



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.  
*Patricia A. Pappas*  
Executive Director of the Board

**DOCKET NUMBER 507-13-4749**

**IN THE MATTER OF** § **BEFORE THE STATE OFFICE**  
**PERMANENT CERTIFICATE** §  
**NUMBER 142983** § **OF**  
**ISSUED TO** §  
**TAMMY J. CARROLL** § **ADMINISTRATIVE HEARINGS**

**OPINION AND ORDER OF THE BOARD**

**TO: TAMMY J. CARROLL**  
**700 E. CRAVEN**  
**PAMPA, TX 79065**

**BETH BIERMAN**  
**ADMINISTRATIVE LAW JUDGE**  
**300 WEST 15TH STREET**  
**AUSTIN, TEXAS 78701**

At the regularly scheduled public meeting on October 17-18, 2013, the Texas Board of Nursing (Board) considered the following items: (1) Order Number 2, *Dismissing Case*, issued by the 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 22, 2013, 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 22, 2013, Staff introduced evidence into the record demonstrating that Respondent had been sent a Notice of Final 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 notice was adequate and issued Order No. 2, granting Staff's Motion for Default and dismissing the case from the docket of 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*, issued by the ALJ in the above cited matter, 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 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 §213.22. 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 §213.23(l), as applicable. 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 142983, previously issued to TAMMY J. CARROLL, 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.

FURTHER, pursuant to the Occupations Code §301.467, RESPONDENT is not eligible to petition for reinstatement of licensure until at least one (1) year has elapsed from the date of this Order. Further, upon petitioning for reinstatement, RESPONDENT must satisfy all then existing requirements for relicensure.

Entered this 18<sup>th</sup> day of October, 2013.

TEXAS BOARD OF NURSING

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

Attachment: Formal Charges

In the Matter of § BEFORE THE TEXAS  
Permanent Vocational Nurse §  
License Number 142983 §  
Issued to TAMMY J. CARROLL, §  
Respondent § BOARD OF NURSING

### FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, TAMMY J. CARROLL, is a Vocational Nurse holding License Number 142983, 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 April 25, 2013, Respondent became non-compliant with the Agreed Order issued to her by the Texas Board of Nursing on February 6, 2013. Non-compliance is the result of her failure to apply to and be accepted into the Texas Peer Assistance Program for Nurses (TPAPN). Stipulation Number One (1) of the Agreed Order dated February 6, 2013, states, in pertinent part:

"(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."

On or about April 25, 2013, Respondent was dismissed from TPAPN and referred back to the Board.

A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated February 6, 2013, 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)&(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 up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and 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 Section 301.461, Texas Occupations Code. 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.texas.gov](http://www.bon.texas.gov).

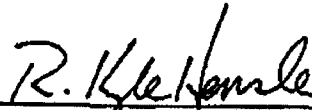
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Guidelines for Criminal Conduct and on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, which can be found at the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at [www.bon.texas.gov/disciplinaryaction/discp-matrix.html](http://www.bon.texas.gov/disciplinaryaction/discp-matrix.html).

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order dated February 6, 2013.

Filed this 6<sup>th</sup> day of June, 2013.

TEXAS BOARD OF NURSING



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

Jena Abel, Assistant General Counsel  
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel  
State Bar No. 24066924

John R. Griffith, Assistant General Counsel  
State Bar No. 24079751

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) 305-6811  
F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Board dated February 6, 2013.  
D/2012.06.19



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 § AGREED  
Vocational Nurse License Number 142983 §  
issued to TAMMY J CARROLL § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of TAMMY J CARROLL, Vocational Nurse License Number 142983, 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)&(12) and 301.453, Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on October 27, 2012.

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 Frank Phillips College, Borger, Texas, on May 13, 1993. Respondent was licensed to practice vocational nursing in the State of Texas on August 30, 1993.
5. Respondent's nursing employment history is unknown.

6. On or about July 25, 2005, Respondent pled Guilty to DEADLY CONDUCT, a Class A misdemeanor offense committed on August 14, 2004, in the County Court, Carson County, Texas, under Cause No. 8108. As a result of the plea, the proceedings against Respondent were deferred without entering 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.
7. In response to Finding of Fact Number Six (6), Respondent states that, on August 14, 2004, she and her husband went an hour from home for her parents' anniversary. While she was driving home, she dropped her pack of cigarettes and swerved when she reached down to pick them up. She was pulled over and arrested for DWI. The next day, she obtained legal counsel and discovered that the breathalyzer machine was not properly calibrated. Because of that, her charge was reduced to deadly conduct, and she was given deferred adjudication with one year probation. She paid all fines and court costs and completed probation in 6 months.
8. On or about April 26, 2006, Respondent submitted an Online Renewal Document Licensed Vocational Nurse to the Board of Nurse Examiners for the State of Texas, in which she provided false, deceptive, and/or misleading information, in that she answered "No" to the question:

"Have you been convicted, adjudged guilty by a court, plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrest (excluding minor traffic violations) since the last renewal? This includes expunged offense and deferred adjudications with or without prejudice of guilt. Please note that DUI's, DWI's, PI's must be reported and are not considered minor traffic violations. (One time minor in possession [MIP] or minor in consumption [MIC] do not need to be disclosed, therefore, you may answer "No". If you have two or more MIP's or MIC's, you must answer "Yes".)"

