



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 A. Thomas
Executive Director of the Board

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of License Number 133536 §
issued to LUPITA BANDA §

ORDER OF THE BOARD

On this day, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, accepted the voluntary surrender of License Number 133536, issued to LUPITA BANDA, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal conference, notice and hearing.

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

FINDINGS OF FACT

1. Respondent's license to practice vocational nursing in the State of Texas is currently in delinquent status.
2. Respondent waived representation by counsel, informal conference, notice and hearing.
3. Respondent received a Certificate in Vocational Nursing from Texas Southmost College-Weslaco Ext., Weslaco, Texas, on August 30, 1991. Respondent was originally licensed to practice vocational nursing in the State of Texas on December 3, 1991.
4. Respondent's complete vocational employment history is unknown.
5. On September 9, 2003, Respondent's license to practice vocational nursing was suspended by the Board of Vocational Nurse Examiners for the State of Texas. The suspension was stayed, and Respondent was placed on probation for two (2) years. A copy of the September 9, 2003, Agreed Order, is attached and incorporated by reference as part of this Order.

6. On or about September 30, 2004, Respondent failed to comply with the Agreed Order issued to her on September 9, 2003, by the Board of Vocational Nurse Examiners for the State of Texas. Non-compliance is the result of her failure to comply with Stipulation Number Nine (9) of the September 9, 2003, Agreed Board Order which states, in pertinent part:

(9) Respondent shall through the Board's agent (NCPS, Inc.), submit to random drug screens.

7. Respondent, on or about February 1, 2005, submitted a notarized statement to the Board expressing her desire to voluntarily surrender her license to practice vocational nursing in the State of Texas. A copy of the February 1, 2005, notarized statement is attached and incorporated, by reference, as part of this Order.

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 a violation of Section 301.452(b)(1).
4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

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ORDER


NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of License Number 133536, heretofore issued to LUPITA BANDA, to practice vocational nursing in the State of Texas, is accepted by the Executive Director on behalf of the Board of Nurse Examiners. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice vocational nursing, use the title of "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying herself 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 in surrendered status.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until one (1) year has elapsed from the date of this Order and Respondent has maintained twelve (12) consecutive months of abstinence from alcohol and drugs.
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 multistate licensure privilege, if any, to practice vocational nursing in the State of Texas.

Effective this 25th day of February, 2005.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

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



BOARD OF VOCATIONAL NURSE EXAMINERS

333 GUADALUPE STREET, SUITE 3-400

AUSTIN, TEXAS 78701

(512) 305-8100

September 12, 2003

LUPITA BANDA
BOX 8401, 604 WEST CYPRESS
LA FERIA, TEXAS 78559

Dear Ms. Banda:

The enclosed Agreed Board Order has been ratified by the Board of Vocational Nurse Examiners, and it is now in effect.

If you have not yet done so, you are hereby requested to return your license and/or license renewal form to this office immediately. Failure to comply could result in submission of your file to the Attorney General's Office for institution of injunctive procedures.

The Texas Occupations Code, Chapter 302 § 302.401 (f), **prohibits the practice of vocational nursing while the person's license is suspended or revoked.** Violation of this prohibition is a Class B Misdemeanor, punishable by a fine and/or jail term, upon conviction.

If you have any questions concerning this matter, please contact the Enforcement Division.

Sincerely,

A handwritten signature in cursive script that reads "Terrie L. Hairston".

Terrie L. Hairston, R.N., C.H.E.,
Executive Director

LGP/cd

Enclosure: Agreed Board Order

BOARD OF VOCATIONAL
NURSE EXAMINERS

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STATE OF TEXAS

VS.

LUPITA BANDA

COUNTY OF TRAVIS

AGREED BOARD ORDER

On this day came to be considered by the Board of Vocational Nurse Examiners the matter of vocational nurse license number 133536 held by LUPITA BANDA, hereinafter called Respondent.

By letter, the Board of Vocational Nurse Examiners sent preliminary notice to Respondent of its intent to take disciplinary action with respect to said license held by Respondent, as a result of a complaint and subsequent investigation. Said investigation produced evidence indicating that Respondent has engaged in unprofessional or dishonorable conduct that, in the Board's opinion, is likely to deceive, defraud, or injure the public, in violation of Texas Occupations Code, Chapter 302, Section 302.402 (a) (10), in the following manner:

I.

a. By letter dated November 12, 2002, the Board of Vocational Nurse Examiners received a referral from the Texas Peer Assistance Program for Nurses (TPAPN) alleging that Respondent had declined to participate in their program by failing to return the items necessary to initiate participation.

II.

a. On or about September 23, 2002, Respondent submitted her application for employment as a Licensed Vocational Nurse at Retama Manor Nursing Center in Harlingen, Texas.

AGREED BOARD ORDER
RE: LUPITA BANDA, LVN #133536
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b. On or about September 25, 2002, as part of the pre-employment screening process, Respondent was requested to submit to a drug screen. Said drug screen revealed a positive reading for COCAINE. Respondent was subsequently not employed at said facility.

