



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 O. Thomas*  
Executive Director of the Board

IN THE MATTER OF PERMANENT  
PERMANENT VOCATIONAL NURSE  
LICENSE NUMBER 122774  
ISSUED TO LOWANA LORRAINE WORD,  
RESPONDENT

§ BEFORE THE TEXAS  
§ BOARD OF NURSING  
§  
§ ELIGIBILITY AND  
§ DISCIPLINARY COMMITTEE

**ORDER OF THE BOARD**

TO: LOWANA LORRAINE WORD  
2777 N BUCKNER BLVD, #115A  
DALLAS, TX 75228

During open meeting held in Austin, Texas, on **Tuesday, February 9, 2016**, the Texas Board of Nursing Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's license(s) to practice nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the 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 [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.

NOW, THEREFORE, IT IS ORDERED that Permanent Vocational Nurse License Number 122774, previously issued to LOWANA LORRAINE WORD, to practice nursing in the State of Texas be, and the same is/are hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

Entered this 9th day of February, 2016.

TEXAS BOARD OF NURSING

BY:



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KATHERINE A. THOMAS, MN, RN, FAAN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Attachment: Formal Charge filed October 16, 2015.

d17r(2014.12.05)

Re: Permanent Vocational Nurse License Number 122774  
Issued to LOWANA LORRAINE WORD  
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 16<sup>th</sup> day of February, 2016 a true and correct copy of the foregoing DEFAULT ORDER was served and addressed to the following person(s), as follows:

Via USPS Certified Mail, Return Receipt Requested

LOWANA LORRAINE WORD  
2777 N BUCKNER BLVD, #115A  
DALLAS, TX 75228

Via USPS First Class Mail

LOWANA LORRAINE WORD  
2777 N BUCKNER BLVD, #115A  
DALLAS, TX 75228

BY:



KATHERINE A. THOMAS, MN, RN, FAAN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

<b>In the Matter of</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
<b>Permanent Vocational Nurse</b>	<b>§</b>	
<b>License Number 122774</b>	<b>§</b>	
<b>Issued to LOWANA LORRAINE GENTRY, a/k/a,</b>	<b>§</b>	
<b>LOWANA LORRAINE WORD, Respondent</b>	<b>§</b>	<b>BOARD OF NURSING</b>

### **FORMAL CHARGES**

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, LOWANA LORRAINE GENTRY, a/k/a, LOWANA LORRAINE WORD, is a Vocational Nurse holding License Number 122774, 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 16, 2015, Respondent failed to comply with the Reinstatement Agreed Order issued to Respondent on April 16, 2014, 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 reads, in pertinent part:

- (3) "PETITIONER SHALL, within one (1) year of relicensure, successfully complete a course in Texas nursing jurisprudence and ethics..."

A copy of the Findings of Fact, Conclusions of Law and Order dated April 16, 2014, is attached and incorporated, by reference, as part of this Order.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations Code, and 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).

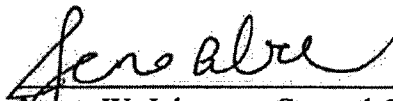
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, located at 22 TEX. ADMIN. CODE §213.33(b), which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

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 January 18, 2013, and Order dated April 16, 2014.

Filed this 16<sup>th</sup> day of October, 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

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 January 18, 2013  
Order of the Board dated April 16, 2014

D(2015.08.28)

DOCKET NUMBER 507-13-0087

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 122774  
ISSUED TO  
LOWANA LORRAINE GENTRY

§ BEFORE THE STATE OFFICE  
§  
§ OF  
§  
§ ADMINISTRATIVE HEARINGS

OPINION AND ORDER OF THE BOARD

TO: LOWANA LORRAINE GENTRY  
c/o MARC M. MEYER, ATTORNEY  
33300 EGYPT LANE, STE. B-200  
MAGNOLIA, TEXAS 77354-2739

SARAH STARNES  
ADMINISTRATIVE LAW JUDGE  
300 WEST 15TH STREET  
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting on January 17-18, 2013, the Texas Board of Nursing (Board) considered the following items: (1) The Proposal for Decision (PFD) regarding the above cited matter; (2) Staff's recommendation that the Board adopt all of the Findings of Fact and Conclusions of Law in the PFD regarding the vocational nursing license of Lowana Lorraine Gentry with changes; and (3) Respondent's recommendation to the Board regarding the PFD and order, if any.

