



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

## BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED
Vocational Nurse License Number 310970	§	
issued to RACHEL LEAH CALDWELL	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of RACHEL LEAH CALDWELL, Vocational Nurse License Number 310970, hereinafter referred to as Respondent.

This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Order.

The Board makes the following Findings of Fact and Conclusions of Law.

### 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 suspended status.
4. Respondent received a Certificate in Vocational Nursing from Trinity Valley Community College on August 17, 2012. Respondent was licensed to practice vocational nursing in the State of Texas on November 1, 2012.
5. Respondent's nursing employment history includes:

11/2012 - 03/2013

LVN

Green Oaks Health and Rehabilitation  
Arlington, Texas

Respondent's nursing employment history continued:

03/2013 - 08/2013	LVN	Girling Healthcare Austin, Texas
08/2013 - 08/2013	LVN	Mabank Nursing Home Mabank, Texas
09/2013 - Present	Unknown	

6. On or about April 8, 2014, Respondent's license to practice professional nursing in the State of Texas was issued a CONFIDENTIAL AGREED ORDER FOR PEER ASSISTANCE PROGRAM. The Findings of Fact, Conclusions of Law, and Agreed Order dated April 8, 2014 is attached and incorporated by reference, as part of this Order.
7. On or about October 12, 2015, Respondent became non-compliant with the Agreed Order issued to her by the Texas Board of Nursing on April 8, 2014. Non-compliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) participation agreement. Stipulation number three (3) of the Agreed Order dated April 8, 2014, states:

"RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her license(s) to practice nursing in the State of Texas current."

On or about October 12, 2015, Respondent was dismissed from the Texas Peer Assistance Program for Nurses (TPAPN) after multiple drug screening issues and her admission of alcohol consumption.

8. Formal Charges were filed on November 20, 2015.
9. Formal Charges were mailed to Respondent on November 20, 2015.
10. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license(s) to practice nursing in the State of Texas.
11. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
12. 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.

### 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(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1)&(10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 310970, heretofore issued to RACHEL LEAH CALDWELL, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.
6. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
7. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
8. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

### TERMS OF ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the **VOLUNTARY SURRENDER** of Vocational Nurse License Number 310970, heretofore issued to RACHEL LEAH CALDWELL, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing.

In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice vocational nursing, use the title "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying herself/himself as a vocational nurse, or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until:

- A. One (1) year has elapsed from the date of this Order; and,
  - B. RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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.

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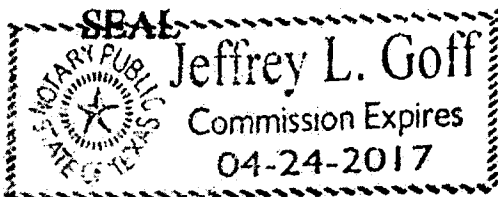
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RESPONDENT'S CERTIFICATION

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 this Order becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 4<sup>th</sup> day of January, 2016.  
Rachel Leah Caldwell  
RACHEL LEAH CALDWELL, Respondent

Sworn to and subscribed before me this 4<sup>th</sup> day of JANUARY, 2016.



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

#12527167-7

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept the voluntary surrender of Vocational Nurse License Number 310970, previously issued to RACHEL LEAH CALDWELL.

Effective this 4th day of January, 2016.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas".

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

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	CONFIDENTIAL
Vocational Nurse License Number 310970	§	AGREED ORDER FOR
issued to RACHEL LEAH CALDWELL	§	PEER ASSISTANCE PROGRAM

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of RACHEL LEAH CALDWELL, Vocational Nurse License Number 310970, 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), (12) & (13) and 301.453, Texas Occupations Code. Respondent waived representation by counsel, 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 March 10, 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 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 Trinity Valley Community College, Palestine, Texas, on August 17, 2012. Respondent was licensed to practice vocational nursing in the State of Texas on November 1, 2012.
5. Respondent's nursing employment history includes:

11/2012 - 03/2013

LVN

Green Oaks Health and Rehabilitation  
Arlington, Texas

Respondent's nursing employment history continued:

