



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 D. Thomas
Executive Director of the Board

In the Matter of § BEFORE THE TEXAS
Permanent Vocational Nurse §
License Number 200790 §
Issued to ELIZABETH DIANNE FOERSTER, §
Respondent § BOARD OF NURSING

ORDER OF TEMPORARY SUSPENSION

TO: ELIZABETH DIANNE FOERSTER
C/O AMANDA J. ELLIS
CARLS MCDONALD DALRYMPLE LLP
BARTON OAKS PLAZA 1
901 S. MOPAC EXPY, STE 280
AUSTIN, TEXAS 78746

A public meeting of the Texas Board of Nursing was held on July 30, 2018 at 333 Guadalupe, Room 3-460, Austin, Texas, in which the Temporary Suspension of Permanent Vocational Nurse License Number 200790, issued to ELIZABETH DIANNE FOERSTER 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 ELIZABETH DIANNE FOERSTER 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 April 9, 2018, Respondent became non-compliant with the Agreed Order issued to her by the Texas Board of Nursing on March 30, 2017. 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. Section (I) of the Agreed Order dated March 30, 2017, states, in pertinent part:

"D. RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term..."

On April 9, 2018, Respondent failed to submit a specimen when she was randomly selected, resulting in her fourth missed test, and was consequently dismissed from TPAPN.


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 ELIZABETH DIANNE FOERSTER constitutes a continuing and imminent threat to public welfare and that the temporary suspension of Permanent Vocational Nurse License Number 200790, is justified pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE.

NOW, THEREFORE, IT IS ORDERED that Permanent Vocational Nurse License Number 200790, issued to ELIZABETH DIANNE FOERSTER, to practice nursing in the State of Texas be, and the same is, 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 30th day of July 2018.

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 200790	§	
Issued to ELIZABETH DIANNE FOERSTER,	§	
Respondent	§	BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, ELIZABETH DIANNE FOERSTER, is a Vocational Nurse holding License Number 200790, 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 9, 2018, Respondent became non-compliant with the Agreed Order issued to her by the Texas Board of Nursing on March 30, 2017. 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. Section (I) of the Agreed Order dated March 30, 2017, states, in pertinent part:

"D. RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term..."

On April 9, 2018, Respondent failed to submit a specimen when she was randomly selected, resulting in her fourth missed test, and was consequently dismissed from TPAPN.

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(9)&(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 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.

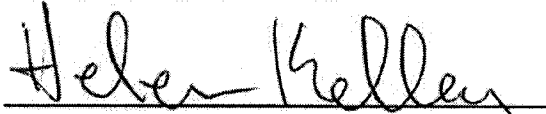
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, 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.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order dated March 30, 2017.

Filed this 30th day of July 2018.

TEXAS BOARD OF NURSING



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

Jena Abel, Deputy General Counsel
Board Certified - Administrative Law
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Attachments: Order of the Board dated March 30, 2017.

D(2018.04.12)

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	CONFIDENTIAL
Vocational Nurse License Number 200790	§	AGREED ORDER FOR
issued to ELIZABETH DIANNE FOERSTER	§	PEER ASSISTANCE PROGRAM

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of ELIZABETH DIANNE FOERSTER, Vocational Nurse License Number 200790, 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)(10),(12)&(13), 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 January 20, 2017.

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 Blinn College, Brenham, Texas on August 11, 2005. Respondent was licensed to practice vocational nursing in the State of Texas on October 6, 2005.
5. Respondent's nursing employment history includes:

10/2005 - 2011	LVN	Trinity Medical Center Brenham, Texas
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Respondent's nursing employment history continues:

2009 - 2010	LVN	Kruse Lutheran Village Brenham, Texas
2009 - 2011	LVN Home Health	Texas Home Health Care Brenham, Texas
3/2011 - 11/2016	LVN Home Health	AMA Home Care Brenham, Texas
10/2015 - Present	LVN Care Coordinator	C&S Staffing LLC Whitesboro, Texas

6. At the time of the incident, Respondent was employed as a Licensed Vocational Nurse with AMA Home Care, Brenham, Texas, and had been in that position for five (5) years and seven (7) months.
7. On or about October 31, 2016, while employed as a Licensed Vocational Nurse with AMA Home Care, Brenham, Texas, Respondent may have lacked fitness to practice nursing in that she admitted to a staff member to having attempted suicide the night before by ingesting twelve (12) Xanax pills and consuming alcohol. In addition, Respondent entered into an inpatient program. 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. In response to Finding of Fact Number Seven (7), Respondent admits she took twelve Xanax tablets after she had consumed alcohol throughout the day.
9. 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. 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 substance use disorder.
12. 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 301.451-301.555, 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 §217.11(1)(B) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(E),(4)&(5).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10),(12),&(13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 200790, heretofore issued to ELIZABETH DIANNE FOERSTER, 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. 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.

TERMS OF ORDER

I. PEER ASSISTANCE PROGRAM REQUIREMENTS

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)**:

- A. Within forty-five (45) days following the date of entry of this Order, RESPONDENT SHALL apply to TPAPN;
- B. Within ninety (90) days following the date of entry of this Order, RESPONDENT SHALL sign and execute the TPAPN participation agreement and complete the enrollment process, which SHALL include payment of a non-refundable participation fee payable to TPAPN in the amount of three hundred fifty dollars (\$350.00);
- C. 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;

- D. 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; and
- E. RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

II. COMPLIANCE WITH LAW AND APPLICABILITY

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.

- 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. As a result of this Order, Respondent's license will be designated "single state" and 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.

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 entry of this Order:

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.

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. CONFIDENTIALITY REQUIREMENTS

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.

V. EFFECT OF NONCOMPLIANCE

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 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.

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.

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 entry of this Order and all conditions of said 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 23 day of March, 2017.

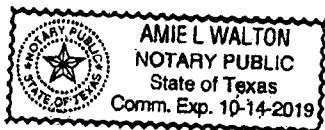
ELIZABETH DIANNE FOERSTER

ELIZABETH DIANNE FOERSTER, Respondent

Sworn to and subscribed before me this 23 day of March, 2017.

SEAL

Amie Walton



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 23rd day of March, 2017, by ELIZABETH DIANNE FOERSTER, Vocational Nurse License Number 200790, and said Order is final.

Effective this 30th day of March, 2017.



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