The Board finds that after proper and timely notice was given, the above styled case was heard by an Administrative Law Judge (ALJ) who made and filed a PFD containing the ALJ's findings of facts and conclusions of law. The PFD was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein. No exceptions were filed by any party.

The Board, after review and due consideration of the PFD, Staff's recommendations, and the presentation by the Respondent during the open meeting, if any, adopts all of the findings of fact and conclusions of law of the ALJ contained in the PFD as if fully set out and separately stated herein, except for Conclusion of Law Number 7, which is not adopted by the Board and is hereby re-designated as a recommendation, and Conclusions of Law Numbers 5 and 6. Conclusions of Law Numbers 5 and 6 are modified and adopted as amended as set forth herein. All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

Modification of PFD

The Board has authority to review and modify a PFD in accordance with the Government Code §2001.058(e). Specifically, §2001.058(e)(1) authorizes the Board to change a finding of fact or conclusion of law made by the ALJ if the Board determines that the ALJ did not properly apply or interpret applicable law, agency rules, written policies, or prior administrative decisions.



I do hereby certify that this is 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.  
*Arlene C. Thomas*  
Executive Director of the Board

### Conclusions of Law Numbers 5 and 6

The ALJ states in Conclusion of Law Number 5 that the Respondent's license was revoked by operation of law upon revocation of her probation. The ALJ cites Attorney General Opinion GA-0064 in support of this conclusion. The ALJ states in Conclusion of Law Number 6 that the Respondent's license was revoked by operation of law upon her incarceration for a felony conviction. The ALJ also cites Attorney General Opinion GA-0064 in support of this conclusion. The Respondent's probation was revoked on July 15, 2005, and it was ordered that she be immediately remanded to jail<sup>1</sup>. To the extent that Conclusions of Law Numbers 5 and 6 imply that the Respondent's license was "auto-revoked" on July 15, 2005 by operation of law, the Board rejects the ALJ's analysis, conclusions, and recommendations in this regard, and finds that she failed to properly apply and/or interpret the applicable law in this matter for the reasons set forth herein.

The Board finds that the Respondent's nursing license must be revoked as a matter of law through proper Board action. To hold otherwise would undo many years of Board precedent in the matter of application of Tex. Occ. Code §53.021(b), hold in complete contradiction to several previously adopted administrative decisions concerning the same<sup>2</sup>, permit misapplication of the controlling law, and avoid the proper application of the law, which requires revocation of Respondent's license. Further, the ALJ's analysis is in direct contradiction to the requirements of the Administrative Procedure Act (APA) and the Nursing Practice Act (NPA).

The Board rejects any conclusion that can be drawn from the PFD that an individual's nursing license is "auto-revoked" when the individual is incarcerated or his/her probation is revoked. The Board finds that, until a determination is made through the contested case proceeding as set out in the APA, a final order of revocation is not made. While Tex. Occ. Code Chapter 53 mandates that a license holder's license shall be revoked on the license holder's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision, the statute does not prescribe how the revocation should occur. However, the Board finds that the use of the statutory language "shall be" indicates that an agency must take affirmative steps in order to effectuate the revocation of the license. Further, the Board finds that it must comply with the notice requirements of the APA and NPA prior to seeking revocation of an individual's license. Section 2001.054 of the APA states that the revocation of a license is not effective unless the agency gives notice of the facts or conduct alleged to warrant the intended action and gives the license holder the opportunity to show compliance with all requirements of law for the retention of the license. Similarly, §301.454 of the NPA provides that notice must be given to the license holder of the facts and conduct alleged to warrant the intended action by the Board, and provide the license holder the opportunity, in writing or through informal meeting, to show compliance with all requirements of law for the retention of the license. The Board finds that its duty under Tex. Occ. Code §53.021(b) to revoke the license of an individual whose probation has been revoked or who has been imprisoned does not modify or eliminate the Board's independent duty to provide the Respondent with the due process required by the APA and NPA prior

<sup>1</sup> See adopted Finding of Fact Number 3.

