



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 A. Thomas
Executive Director of the Board

In the Matter of
Permanent Vocational Nurse
License Number 132550
Issued to KATHLEEN ESTHER YESIAN,
Respondent

§ BEFORE THE TEXAS
§
§
§
§ BOARD OF NURSING

ORDER OF TEMPORARY SUSPENSION

TO: KATHLEEN ESTHER YESIAN
4807 TURTLE RIVER DR
LEANDER, TX 78641

A public meeting of the Texas Board of Nursing was held on December 1, 2014 at 333 Guadalupe, Room 3-460, Austin, Texas, in which the Temporary Suspension of Permanent Vocational Nurse License Number 132550, issued to KATHLEEN ESTHER YESIAN was considered pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE. Staff of the Texas Board of Nursing appeared and presented evidence and information concerning the conduct of KATHLEEN ESTHER YESIAN and whether her continued practice as a nurse would constitute a continuing and imminent threat to the public welfare.

After review and due consideration of the evidence and information presented, the Board finds that the following charges are substantiated:

On or about October 2, 2014, Respondent became noncompliant with the Agreed Order issued to her by the Texas Board of Nursing on February 18, 2014. Noncompliance is the result of Respondent missing seven (7) drug tests, consistently missing her required daily calls to the drug testing system, and Respondent's failure to disclose her arrest to her case manager. Stipulation Number Three (3) of the Agreed Order dated February 18, 2014, states, in pertinent part:

- (3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term...

Specifically, on or about October 2, 2014, Respondent was dismissed from TPAPN for

noncompliance and referred back to the Board.

The Texas Board of Nursing further finds that, given the nature of the charges concerning her fitness to practice, the continued practice of nursing by KATHLEEN ESTHER YESIAN constitutes a continuing and imminent threat to public welfare and that the temporary suspension of Permanent Vocational Nurse License Number 132550, is justified pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE.

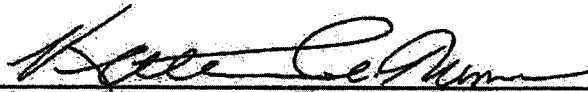
NOW, THEREFORE, IT IS ORDERED that Permanent Vocational Nurse License Number 132550, issued to KATHLEEN ESTHER YESIAN, to practice nursing in the State of Texas be, and the same is/are, hereby SUSPENDED IMMEDIATELY in accordance with Section 301.4551, TEXAS OCCUPATIONS CODE.

IT IS FURTHER ORDERED that a probable cause hearing be conducted in accordance with Section 301.455(c) not later than seventeen (17) days following the date of the entry of this order, and a final hearing on the matter be conducted in accordance with 301.455(d) not later than the 61st day following the date of the entry of this order.

Entered this 1st day of December, 2014.

TEXAS BOARD OF NURSING

BY:



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR

In the Matter of	§	BEFORE THE TEXAS
Permanent Vocational Nurse	§	
License Number 132550	§	
Issued to KATHLEEN ESTHER YESIAN,	§	
Respondent	§	BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, KATHLEEN ESTHER YESIAN, is a Vocational Nurse holding License Number 132550, 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 October 2, 2014, Respondent became noncompliant with the Agreed Order issued to her by the Texas Board of Nursing on February 18, 2014. Noncompliance is the result of Respondent missing seven (7) drug tests, consistently missing her required daily calls to the drug testing system, and Respondent's failure to disclose her arrest to her case manager. Stipulation Number Three (3) of the Agreed Order dated February 18, 2014, states, in pertinent part:

- (3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term...

Specifically, on or about October 2, 2014, Respondent was dismissed from TPAPN for noncompliance and referred back to the Board.

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(6)(H)&(11)(B).

CHARGE II.

On or about July 10, 2014, Respondent lacked fitness to practice nursing in that she consumed medications before operating a motor vehicle that caused her to exhibit signs of physical impairment. Respondent was transported Scott & White Healthcare Round Rock Hospital where she was diagnosed with metabolic encephalopathy secondary to Seroquel. Respondent subsequently charged under Cause No. 14-1700-K26 for DRIVING WHILE INTOXICATED 3RD, a 3rd Degree felony offense committed on or about July 10, 2014. The criminal case is currently pending in the 26th Judicial District Court, Williamson County, Texas.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(12), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

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 and TEX. OCC. CODE Ch. 53. 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.

