf. During the hearing on July 9, 2012, Staff introduced evidence into the record demonstrating that Respondent had been sent an Amended Notice of Hearing by first class certified mail return receipt requested to her last known address of record maintained by the Board in accordance with 22 Tex. Admin. Code §213.10(a). The ALJ found that Staff's amended notice was adequate, granted Staff's Motion for Default, and issued Order No. 2, dismissing the case from the docket of the State Office of Administrative Hearings (SOAH) and remanding it to the Board for informal disposition on a default basis in accordance with the Government Code §2001.056.

The Board, after review and due consideration of Order Number 2, *Dismissing Case*, finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with the Government Code §2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Occupations Code Chapter 301 (Nursing Practice Act) for retention of Respondent's license to practice vocational nursing in the State of Texas. The Board further finds that the Formal Charges were properly initiated and filed in accordance with the Occupations Code §301.458. The Board further finds that proper and timely notice regarding the violations alleged in the Formal Charges was given to Respondent in accordance with the requirements of the Government Code §2001.051 and §2001.052 and 1 Tex. Admin. Code §155.501. The Board further finds that the Respondent failed to appear in accordance with 22 Tex. Admin. Code Chapter 213 and 1 Tex. Admin. Code §155.501. As a result of the

Respondent's failure to appear, the Board has determined that the factual allegations listed in the Amended Notice of Hearing and Formal Charges are to be deemed admitted by default and the Board is authorized to enter a default order against the Respondent pursuant to the Government Code §2001.056 and 22 Tex. Admin. Code §213.16. Further, the Board has determined that it is entitled to revoke the Respondent's vocational nursing license pursuant to 22 Tex. Admin. Code §213.33(m).

Therefore, the Board hereby adopts the factual allegations, which have been deemed admitted, and the conclusions of law contained in the Formal Charges, which are attached hereto and incorporated herein by reference for all purposes, and 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 in accordance with the Government Code Chapter 2001 and 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.

IT IS, THEREFORE, ORDERED THAT Permanent Certificate Number 172993, previously issued to DEBBIE DENESE WHITEHORN, to practice 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 multi-state privileges, if any, to practice nursing in the State of Texas.

Entered this 18th day of October, 2012.

TEXAS BOARD OF NURSING


KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR FOR THE BOARD

Attachment: Amended Notice of Hearing and Formal Charges.

TEXAS BOARD OF NURSING

In the Matter of Permanent

Certificate Number 172993

Issued to DEBBIE D. WHITEHORN

AMENDED NOTICE OF HEARING

SOAH Docket No. 507-12-3911

Respondent: Debbie D. Whitehorn
202 Casca St.
Hallsville, TX 75650

In accordance with Section 2001.051 et seq., Texas Government Code, you are hereby notified that a hearing will be held before an Administrative Law Judge (ALJ), beginning on the (9th) day of July, 2012, at 9 a.m., at the State Office of Administrative Hearings, William P. Clements Building, 300 West 15th Street, 4th Floor, Austin, Texas, 78701, regarding Formal Charges previously filed and served upon you by the Texas Board of Nursing. The Formal Charges are attached and incorporated by reference as a part of this notice.

The hearing is to be held under the legal authority and jurisdiction of the Administrative Procedures Act, Texas Government Code §2001 et seq.; Title I Part VII Texas Administrative Code Chapter 155; the Nursing Practice Act, Texas Occupations Code §301.451 through §301.555; and the Board of Nursing Rule 213 at 22 Texas Administrative Code.

The particular sections of statutes and rules involved in determining the charges are stated in the attached Formal Charges in connection to the facts or conduct alleged.

Pursuant to 22 TEX. ADMIN. CODE §213.22, you are required to enter an appearance in this proceeding by filing a written answer or other responsive pleading with the State Office of Administrative Hearings, P.O. Box 13025, Austin, Texas, 78711-3025, with a copy to the staff (General Counsel, Texas Board of Nursing, 333 Guadalupe, Suite 3-460, Austin, Texas 78701). **FAILURE TO ENTER AN APPEARANCE BY FILING A WRITTEN ANSWER OR OTHER RESPONSIVE PLEADING TO THE FORMAL CHARGES WITHIN TWENTY (20) DAYS OF THE DATE THIS NOTICE WAS MAILED, SHALL ENTITLE THE STAFF TO A CONTINUANCE AT THE TIME OF THE HEARING.** "Staff" is defined by 22 TEX. ADMIN. CODE §213.1(41). Continuances are set by the Administrative Law Judge.

You have the right to appear at this hearing and to have legal representation at the hearing at your own expense. **FAILURE TO APPEAR AT THE HEARING IN PERSON OR BY LEGAL REPRESENTATIVE, REGARDLESS OF WHETHER AN APPEARANCE HAS BEEN ENTERED, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF SHALL BE GRANTED BY DEFAULT.**

If it is determined that the Formal Charges are substantiated, then any prior disciplinary action that has been taken against your license will be considered when determining the appropriate sanction for these violation(s).

