



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 Thomas
Executive Director of the Board

In the Matter of
Permanent Vocational Nurse
License Number 216863
Issued to PHEOBE JUNE SPENCE,
Respondent

§ BEFORE THE TEXAS
§
§
§
§ BOARD OF NURSING

ORDER OF TEMPORARY SUSPENSION

TO: Pheobe June Spence
1947 N. Nelson
Pampa, TX 79065

A public meeting of the Texas Board of Nursing was held on May 5, 2015 at 333 Guadalupe, Room 3-460, Austin, Texas, in which the Temporary Suspension of Permanent Vocational Nurse License Number 216863, issued to PHEOBE JUNE SPENCE 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 PHEOBE JUNE SPENCE 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:

CHARGE I.

On or about April 15, 2015, Respondent became non-compliant with the Agreed Order issued to her by the Texas Board of Nursing on March 10, 2015. Non-compliance is the result of Respondent's failure to abstain from alcohol in that she submitted a specimen for a drug screen which resulted positive for Ethyl Glucuronide and Ethyl Sulfate, which are metabolites of alcohol. Stipulation Numeral V of the Order dated March 10, 2015, states, in pertinent part:

"A. While under the terms of this Order, RESPONDENT SHALL abstain from the use of alcohol, tramadol and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose...."

A copy of the Findings of Fact, Conclusions of Law, and Order dated March 10, 2015, 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),(9)&(10), Texas Occupations Code, and is a violation of 22 Tex. Admin. Code §217.12(11)(B).

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 PHEOBE JUNE SPENCE constitutes a continuing and imminent threat to public welfare and that the temporary suspension of Permanent Vocational Nurse License Number 216863, is justified pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE.

NOW, THEREFORE, IT IS ORDERED that Permanent Vocational Nurse License Number 216863, issued to PHEOBE JUNE SPENCE, 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 5th day of May, 2015.

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 216863	§	
Issued to PHEOBE JUNE SPENCE,	§	
Respondent	§	BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, PHEOBE JUNE SPENCE, is a Vocational Nurse holding License Number 216863, 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 15, 2015, Respondent became non-compliant with the Agreed Order issued to her by the Texas Board of Nursing on March 10, 2015. Non-compliance is the result of Respondent's failure to abstain from alcohol in that she submitted a specimen for a drug screen which resulted positive for Ethyl Glucuronide and Ethyl Sulfate, which are metabolites of alcohol. Stipulation Numeral V of the Order dated March 10, 2015, states, in pertinent part:

"A. While under the terms of this Order, RESPONDENT SHALL abstain from the use of alcohol, tramadol and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose...."

A copy of the Findings of Fact, Conclusions of Law, and Order dated March 10, 2015, 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),(9)&(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.

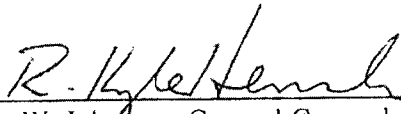
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, which can be found at the Board's website, www.bon.texas.gov.

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.

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 March 10, 2015.

Filed this 5th day of May, 2015.

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) 305-8657
F: (512) 305-8101 or (512) 305-7401

Attachments: Order of the Board dated March 10, 2015
D(2015.02.24)



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 216863	§	
issued to PHEOBE JUNE SPENCE	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of PHEOBE JUNE SPENCE, Vocational Nurse License Number 216863, 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)&(10), Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on November 6, 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 notice and hearing and agreed to the entry of this Order.
3. Respondent's license to practice as a vocational nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Frank Phillips College, Borger, Texas, on May 15, 2008. Respondent was licensed to practice vocational nursing in the State of Texas on July 24, 2008.
5. Respondent's vocational nursing employment history is unknown.
6. On or about June 28, 2011, Respondent entered a plea of Guilty to DEADLY CONDUCT, a Class A misdemeanor offense committed on or about May 8, 2011, in the County Court of Donley County, Texas, under Cause No. CCR-10-12850. As a result of the plea, the

proceedings against Respondent were deferred, without entering an adjudication of guilt, and Respondent was placed on probation for a period of two (2) years, and ordered to pay a fine and court costs.

7. On or about April 28, 2013, Respondent submitted an online renewal document to the Texas Board of Nursing in which she provided false, deceptive, and/or misleading information, in that she answered "no" to the following question:

"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

C. pled nolo contendere, no contest, or guilty?

E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?"