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.

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.

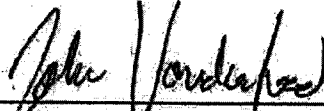
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NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order dated February 18, 2014.

Filed this 1st day of December, 2014.

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

Natalie E. Adelaja, Assistant General Counsel
State Bar No. 24064715

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

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

John F. Legris, Assistant General Counsel
State Bar No. 00785533

John Vanderford, Assistant General Counsel
State Bar No. 24086670

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 18, 2014

D/2014.08.18

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	CONFIDENTIAL AGREED ORDER
Vocational Nurse License Number 132550	§	FOR
issued to KATHLEEN ESTHER YESIAN	§	PEER ASSISTANCE PROGRAM

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of KATHLEEN ESTHER YESIAN, Vocational Nurse License Number 132550, 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)(9)&(10) and 301.453, Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered under the authority of Section 301.466(d), Texas Occupations Code, and approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on January 2, 2014.

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 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 Del Mar College, Corpus Christi, Texas, on January 4, 1991. Respondent was licensed to practice vocational nursing in the State of Texas on May 30, 1991.
5. Respondent's complete nursing employment history is unknown.

6. On or about December 12, 2012, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED 1ST, a Class B misdemeanor offense committed on or about February 19, 2012, in the County Court at Law No. 2, Comal County, Texas, under Cause No. 2012CR1124. As a result of the conviction, Respondent was sentenced to confinement in the Comal County Jail for a period of one hundred eighty (180) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of twelve (12) months and ordered to pay restitution, along with a fine and court costs.
7. On or about July 2, 2013, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED, a Class B misdemeanor offense committed on or about January 5, 2013, in the County Court at Law No. 3, Williamson County, Texas, under Cause No. 13-00641-3. As a result of the conviction, Respondent was sentenced to confinement in the Williamson County Jail for a period of five (5) days and ordered to pay a fine and court costs.
8. In response to Findings of Fact Numbers Six (6) and Seven (7), Respondent states she went to her doctor with complaints of not being able to sleep after witnessing an incident at work on February 11, 2012. Respondent states the physician increased her dosage of anti-anxiety medication. On February 19, 2012, Respondent was pulled over on suspicion of DWI. She had taken more of her anti-anxiety medication than usual. Respondent states there after, she entered an inpatient drug abuse treatment program in California out of concern about her excessive reliance on anti-anxiety drugs. Between December 12, 2012, and January 5, 2013, Respondent states she relapsed on anti-anxiety drugs and was charged with a second DWI. After this arrest, Respondent states she entered inpatient treatment/detox from March 27, 2013, to April 1, 2013. Then she successfully completed an intensive outpatient program at from July 22, 2013, to September 5, 2013.
9. 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.
10. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use disorder.
11. 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(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(9)&(10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 132550, heretofore issued to KATHLEEN ESTHER YESIAN, up to, and 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 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 and complete the enrollment process, 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.

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 that, while RESPONDENT remains in compliance with the terms of this Order, this Order shall remain confidential in accordance with the authority outlined in Section 301.466(d), Texas Occupations Code. However, should Respondent fail to successfully complete the terms of this Order or should Respondent commit a subsequent violation of the Nursing Practice Act or Board Rules, this Order shall be treated as prior disciplinary action and will become public information.

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.

RESPONDENT'S CERTIFICATION

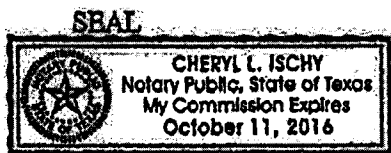
I understand that I have the right to legal counsel prior to signing this Agreed Order.

I have reviewed this Order. I neither admit nor deny the 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 14 day of February, 2014

Kathleen
KATHLEEN ESTHER VESIAN, RESPONDENT

Sworn to and subscribed before me this 14 day of February, 2014.



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

Approved as to form and substance.

[Signature]
Aaron C. De La Garza, Attorney for Respondent

Signed this 14th day of February, 2014.

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Confidential Agreed Order for Peer Assistance Program that was signed on the 14th day of February, 2014, by KATHLEEN ESTHER YESIAN, Vocational Nurse License Number 132550, and said Order is final.

Entered and effective this 18th day of February, 2014.



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