<sup>2</sup> See SOAH Docket Numbers 507-12-6396; 507-10-3000; and 507-11-3752.

to seeking said revocation. The ALJ appears to rely on an Attorney General Opinion in support of her conclusion that a license not only can be, but should be, "auto-revoked" upon an individual's revocation of probation or incarceration. An Attorney General Opinion cannot be applied in circumvention of the statutory duties imposed by the APA and NPA. The Board is aware that Attorney General Opinion GA -0064 opines that a licensee is revoked at the time the licensee's probation is revoked or the licensee is incarcerated. However, the Board notes that this Opinion was not discussing the specific application of Tex. Occ. Code §301.454 or the Board's duty to provide an appropriate notice of hearing when seeking to revoke a nursing license. The Board finds that a license revocation must occur, if at all, under the statutory authority of the APA, particularly §2001.054, and the NPA, particularly §301.454. To the extent that the Attorney General Opinion is being used as a vehicle to disregard the express duties of the Board found in the APA and NPA and circumvent the due process rights of the Respondent under the APA and NPA, the Board finds that this Opinion is not controlling as to the effective date of the revocation of the license. Further, the Board finds that the revocation of the Respondent's license can only be effectuated after proper notice and opportunity for hearing and through the issuance of a final Board Order.

For the reasons outlined herein, and under the authority of §2001.058(e)(1), IT IS, THEREFORE ORDERED THAT CONCLUSIONS OF LAW NUMBERS 5 and 6 are AMENDED and ADOPTED as follows:

Amended Conclusion of Law Number 5

5. Based on Findings of Fact Nos. 2 and 3, Respondent's vocational nursing license shall be revoked pursuant to Tex. Occ. Code §53.021(b).

Amended Conclusion of Law Number 6

6. Based on Findings of Fact Nos. 2 and 3, Respondent's vocational nursing license shall be revoked pursuant to Tex. Occ. Code §53.021(b).

Recommendation for Sanction

Although the Board is not required to give presumptively binding effect to an ALJ's recommendation regarding sanctions in the same manner as with other findings of fact or conclusions of law<sup>3</sup>, the Board agrees with the ALJ that Tex. Occ. Code §53.021(b) mandates the revocation of the Respondent's license. However, for the reasons described

<sup>3</sup> The Board, not the ALJ, is the final decision maker concerning sanctions. Once it has been determined that a violation of the law has occurred, the sanction is a matter for the agency's discretion. Further, the mere labeling of a recommended sanction as a conclusion of law or as a finding of fact does not change the effect of the ALJ's recommendation. As such, the Board is not required to give presumptively binding effect to an ALJ's recommendation regarding sanctions in the same manner as with other findings of fact and conclusions of law. The choice of penalty is vested in the agency, not in the courts. An agency has broad discretion in determining which sanction best serves the statutory policies committed to the agency's oversight. The propriety of a particular disciplinary measure is a matter of internal administration with which the courts should not interfere. See *Texas State Board of Dental Examiners v. Brown*, 281 S.W. 3d 692 (Tex. App. - Corpus Christi 2009, pet. denied); *Seitz vs. Tex. State Bd. of Dental Examiners*, 769 S.W.2d 746, 751 (Tex. App. - Austin 1988, no pet.); *Fleming's & Policemen's Civil Serv. Comm'n vs. Brinkmeyer*, 882 S.W.2d 853, 856 (Tex. 1994); *Gransk vs. Tex. State Bd. of Med. Examiners*, 172 S.W.3d 701, 701 (Tex. App. - Austin 2005, pet. denied); *Fay-Ray Corp. vs. Tex. Alcoholic Beverage Comm'n*, 859 S.W.2d 362, 369 (Tex. App. - Austin 1993, no pet.).

herein, the Board rejects any implication that the Respondent's license was "auto-revoked" on the day her probation was revoked and she was imprisoned, and instead finds the revocation of the Respondent's license to be effective as of the date this Order becomes final.

IT IS, THEREFORE, ORDERED THAT Permanent Certificate Number 122774, previously issued to LOWANA LORRAINE GENTRY, 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 January, 2013.

TEXAS BOARD OF NURSING

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

Attachment: Proposal for Decision; Docket No. 507-13-0087 (November 27, 2012).

# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

November 27, 2012

Katherine A. Thomas, M.N., R.N.  
Executive Director  
Texas Board of Nursing  
333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701

VIA INTERAGENCY

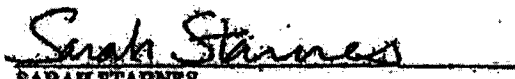
RE: SOAH Docket No. 507-13-0087; Texas Board of Nursing v. Lowana Lorraine Gentry

Dear Ms. Thomas:

Please find enclosed a Proposal for Decision Disposing of Case by Summary Disposition in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

  
SARAH STARNES  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

SS/ad

XC:

John Griffith, TBN, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 - VIA INTERAGENCY  
Dina Flores, Legal Assistant TBN, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 - VIA INTERAGENCY  
Lowana Lorraine Gentry, 1810 Alaska Avenue, Dallas, TX 75216 - VIA REGULAR MAIL

SOAH DOCKET NO. 507-13-0087

TEXAS BOARD OF NURSING,  
Petitioner

V.

LOWANA LORRAINE GENTRY,  
LVN LICENSE NO. 122774,  
Respondent

§  
§  
§  
§  
§  
§  
§  
§

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**PROPOSAL FOR DECISION  
DISPOSING OF CASE BY SUMMARY DISPOSITION**

The staff (Staff) of the Texas Board of Nursing (Board) seeks to revoke the vocational nurse license of Lowana Lorraine Gentry (Respondent) based on the revocation of her probation and subsequent imprisonment for unlawful possession of a fraudulent identification, a state-jail felony. Staff filed a Motion for Summary Disposition requesting a decision in its favor as a matter of law; Respondent did not file a response. After considering the Staff's motion and evidence and the applicable law, the Administrative Law Judge (ALJ) concludes that the Motion for Summary Disposition should be granted. Therefore, this Proposal for Decision recommends that the Board revoke Respondent's license based on the revocation of her felony probation and her incarceration.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

Jurisdiction and proper notice to Respondent were established. These matters are set out in the Findings of Fact and Conclusions of Law without further discussion.

After filing Formal Charges against Respondent in August 2012, Staff filed a Notice of Hearing with the State Office of Administrative Hearings (SOAH) on September 20, 2012. On October 4, 2012, Staff filed a Motion for Summary Disposition with supporting summary disposition evidence. After Respondent changed her address of record with the Board, Staff

re-filed its motion on November 6, 2012, and served it on Respondent at her new address. Respondent did not file a response to Staff's motion.

## II. SUMMARY DISPOSITION EVIDENCE

Staff presented uncontested summary disposition evidence (Staff Exhibits 1-6) which establish the following relevant facts:

- Respondent is a Vocational Nurse, issued license number 122774 by the Board.<sup>1</sup>
- On April 2, 2003, Respondent pleaded guilty to Unlawful Possession of a Controlled Fraudulent ID, a state-jail felony, in the 204<sup>th</sup> Judicial District Court, Dallas County, Texas in Cause No. F-0175033-IQ. The court deferred adjudicating Respondent's guilt and placed her on probation for a five-year term. The court also ordered her to pay restitution, a fine, and court costs.<sup>2</sup>
- On July 15, 2005, in Cause No. F-0175033-IQ, the court entered a Judgment Adjudicating Guilt finding Respondent guilty of Unlawful Possession of a Fraudulent ID, revoking her probation, and sentencing Respondent to eight months' confinement in the State Jail Division of the Texas Department of Criminal Justice.<sup>3</sup>
- The July 15, 2005 Judgment Adjudicating Guilt ordered that Respondent be "immediately" delivered to the custody of the "Director of the Institutional Division of the Texas Department of Criminal Justice or other person legally authorized to receive such convicts," and stated that Respondent was "hereby ordered remanded to jail . . . ."<sup>4</sup>

## III. DISCUSSION

An ALJ may issue a proposal for decision on all or part of a contested case without an evidentiary hearing if the evidence shows there is no genuine issue as to any material fact and a party is entitled to a decision in its favor as a matter of law. 1 Tex. Admin. Code § 155.505(a).

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<sup>1</sup> Staff Ex. 1.

<sup>2</sup> Staff Ex. 5 at p. 36.

<sup>3</sup> Staff Ex. 5 at pp. 47-49, 51.

<sup>4</sup> *Id.* at pp. 48, 49. Though the summary-disposition evidence does reflect when Respondent completed her incarceration, Staff's Motion alleges that Respondent was released on February 7, 2006.