By Respondent's signature on this Order, Respondent neither admits nor denies the truth of the matters previously set out in this Order with respect to the above-mentioned investigation. By Respondent's signature on this Order, Respondent acknowledges that they have read and understood this Order and have approved it for consideration by the Board.

By their notarized signature on this Order, Respondent does hereby waive the right to a formal Complaint, Notice of Hearing and a Public Hearing held before an Administrative Law Judge with the State Office of Administrative Hearings, and to judicial review of this disciplinary action. Notice of this disciplinary action will appear in the Board's newsletter sent to Texas employers.

ORDER OF THE BOARD

NOW THEREFORE, IT IS ORDERED that license number 133536, heretofore issued to LUPITA BANDA to practice vocational nursing in the State of Texas be, and the same is hereby suspended until such time as Respondent has provided the Board office with proof of a negative drug screen dated subsequent to September 25, 2002. It is further ordered that upon receipt of said documentation, the suspension of said license shall be automatically stayed and the license placed on probation for a period of two (2) years.

The probation of said license is subject to the following stipulations, to wit:

1. That if Respondent's place of employment, name, address or telephone number changes, Respondent is to notify the Board office immediately, or no later than ten (10) days after said change has occurred. Said notification shall be in the form of a written letter or report.
2. That Respondent shall comply with Federal State, and local laws, and all provisions of the Texas Occupations Code and Rules and Regulations of the Board.
3. That Respondent shall not practice nursing in a Nurse Licensure Compact remote state without obtaining prior written authority of both the BVNE and the Board of Nursing of the remote state.
4. That by copy of this Board Order, Respondent shall provide notice of Board disciplinary action to his/her immediate nursing supervisor(s) and Director(s) of Nursing, throughout the term of probation.
5. That Respondent shall be responsible for causing his/her immediate nursing supervisor(s) to submit satisfactory reports directly to the Board office on a quarterly basis, throughout the term of probation. The receipt of an unfavorable and/or untimely report shall be considered a violation of probation.
6. That any period(s) of nursing unemployment must be documented in writing by Respondent and submitted to the Board office, as provided in Stipulation No. five.
7. That if Respondent is employed as a private duty, temporary agency, or home health nurse, Respondent shall cause his/her nurse supervisor(s) to conduct and document weekly supervisory reviews and/or supervised visits of all medical records of patients assigned to Respondent. While so employed, Respondent shall be responsible for causing his/her nurse supervisor(s) to submit said required documentation in the form of satisfactory reports directly to the Board office, as provided in Stipulation No. five.
8. That Respondent shall and hereby agrees to abstain from the consumption of Alcohol, Nubain, Stadol, Dalgan or other synthetic opiates, and/or use of unprescribed controlled substances. Any controlled or legend medication must be prescribed by a physician knowledgeable about the disease of addiction, as well as Respondent's history, and it is incumbent upon Respondent to ensure such physician knowledge. If *prescribed medication*, **RESPONDENT SHALL CAUSE** the attending physician to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the Board office by the prescribing physician, within ten (10) days of the date of the prescription.
9. That Respondent shall through the Board's agent (NCPS, Inc.), submit to random blood alcohol and urine drug screens.

10. That Respondent shall be responsible daily for telephoning NCPS, Inc., Voice Response (VR) at 1-800-580-1099. That said drug screen shall be administered through the policies and procedures of the National Confederation of Professional Services, Inc. (NCPS, Inc.), utilizing LabCorp facilities. That said drug-screening panel shall consist of the following:

Alcohol (Ethanol)	Cannabinoids	Methaqualone
Amphetamines	Cocaine	Opiates
Barbiturates	Meperidine	Phencyclidine
Benzodiazepines	Methadone	Propoxyphene

Said screen(s) shall be properly monitored with adherence to chain of custody procedures. A positive result shall be legally confirmed by Gas Liquid Chromatography/Mass Spectrometry (GCMS). The results of said screen(s) shall be submitted directly to the Board office by the laboratory. The expense of said screen(s) shall be borne by Respondent. Any report of failure to contact NCPS, Inc., and/or a positive drug screen for which the Respondent does not have a valid prescription, will be regarded as non-compliance with the terms of this order and may subject the Respondent to further disciplinary action by the Board.

11. That Respondent pay a Probation Monitoring fee in the amount of thirty (\$30.00) dollars in the form of a cashier's check or money order, payable to the Board of Vocational Nurse Examiners. Said fee shall be paid quarterly, due on the 15th of each quarter commencing the quarter following the date of the Board's ratification of the Order, and continuing thereafter until the successful completion of Respondent's probation. Said fee shall be sent to the Board office, addressed to the "Board of Vocational Nurse Examiners", 333 Guadalupe, Suite 3-400, Austin, TX 78701. Failure by Respondent to make any quarterly payment on time shall constitute a violation of probation.