Respondent failed to disclose that, on or about July 25, 2005, Respondent pled Guilty to DEADLY CONDUCT, a Class A misdemeanor offense committed on August 14, 2004, in the County Court, Carson County, Texas, under Cause No. 8108. As a result of the plea, the proceedings against Respondent were deferred without entering adjudication of guilt, and Respondent was placed on probation for a period of one (1) year.

9. On or about July 10, 2010, Respondent was arrested by the Pampa Police Department, Pampa, Texas, for DRIVING WHILE INTOXICATED, a Class B misdemeanor offense. On or about August 13, 2012, Respondent pled Guilty and was convicted of DRIVING WHILE INTOXICATED, a Class B misdemeanor offense committed on July 10, 2010, in the Gray County Court, Gray County, Texas, under Cause No. 31770. As a result of the conviction, Respondent was placed on probation for a period of one (1) year.

10. On or about May 21, 2012, Respondent submitted an Online Renewal Document Licensed Vocational Nurse to the Texas Board of Nursing, in which she provided false, deceptive, and/or misleading information, in that she answered "No" 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 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 failed to disclose that on or about July 10, 2010, Respondent was arrested by the Pampa Police Department, Pampa, Texas, and subsequently charged under Cause No. 31770 for DRIVING WHILE INTOXICATED, a Class B misdemeanor offense. The criminal charge was still pending at the time Respondent submitted the renewal to the Board.

11. On or about May 21, 2012, Respondent submitted an Online Renewal Document Licensed Vocational Nurse to the Texas Board of Nursing, in which she provided false, deceptive, and/or misleading information, in that she answered "No" to the question:

"In the past 5 years, have you been addicted or treated for the use of alcohol or any other drug? (You may answer "no" if you have completed and/or are in compliance with TPAPN)"

Respondent failed to disclose that after July 10, 2010, she attended a six (6) week outpatient program in Plainview, Texas.

12. In response to Findings of Fact Numbers Eight (8) through Eleven (11), Respondent states that the only reason she can give for not disclosing these offenses to the Board is she just flat forgot about them. She is truly sorry about it, and she has been an excellent nurse for 19 years. On July 10, 2010, she went to a bar 6 blocks from her house with some friends after a hard day of work. When she left, she was pulled over by an officer who said he heard her tires squeal. She was arrested for DWI. Since this arrest, she was fired from her job as a corporate nurse. She went to a 6 week out patient program in Plainview, Texas, and completed it successfully. She has not consumed alcohol or been in trouble since July 10, 2010.

13. On or about August 16, 2012, Respondent underwent a Chemical Dependency Evaluation, performed by Emily Fallis, Ph.D. Dr. Fallis's summary is that the results of the MMPI and PAI indicated Respondent was defensive in her approach to these tests, while the results of the SASSI-III indicate a high probability of having dependence disorder. Respondent demonstrated evidence of substance abuse, as well as possible evidence of substance dependence. She is in need of substance abuse treatment at this time. Respondent has a high risk of engaging in behaviors which the Board has identified as unprofessional conduct. Dr. Fallis is uncertain about the possibility of Respondent abusing substances as part of her duties as a nurse, and would need more information about the reason her job ended in May 2012 to address this risk. Given Respondent's unwillingness to acknowledge alcohol abuse, an intensive outpatient or inpatient treatment program is recommended.
14. The Respondent's conduct as described in the preceding Finding(s) of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
15. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to imtemperate use of controlled substances or chemical dependency.
16. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use disorder.
17. 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(s) of 22 TEX. ADMIN. CODE §217.12(5),(6)(I)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2),(9),(10)&(12), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 142983, heretofore issued to TAMMY J CARROLL, including revocation of Respondent's license(s) 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 all applicable license(s) 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.

(5) RESPONDENT SHALL pay a monetary fine in the amount of seven hundred fifty dollars (\$750). 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.

(6) 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>.*

(7) 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 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(s) is/are 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(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

BALANCE OF 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(s) 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

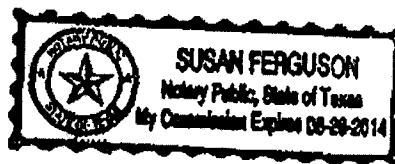
Signed this 28 day of January, 2013.

Tammy Carroll  
TAMMY CARROLL, RESPONDENT

Sworn to and subscribed before me this 28 day of January, 2013

SEAL

Susan Ferguson  
Notary Public in and for the State of \_\_\_\_\_



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 28th day of January, 20 13, by TAMMY J CARROLL, Vocational Nurse License Number 142983, and said Order is final.

Entered and effective this 6th day of February, 20 13.



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