Texas Occupations Code section 53.021(b) provides that "a license-holder's license shall be revoked on the license holder's imprisonment following a felony conviction [or] felony community supervision revocation. . ." (emphasis added). Moreover, it is well-settled that, pursuant to Section 53.021(b), "a licensed felon who is imprisoned or whose community supervision, parole, or mandatory supervision is revoked loses his or her license by operation of law," and the "licensing authority has a duty to revoke the license" under such circumstances. Tex. Att'y Gen. Op. No. GA-0064 (2003) (emphasis added).

Here, there is no genuine issue of material fact that the July 15, 2005 Judgment Adjudicating Guilt revoked Respondent's felony probation sentence. The same judgment sentenced Respondent to eight months' imprisonment commencing "Immediately," and provided that she was "hereby ordered remanded to jail"; the ALJ concludes it is reasonable to infer that Respondent was, in fact, incarcerated following that judgment. Both the revocation of Respondent's probation and her resulting incarceration constitute grounds for mandatory revocation under section 53.021(b), and Respondent is therefore not eligible to hold an occupational license. Accordingly, the ALJ grants Staff's Motion for Summary Disposition and recommends that the Board revoke Respondent's license.<sup>5</sup>

#### IV. FINDINGS OF FACT

1. Lowana Lorraine Gentry (Respondent) holds Vocational Nurse license 122774 (Respondent's License) issued by the Texas Board of Nursing (Board).
2. On April 2, 2003, Respondent pleaded guilty to Unlawful Possession of a Fraudulent ID, a state-jail felony, in the 204<sup>th</sup> Judicial District Court, Dallas County, Texas in Cause No. F-0175033-IQ. The court deferred adjudicating Respondent's guilt and placed her on probation for a five-year term, and also ordered her to pay restitution, a fine, and court costs.

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<sup>5</sup> In addition to Tex. Occ. Code § 53.021(b), Staff's Formal Charges also allege that disciplinary action is warranted based on an additional, prior conviction for Theft of Property by Check, an associated warrant for Respondent's arrest following the termination of her community supervision sentence, and Respondent's failure to disclose required information about her criminal history on her renewal application. However, because revocation is mandatory pursuant to Section 53.021(b), it is not necessary to reach the other charges made by Staff.

3. On July 15, 2005, Respondent's probation was revoked in Cause No. F-0175033-IQ, the court found Respondent guilty of Unlawful Possession of a Fraudulent ID, sentenced Respondent to eight months' confinement in the State Jail Division of the Texas Department of Criminal Justice, and ordered that Respondent be immediately remanded to jail.
4. On September 20, 2012, the Staff (Staff) of the Texas Board of Nursing (Board) provided to Respondent a Notice of Hearing which contained a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the applicable rules and statutes; and a short plain statement of the matters asserted.
5. On October 4, 2012, Staff filed a Motion for Summary Disposition with supporting summary disposition evidence.
6. After Respondent changed her address of record with the Board, Staff re-filed its motion on November 6, 2012, and served it on Respondent at her new address of record.
7. Respondent did not file a response to the Motion for Summary Disposition.

#### V. CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. Tex. Occ. Code §§ 301.458, 301.459.
2. The State Office of Administrative Hearings (SOAH) has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law. Tex. Gov't Code ch. 2003.
3. A contested case may be disposed of by summary disposition without an evidentiary hearing if the pleadings, affidavits, materials obtained by discovery, admissions, matters officially noticed, stipulations, or evidence of record show there is no genuine issue as to any material fact and that a party is entitled to a decision in its favor as a matter of law. 1 Tex. Admin. Code § 155.505(a).
4. The pleadings and summary disposition evidence provided with Staff's Motion for Summary Disposition show there is no genuine issue as to any material fact and that Staff is entitled to a decision in its favor as a matter of law. 1 Tex. Admin. Code § 155.505.
5. Based on Findings of Fact Nos. 2 and 3, Respondent's vocational nursing license was revoked by operation of law upon revocation of her probation. Tex. Occ. Code § 53.021(b) and Tex. Att'y Gen. Op. No. GA-0064 (2003).

