

# BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED ORDER
Vocational Nurse License Number 189264	§	
issued to BRANDY LYNN WINSTON	§	
	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BRANDY LYNN WINSTON, Vocational Nurse License Number 189264, 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)&(13), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on May 7, 2021.

## 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 Agreed 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 Alvin Community College, Alvin, Texas, on May 13, 2003. Respondent was licensed to practice vocational nursing in the State of Texas on June 25, 2003.
5. Respondent's nursing employment history includes:

06/2003 – 04/2008	Licensed Vocational Nurse	Pediatric Services of America Houston, Texas
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Respondent's nursing employment history continued:

04/2008 – 12/2012	Licensed Vocational Nurse	Apostle Home Health Friendswood, Texas
01/2012 – 10/2017	Licensed Vocational Nurse	A1 Home Health Care Pasadena, Texas
10/2017 – 08/2018	Licensed Vocational Nurse	Apostle Home Health Friendswood, Texas
01/2018 – 08/2018	Licensed Vocational Nurse	Senior Care Center Webster, Texas
08/2018 – 03/2019	Licensed Vocational Nurse	Excellence Home Health Care Clear Lake, Texas
03/2019 – 10/2020	Licensed Vocational Nurse	Amity Home Health Pearland, Texas
11/2020 – Present	Unknown	

6. On or about July 25, 2014, Respondent was required to successfully complete a Corrective Action issued by the Board. On or about August 13, 2015, Respondent successfully completed the terms of the Order. A copy of the July 25, 2014, Corrective Action is attached and incorporated herein by reference as part of this Agreed Order.
7. At the time of the incident, Respondent was employed as a Licensed Vocational Nurse with Amity Home Health, Pearland, Texas, and had been in that position for one (1) year and two (2) months.
8. On or about May 8, 2020, while employed as a Licensed Vocational Nurse with Amity Home Health, Pearland, Texas, and assigned to the home of Patient D.R., Respondent failed to notify her employer, the patient's family, and/or the patient's physician after several unsuccessful attempts to reach the patient to perform a scheduled skilled nursing visit where she was to change the patient's Milrinone bag, a continuous intravenous infusion of medication to treat the patient's heart failure. Subsequently, the patient expired the following morning on May 9, 2020. Respondent's conduct was likely to injure the patient in that it deprived her employer, the patient's family, and physician of information that could have been needed to institute appropriate medical interventions.
9. In response to the incident in Finding of Fact Number Eight (8), Respondent states that she made several attempts via telephone and in-person to reach the patient, but returned home

when she did not get a response. Respondent explains that in the past, she would wait on the patient if she were not home or arrange to return thirty (30) minutes later. Respondent states that the next morning she contacted the patient, but was informed by the patient's daughter that the patient had passed away that morning.

10. Formal Charges were filed on February 11, 2021.

#### 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)(A),(1)(B),(1)(I)&(1)(P) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B)&(12).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 189264, heretofore issued to BRANDY LYNN WINSTON.
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.

#### TERMS OF ORDER

##### **I. SANCTION AND APPLICABILITY**

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **WARNING 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. Until successfully completed, RESPONDENT may not practice nursing in the State of Texas except in accordance with the terms of this Order.

- D. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" as applicable and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state using a Texas compact license.

## 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 Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Agreed Order.

## III. UNDERSTANDING BOARD ORDERS

Within thirty (30) days of entry of this Order, RESPONDENT must successfully complete the Board's online course, "Understanding Board Orders", which can be accessed on the Board's website from the "Discipline & Complaints" drop-down menu or directly at: <http://www.bon.texas.gov/UnderstandingBoardOrders/index.asp>. Upon successful completion, RESPONDENT must submit the course verification at the conclusion of the course, which automatically transmits the verification to the Board.

## IV. 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 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.
- C. **The course "Professional Accountability,"** a 4.6 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](http://www.bon.texas.gov/compliance).*

#### V. **EMPLOYMENT REQUIREMENTS**

In order to complete the terms of this Order, RESPONDENT must work as a nurse in the State of Texas, providing direct patient care in a clinical healthcare setting, for a minimum of sixty-four (64) hours per month for four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until four (4) quarterly periods of employment as a nurse 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 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 of 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 individual who supervises the RESPONDENT and these reports shall be submitted by the supervising individual to the office of the Board at the end of each three (3) month quarterly period for four (4) quarters [one (1) year] of employment as a nurse.

## VI. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Agreed Order, all encumbrances will be removed from RESPONDENT'S license(s) and/or privilege(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, RESPONDENT may be eligible for nurse licensure compact privileges, if any.