Respondent failed to disclose that on or about June 28, 2011, she entered a plea of Guilty to DEADLY CONDUCT, a Class A misdemeanor offense committed on or about May 8, 2011, in the County Court of Donley County, Texas, under Cause No. CCR-10-12850. As a result of the plea, the proceedings against Respondent were deferred, without entering an adjudication of guilt, and Respondent was placed on probation for a period of two (2) years, and ordered to pay a fine and court costs.

8. In response to the incidents in Findings of Fact Numbers Six (6) and Seven (7), Respondent states that the charges of Deadly Conduct were deferred so she did not realize she had to report the charge. Because the charges were no longer on her record, she assumed that it was not an actual charge. Respondent apologizes for her confusion.
9. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.
10. Formal Charges were filed on June 5, 2014.
11. Formal Charges were mailed to Respondent on June 9, 2014.

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 violation(s) of 22 TEX. ADMIN. CODE §217.12(6)(I)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2)&(10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 216863, heretofore issued to PHEOBIE JUNE SPENCE, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **REPRIMAND WITH STIPULATIONS** in accordance with the terms of this Order.

A. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

~~B. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.~~

C. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to 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.

III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for

licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) within one (1) year of the effective date of this Order, unless otherwise specifically indicated:

- A. A Board-approved course in Texas nursing jurisprudence and ethics that 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. Home study courses and video programs will not be approved.
- B. 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/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or ~~SHALL submit the continuing education certificate, as applicable,~~ to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at www.bon.texas.gov/compliance.*

IV. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse, providing direct patient care in a licensed healthcare setting, for a minimum of sixty-four (64) hours per month for eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) quarterly periods of employment as a nurse have elapsed. Any quarterly period without continuous employment with the same employer for all three (3) months will not count towards completion of this requirement. Periods of unemployment or of employment that do not require the use of a registered nurse (RN) or a vocational nurse (LVN) license, as appropriate,

will not apply to this period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** RESPONDENT SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.
- C. **Indirect Supervision:** RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as 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.
- D. **Nursing Performance Evaluations:** 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 nurse who supervises the RESPONDENT and these reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month quarterly period for eight (8) quarters [two (2) years] of employment as a nurse.

V. DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, RESPONDENT SHALL abstain from the use of alcohol, tramadol and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed,

RESPONDENT 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 RESPONDENT SHALL submit to a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.

B. While working as a nurse under the terms of this Order, RESPONDENT SHALL submit to random periodic screens for alcohol, tramadol, and controlled substances. The Board will provide instructions on how to enroll in the Board's drug and alcohol testing program following the entry of this Order and screening will begin when Respondent obtains employment and submits the Notification of Employment form to the Board.

- For the first three (3) month [1st quarter] period RESPONDENT works as a nurse under the terms of this Order, random screens shall be performed at least once per week.
- For the next three (3) month [2nd quarter] period, random screens shall be performed at least twice per month.
- For the next six (6) month period [3rd & 4th quarters], random screens shall be performed at least once per month.
- For the remainder of the stipulation/probation period, random screens shall be performed at least once every three (3) month quarterly period.

All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board. Any test result for a period of time in which the RESPONDENT is not working as a nurse under the terms of this Order will not count towards satisfaction of this requirement. 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. RESPONDENT SHALL be responsible for the costs of all random drug screening during the stipulation/probation period.

Specimens shall be screened for at least the following substances and their metabolites:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone

Cannabinoids
Cocaine
Ethanol
tramadol hydrochloride (Ultram)

Opiates
Phencyclidine
Propoxyphene

A Board representative may appear at the RESPONDENT'S place of employment at any time during the stipulation period and require RESPONDENT to produce a specimen for screening.

Consequences of Positive or Missed Screens. Any positive result for which RESPONDENT does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject RESPONDENT to further disciplinary action, including TEMPORARY 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. Further, failure to report for a drug screen, excessive dilute specimens, or failure to call in for a drug screen may be considered the same as a positive result or refusal to submit to a drug or alcohol screen.

VI. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

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(s) alleged herein. By my signature on this Order, I agree to the entry of this 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 possible revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 27th day of January, 2015.

Pheobe June Spence

PHEOBE JUNE SPENCE, Respondent

Sworn to and subscribed before me this 27th day of January, 2015.

SEAL

Teresa Henson

Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 27th day of January, 2015, by PHEOBE JUNE SPENCE, Vocational Nurse License Number 216863, and said Order is final.

Effective this 10th day of March, 2015.

A handwritten signature in cursive script, appearing to read "Katherine A. Thomas".

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