6. Based on Findings of Fact Nos. 2 and 3, Respondent's vocational nursing license was revoked by operation of law upon her incarceration for a felony conviction. Tex. Occ. Code § 53.021(b) and Tex. Att'y Gen. Op. No. GA-0064 (2003).
7. Based on the above Findings of Fact and Conclusions of Law, the Board should revoke Respondent's License. Tex. Occ. Code § 53.021(b).

SIGNED November 27, 2012.



SARAH STARNES  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS



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.

*Stephanie Thomas*  
Executive Director of the Board

## BEFORE THE TEXAS BOARD OF NURSING

\*\*\*\*\*

In the Matter of Vocational Nurse	§	REINSTATEMENT
License Number 122774	§	
issued to LOWANA LORRAINE GENTRY	§	AGREED ORDER

On this day came to be considered by the Texas Board of Nursing, hereinafter referred to as the Board, the Petition for Reinstatement of Vocational Nurse License Number 122774, held by LOWANA LORRAINE GENTRY, hereinafter referred to as Petitioner.

An informal conference was held on February 18, 2014, at the office of the Texas Board of Nursing, in accordance with Section 301.464, Texas Occupations Code.

Petitioner appeared in person. Petitioner was represented by Marc Meyer, Attorney at Law. In attendance were Katherine A. Thomas, MN, RN, FAAN, Executive Director; Kyle Hensley, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Adriana Ekery, RN; Investigator; Sierra Ready, Investigator; and Carolyn Hudson, Investigator.

### FINDINGS OF FACT

1. Prior to institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Petitioner waived notice and hearing, and consented to the entry of this Order.
3. Petitioner received a Certificate in Vocational Nursing from Panola Junior College, Carthage, Texas, on August 12, 1988. Petitioner was originally licensed to practice vocational nursing in the State of Texas on December 8, 1988.
4. Petitioner's vocational nursing employment history includes:

1988 - 1991	LVN	Panola Hospital Carthage, Texas
1991- 1996	LVN	Terry Langly Private Duty Beckville, Texas

Petitioner's vocational nursing employment history continued:

1995	LVN	Baylor Medical Office of Dr. Bell Gilmer, Texas
1997 - 1999	LVN Home Health Nurse	Terry Langly Private Duty Beckville, Texas
2006	LVN	Red Oak Health and Rehabilitation Red Oak, Texas
08/06 - 08/07	LVN Charge Nurse	South Dallas Nursing Home Dallas, Texas
08/12 - 09/12	LVN Crisis Care Nurse	Guiding Hands Agency Keller, Texas
08/07 - 04/13	LVN Crisis Care Nurse	No Place Like Home Fort Worth, Texas
05/13 - present	Not employed in nursing	

5. On January 18, 2013, Petitioner's license to practice vocational nursing in the State of Texas was revoked by the Texas Board of Nursing. A copy of the Proposal for Decision and Order of the Board, Findings of Fact, and Conclusions of Law, is attached and incorporated, by reference, as a part of this Order.
6. On or about August 21, 2013, Petitioner submitted a Petition for Reinstatement of License to practice vocational nursing in the State of Texas.
7. Petitioner presented the following in support of her petition:
  - 7.1. Letter of support, from Omeka Nash-Burrell, who states that she has known Petitioner for many years, and she is a joy to have around. Petitioner has been working and helping people through their trials and last moments for the past several years. Ms. Nash-Burrell states that Petitioner is caring, considerate, understanding, loyal and dependable. Petitioner is organized, efficient, competent, and she has an excellent rapport with people of all ages.
  - 7.2. Letter of support, from Arvetta R. Moore, who states that she has known Petitioner for over four years. Ms. Moore states that Petitioner is a true humanitarian and she is pleased to call her a friend. Petitioner provides good quality care and takes her job and responsibilities very seriously. Ms. Moore states that Petitioner is honest, trustworthy, and loyal.

- 7.3. Letter of support, from Latoya Brown, who states that Petitioner is a caring, loving, and considerate person. Petitioner treats her patients with the utmost respect.
- 7.4. Letter of support, from Samara E. Phillips, who states that she has known Petitioner for over ten years and she is a professional in caring for her patients. Ms. Phillips recommends reinstatement of Petitioner's nursing license.
- 7.5. Letter of support, from Kevin T. Word, who states that Petitioner is a very caring individual and a credit to the medical field. Petitioner cares for her patients with the utmost respect. Mr. Word recommends reinstatement of Petitioner's nursing license.
- 7.6. Verification of successful completion of twenty (20) Type I Continuing Education Contact Hours.

#### CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Pursuant to Section 301.467, Texas Occupations Code, the Board may refuse to issue or renew a license, and may set a reasonable period that must lapse before reapplication. Pursuant to 22 TEX. ADMIN. CODE §213.26, the Board may impose reasonable conditions that a Petitioner must satisfy before reissuance of an unrestricted license.

#### ORDER

IT IS THEREFORE AGREED, subject to ratification by the Texas Board of Nursing, that the petition of LOWANA LORRAINE GENTRY, Vocational Nurse License Number 122774, to practice nursing in the state of Texas, be and the same is hereby GRANTED, AND SUBJECT TO THE FOLLOWING STIPULATIONS SO LONG AS THE PETITIONER complies 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 the stipulations contained in this Order:

IT IS FURTHER AGREED and ORDERED that, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Petitioner to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Petitioner's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Petitioner's license(s) is/are encumbered by this Order, Petitioner may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the State of Texas and the Board of Nursing in the party state where Petitioner wishes to work.

(1) PETITIONER SHALL NOT seek employment or practice nursing for compensation until she has completed the following pre-licensure conditions and obtained a license to practice vocational nursing from the Board.

(2) PETITIONER SHALL pay all re-registration fees and be issued a license to practice vocational nursing in the State of Texas, which shall bear the appropriate notation. Said license issued to LOWANA LORRAINE GENTRY, shall be subject to the following agreed post-licensure probation conditions:

(3) PETITIONER SHALL, within one (1) year of relicensure, successfully complete a course in Texas nursing jurisprudence and ethics. PETITIONER 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. PETITIONER 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 PETITIONER'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>*.

(4) PETITIONER SHALL, within one (1) year of relicensure, 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, PETITIONER 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, SHOULD PETITIONER CHOOSE TO WORK AS A NURSE IN TEXAS, PETITIONER WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. 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 STIPULATION PERIOD:**

(5) PETITIONER SHALL notify all future employers in vocational nursing of this Order of the Board and the stipulations on PETITIONER's license. PETITIONER 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.

(6) PETITIONER SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Petitioner by the Board, to the Board's office within five (5) days of employment as a vocational nurse.

(7) PETITIONER 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 PETITIONER, but should be on the facility grounds and readily available to provide assistance and 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 PETITIONER is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(8) PETITIONER SHALL CAUSE each employer to submit, on forms provided to the PETITIONER by the Board, periodic reports as to PETITIONER'S capability to practice nursing. These reports shall be completed by the nurse who supervises the PETITIONER. 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 (2) years of employment as a nurse.

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

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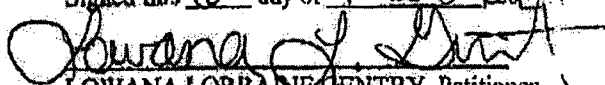
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**PETITIONER'S CERTIFICATION**

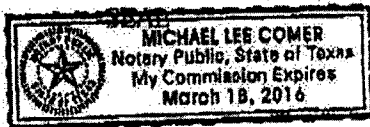
I understand that I have the right to legal counsel prior to signing this Reinstatement Agreed Order. I certify that my past behavior, except as disclosed in my Petition for Reinstatement of Licensure, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of convictions, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

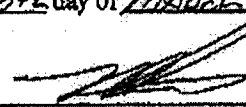
I have reviewed this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to reinstating my license to practice vocational nursing in the state of Texas. I understand that if I fail to comply with all terms and conditions of this Order, my license(s) to practice nursing in the State of Texas will be revoked, as a consequence of my noncompliance.

Signed this 6<sup>th</sup> day of March, 2014

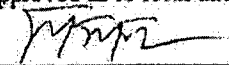
  
LOWANA LORRAINE GENTRY, Petitioner

Sworn to and subscribed before me this 6<sup>th</sup> day of March, 2014



  
Notary Public in and for the State of Texas

Approved as to form and substance.

  
Marc Meyer, Attorney for Petitioner

Signed this 6<sup>th</sup> day of March, 2014.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 6th day of March, 2014, by LOWANA LORRAINE GENTRY, Vocational Nurse License Number 122774, and said Order is final.

Effective this 16th day of April, 2014.



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