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### RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Order. 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 is subject to ratification by the Texas Board of Nursing and a copy of this Order will be mailed to me once the Order becomes effective. 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) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 28 day of JUNE, 2021

BRITANY SHUMAN, RESPONDENT

Sworn to and subscribed before me this 28 day of JUNE, 2021



SEAL  
BRITANY SHUMAN  
Notary Public, State of Texas  
Comm. Expires 04-07-2024  
Notary ID: 125660649

Notary Public in and for the State of Texas

Approved as to form and substance:

Alejandro Mera

Alejandro Mera, Attorney for Respondent

Signed this 28 day of JUNE, 2021

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 28<sup>th</sup> day of June, 2021, by BRANDY LYNN WINSTON, Vocational Nurse License Number 189264, and said Agreed Order is final.

Effective this 22<sup>nd</sup> day of July, 2021.

A handwritten signature in cursive script, reading "Katherine A. Thomas".

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



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In the Matter of §  
Vocational Nurse License Number 189264 §  
issued to BRANDY LYNN WINSTON §

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BRANDY LYNN WINSTON, Vocational Nurse License Number 189264, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent violated Section 301.452(b)(2)&(10), Texas Occupations Code. Respondent waived representation by counsel and agreed to the entry of this Corrective Action approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on June 23, 2014.

## FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Respondent waived representation by counsel and agreed to the entry of this Corrective Action.
3. Respondent is currently licensed to practice vocational nursing in the State of Texas.
4. On or about December 31, 2012, Respondent submitted a License Renewal Form to the ~~Texas Board of Nursing in which she provided false, deceptive, and/or misleading information, in that she answered "No" to the question: "Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:~~
  - A. been convicted of a misdemeanor?
  - B. been convicted of a felony?
  - C. pled nolo contendere, no contest, or guilty?

- D. received deferred adjudication?
- E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
- F. been sentenced to serve jail or prison time? court-ordered confinement?
- G. been granted pre-trial diversion?
- H. been arrested or have any pending criminal charges?
- I. been cited or charged with any violation of the law?
- J. been subject of a court-martial; Article 15 violation; or received any form of military judgment/punishment/action?"

Respondent failed to disclosed that, on or about November 16, 2012, Respondent was arrested by the Texas Highway Patrol for DRIVING WHILE INTOXICATED and for FLEEING POLICE OFFICER, and these charges were pending at the time of the renewal.

#### CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555 and 301.651-301.657, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation of Section 301.452(b)(2)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(I).
4. Respondent's conduct constitutes grounds for corrective action pursuant to Section 301.652, Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.32(2)(D).

#### CORRECTIVE ACTION

IT IS THEREFORE AGREED that RESPONDENT SHALL successfully complete the following requirements of this CORRECTIVE ACTION:

IT IS FURTHER AGREED and ORDERED that, until successfully completed, this Corrective Action SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

(1) RESPONDENT SHALL 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.*

(2) RESPONDENT SHALL, within one (1) year of the date of this Corrective Action, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT 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. RESPONDENT 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 RESPONDENT'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>.

(3) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500.00). RESPONDENT SHALL pay this fine within forty-five (45) days of this Corrective Action. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Corrective Action, this matter shall be closed and this Corrective Action shall remain confidential. However, should Respondent fail to successfully complete the terms of this Corrective Action, this matter shall be terminated immediately and shall be treated as a disciplinary proceeding under Subchapter J, TEX. OCC. CODE. Further, should Respondent commit a subsequent violation of the Nursing Practice Act or Board Rules, this Corrective Action shall be treated as prior disciplinary action.

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RESPONDENT'S CERTIFICATION

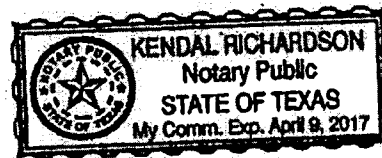
I understand that I have the right to legal counsel prior to signing this Corrective Action. I waive representation by counsel. I have reviewed this Corrective Action. I neither admit nor deny the violation alleged herein. By my signature below, I agree to the entry of this Corrective Action and to successfully complete its conditions, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that when this Corrective Action becomes effective, a copy will be mailed to me. I understand that if I fail to successfully complete the terms and conditions of this Corrective Action, I will be subject to investigation and disciplinary sanction, including possible revocation of my license to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 22 day of July, 2014.  
Brandy Lynn Winston  
BRANDY LYNN WINSTON, Respondent

Sworn to and subscribed before me this 22 day of July, 2014.


SEAL

Kendal Richardson  
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 impose this Corrective Action that was signed on the 22<sup>nd</sup> day of July, 2014, by BRANDY LYNN WINSTON, Vocational Nurse License Number 189264.

Effective this 25<sup>th</sup> day of July, 2014.

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

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