Issued, dated, and mailed this, the 14th day of May 2012.

TEXAS BOARD OF NURSING



By: _____

Katherine A. Thomas

Katherine A. Thomas, MN, RN, FAAN
Executive Director

In the Matter of Permanent License § BEFORE THE TEXAS
Number 172993, Issued to §
DEBBIE DENESE WHITEHORN, Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, DEBBIE DENESE WHITEHORN, is a Vocational Nurse holding license number 172993, which is in current 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 January 27, 2009, Respondent failed to comply with the Agreed Order issued to her on December 9, 2008, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Two (2) of the Order which states, in pertinent part:

(1) Respondent shall pay a monetary fine in the amount of five hundred dollars (\$500.00) within forty-five (45) days of entry of this Order....

A copy of the December 9, 2008, Agreed Order, Findings of Fact and Conclusions of Law, is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) and (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

CHARGE II.

On or about December 10, 2009, Respondent failed to comply with the Agreed Order issued to her on December 9, 2008, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Three (3) of the Order which states, in pertinent part:

(3) Respondent shall, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics....

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) and (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

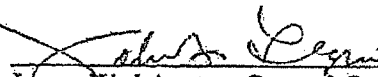
NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of revocation of Respondent's license to practice vocational nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to § 301.461, TEX. OCC. CODE ANN. 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.

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 December 9, 2008.

Filed this 27th day of October, 2010.

TEXAS BOARD OF NURSING


James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Renee Koslan 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: Agreed Order dated December 9, 2008.

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 172993 §
issued to DEBBIE DENESE WHITEHORN § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board,
considered the matter of DEBBIE DENESE WHITEHORN, Vocational Nurse License Number
172993, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have
violated Section 301.452(b)(10), Texas Occupations Code. Respondent waived representation by
counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on
September 4, 2008, by Katherine A. Thomas, MN, RN, 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.
2. Respondent waived representation by counsel, informal conference, 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 Tyler Junior College on August 6, 1999. Respondent was licensed to practice vocational nursing in the State of Texas on September 15, 1999.
5. Respondent's vocational nursing employment history includes:

11/99 - 02/00	Staff LVN	Taylor Medical Center
		Longview, Texas

Respondent's professional nursing employment history continued:

02/00 - 07/07	Staff LVN	Care Team Home Health Longview, Texas
07-07 - Present	Unknown	

7. At the time of the incident, Respondent was employed as a Licensed Vocational Nurse with Care Team Home Health, and had been in this position for seven (7) years and five (5) months.

8. On or about June 28, 2007, while employed as a Licensed Vocation Nurse with Care Team Home Health, Longview, Texas, Respondent falsely documented that she had made a skilled nurse visit for Medicaid Number 527171434. Respondent also admitted in a internal investigation, that she had falsely documented a skilled nurse visit for hours she had never worked. Respondent's conduct deceived the facility and created an inaccurate, fraudulent employee health record.
9. In response to finding of Fact Number Eight (8), Respondent states: I was told that occasionally we had to work over our scheduled hours, so the extra hours would be taken off of the following week's hours. This is what happened that week, I had worked over the week before and was doing what I was told was acceptable. Respondent also states, that she was "going to make up those hours next week."

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)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(A)&(H).
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 172993, heretofore issued to DEBBIE DENESE WHITEHORN, including revocation of Respondent's license to practice vocational 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 WARNING 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 this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice vocational 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 State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to DEBBIE DENESE WHITEHORN to the office of the Texas Board of Nursing within ten (10) days of the date of ratification of this Order for appropriate notation.

(2) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500). RESPONDENT SHALL pay this fine within forty-five (45) days of entry of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted

(3) 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) 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. 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:*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A LICENSED VOCATIONAL 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 ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) 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:

(4) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT's license. 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. 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.

(5) 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.

(6) RESPONDENT 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 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.

(7) 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 Registered Nurse or Licensed Vocational 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 one (1) year of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice vocational nursing in the State of Texas.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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 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 when this Order becomes final and the terms of this Order become effective, 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

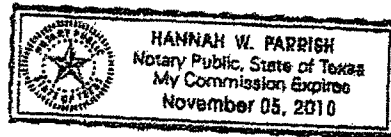
Signed this 23 day of October, 2008.

Debbie Denese Whitehorn
DEBBIE DENESE WHITEHORN, Respondent

Sworn to and subscribed before me this 23 day of October, 2008.

SEAL

Hannah W. Parrish
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 ratify and adopt the Agreed Order that was signed on the 23rd day of October, 2008, by DEBBIE DENESE WHITEHORN, Vocational Nurse License Number 172993, and said Order is final.

~~Effective this 9th day of December, 2008.~~



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