12. That Respondent shall pay a license re-issue fee in the amount of twenty (\$20.00) dollars in the form of cashier's check or money order, payable to the Board of Vocational Nurse Examiners. Said re-issue license will be marked "**PROBATION**". Said fee shall be made not later than thirty (30) days following the date of the commencement of probation. Said fee shall be sent to the Board office, addressed to the "Board of Vocational Nurse Examiners", 333 Guadalupe, Suite 3-400, Austin, TX 78701. Failure by Respondent to return said license or pay said fee shall constitute a violation of probation.

This Agreed Order shall not be effective or take effect and become enforceable in accordance with its terms until ratified by a majority of the Board present and voting, at its next regularly called session.

AGREED BOARD ORDER
RE: LUPITA BANDA, LVN #133536
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Dated this the 19th day of July, 2003.

Lupita Banda
Signature of Respondent

Box 8401
Current Address

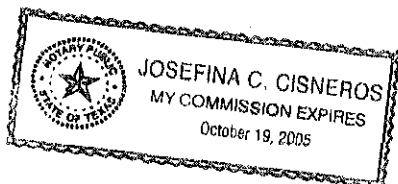
La Feria, TX 78559
City, State and Zip

956, 797-2127
Area Code and Telephone Number

The State of Texas
County of Cameras

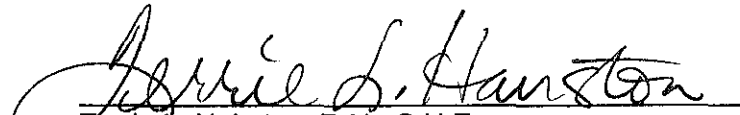
Before me, the undersigned authority, on this day personally appeared LUPITA BANDA, who being duly sworn by me stated that he or she executed the above for the purpose therein contained, and that he or she understood same.

SWORN TO AND SUBSCRIBED before me on this the 19 day of July, 2003.

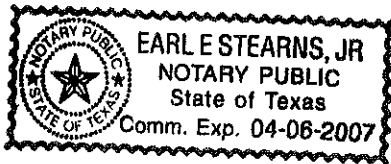



Josefina C. Cisneros
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

AGREED BOARD ORDER
RE: LUPITA BANDA, LVN #133536
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Terrie L. Hairston, R.N., C.H.E.,
Agent for the Board of
Vocational Nurse Examiners

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the
9th day of SEPTEMBER, 2003.



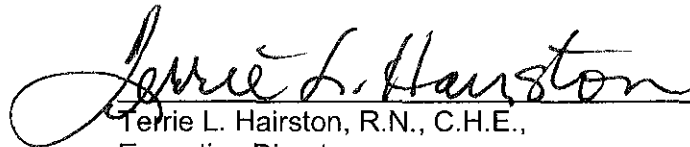


NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

BOARD ORDER
RE: LUPITA BANDA, LVN #133536
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WHEREFORE, PREMISES CONSIDERED, the Board of Vocational Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Board Order, notarized on the 19th day of July 2003 by LUPITA BANDA, license number 133536 and that Said Order is Final.

Effective this 9th day of September, 2003.

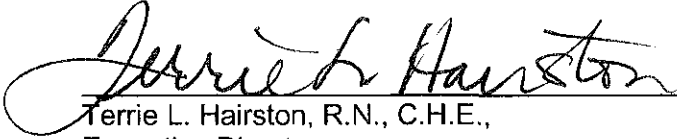

Terrie L. Hairston, R.N., C.H.E.,
Executive Director
On Behalf of Said Board

BOARD ORDER
RE: LUPITA BANDA, LVN #133536
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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of September, 2003, a true and correct copy of the foregoing **BOARD ORDER** was served by placement in the U.S. Mail first class mail, and addressed to the following person(s):

LUPITA BANDA
BOX 8401, 604 WEST CYPRESS
LA FERIA, TEXAS 78559



Terrie L. Hairston, R.N., C.H.E.,
Executive Director
Agent for the Board of Vocational Nurse Examiners

LUPITA BANDA
728 CHERRY ST.
TOLEDO, OHIO 43604

Texas LVN License # 133536

December 8, 2004

Dear Board of Nurse Examiners:

I no longer desire to be licensed as a vocational nurse. Accordingly, I voluntarily surrender my license to practice in Texas. I waive representation by counsel and consent to the entry of an Order which outlines requirements for reinstatement of my license. I understand that I will be required to comply with the Board's Rules and Regulations in effect at the time I submit any petition for reinstatement.

Signature Lupita Banda
Date 1-27-05
Texas LVN License Number 133536

The State of Texas

Before me, the undersigned authority, on this date personally appeared Lupita Banda who, being duly sworn by me, stated that she executed the above for the purpose therein contained and that she understood same.

Sworn to before me the 27TH day of JANUARY, 2005.

SEAL

Corrie Denees Bower
Notary Public in and for the State of OHIO, Lucas County

~~Notary Public, State of Ohio~~
Notary Public, State of Ohio
September 14, 2005