03/2013 - 08/2013	LVN	Girling Healthcare Austin, Texas
08/2013 - 08/2013	LVN	Mabank Nursing Home Mabank, Texas
09/2013 - Present	Unknown	

6. At the time of the incident, Respondent was employed as a Licensed Vocational Nurse with Mabank Nursing Home, Mabank, Texas, and had been in this position for approximately one (1) month.
7. On or about August 15, 2013, while employed as a Licensed Vocational Nurse with Mabank Nursing Home, Mabank, Texas, Respondent lacked fitness to practice nursing in that she exhibited impaired behavior including: slurred speech, unsteady gait, confusion, inability to answer questions and staring blankly into space. Additionally, Respondent admitted to taking Xanax, Valium and "Benzos" the morning before. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
8. On or about August 15, 2013, while employed as a Licensed Vocational Nurse with Mabank Nursing Home, Mabank, Texas, Respondent engaged in the intemperate use of Tetrahydrocannabinol (THC), Opiates, and Methamphetamine, in that she submitted a specimen for a reasonable suspicion drug screen that resulted positive for Tetrahydrocannabinol (THC), Opiates, and Methamphetamine. Unlawful possession of Tetrahydrocannabinol (THC), Opiates, and Methamphetamine, is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Tetrahydrocannabinol (THC), Opiates and Methamphetamine by a Licensed Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
9. In response to Findings of Fact Numbers Seven (7) and Eight (8), Respondent states that she was tired because she had just been given custody of her nephew and was under a great deal of stress. Respondent adds that she may have seemed a little "zoned out." Additionally, Respondent admits to taking a Valium the morning before and states she has a prescription for this. Respondent denies using THC and methamphetamine.
10. Respondent presented for a chemical dependency evaluation by John Lehman Ph.D. on February 18, 2014. Dr. Lehman states that Respondent does not deny that she may have taken Phentermine and Valium. Dr. Lehman states there is no doubt that Respondent's judgment was impaired in making the decision to go to work, and that Respondent should not have been working on that occasion. Dr. Lehman states the drug screen does not reveal the



medication Respondent was taking (valium), and Respondent denies any history of abuse of marijuana or opiates. Dr. Lehman states there could be some use of Benzodiazepines beyond what is prescribed as a result of significant anxiety problems and poor coping skills. Dr. Lehman adds that the primary issues are significant generalized anxiety and some depression. Dr. Lehman adds that he does not feel Respondent has built adequate coping skills so many of life's prompt significant emotional responses mostly in the form of substantial anxiety. Dr. Lehman states he believes this needs to be addressed and that the primary diagnoses are depression and generalized anxiety. Dr. Lehman concludes the best course would be a referral to TPAPN on a generalized anxiety diagnosis, but to include drug testing in the program. Dr. Lehman adds that Respondent needs to work with a physician to quit her use of benzodiazepines and find an alternative medication to assist in sleep.

11. 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.
12. 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.
13. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use disorder and mental illness.
14. 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 §217.11(1)(A),(1)(B)&(1)(T) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(4),(5),(10)(A),(10)(D)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(9),(10),(12)&(13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 310970, heretofore issued to RACHEL LEAH CALDWELL, 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.

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### RESPONDENT'S CERTIFICATION

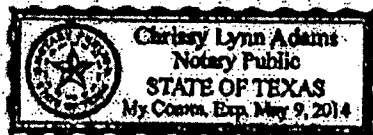
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer 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 3 day of April, 2014.

Rachel Leah Caldwell  
RACHEL LEAH CALDWELL, RESPONDENT

Sworn to and subscribed before me this 3 day of April, 2014.

SEAL



Christy Lynn Adams  
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 accept and enter the Confidential Agreed Order for Peer Assistance Program that was signed on the 3rd day of April, 20 14, by RACHEL LEAH CALDWELL, Vocational Nurse License Number 310970, and said Order is final.

Entered and effective this 8th day of April, 20 14.



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