TEXAS BOARD OF NURSING
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.
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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|---|---|
| In the Matter of Vocational Nurse | § |
| License Number 173989 | § |
| issued to MARY JANE GARCIA | § |

ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 173989, issued to MARY JANE GARCIA, 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 proceedings, 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 in delinquent status.

2. Respondent waived representation by counsel, informal proceedings, notice and hearing.

3. Respondent received a Certificate in Vocational Nursing from Victoria College, Hallettsville, Texas, on August 12, 1999. Respondent was licensed to practice vocational nursing in the State of Texas on October 20, 1999.

4. Respondent's complete vocational nursing employment history is unknown.

5. On October 21, 2010, Respondent was issued the sanction of a Warning with Stipulations by the Texas Board of Nursing. A copy of the October 21, 2010, Agreed Order, Findings of Fact and Conclusions of Law is attached and incorporated, by reference, as part of this Order.

6. On or about October 22, 2011, Respondent failed to comply with the Agreed Order issued to her on October 21, 2010, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number One (1) of the Agreed Order which states, in pertinent part:

> (1) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics....

7. On or about October 22, 2011, Respondent failed to comply with the Agreed Order issued to her on October 21, 2010, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Two (2) of the Agreed Order which states, in pertinent part:

> (2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing documentation....

8. On June 27, 2012, Respondent submitted a signed and notarized affidavit to the Board expressing her desire to voluntarily surrender the right to practice vocational nursing in the State of Texas in lieu of complying with the Agreed Order issued to Respondent on October 21, 2010. A copy of the June 5, 2012, affidavit 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) and (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(11)(B).

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.

## ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 173989, heretofore issued to MARY JANE GARCIA, to practice vocational nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

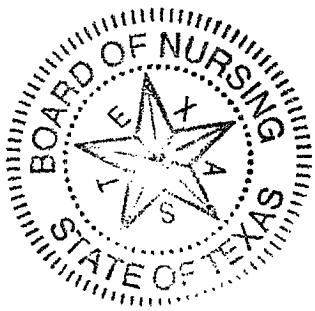
1. RESPONDENT SHALL NOT practice vocational nursing, use the title of "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying herself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse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

2. 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 23rd day of July, 2012.

TEXAS BOARD OF NURSING




By: Katherine A. Thomas

Katherine A. Thomas, MN, RN, FAAN

BEFORE THE TEXAS BOARD OF NURSING

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|---|---|---|
| In the Matter of Vocational Nurse | § | AGREED |
| License Number 173989 | § | |
| issued to MARY JANE GARCIA | § | ORDER |

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MARY JANE GARCIA, Vocational Nurse License Number 173989, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10) & (13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on August 5, 2010, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

## FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).

2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

3. Respondent is currently licensed to practice vocational nursing in the State of Texas.

4. Respondent received a Certificate in Vocational Nursing from Victoria College - Halletsville, Hallettsville, Texas on August 12, 1999. Respondent was licensed to practice vocational nursing in the State of Texas on October 20, 1999.

5. Respondent's vocational nursing employment history includes:

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|---|---|---|
| 10/99 - 01/04 | LVN | Stevens Nursing and Rehabilitation<br>Hallettsville, Texas |

Respondent's vocational nursing employment history continued:

| | | |
|---|---|---|
| 02/04 - 03/05 | LVN | Hallettsville Nursing and Rehabilitation<br>Hallettsville, Texas |
| 04/05 - 02/06 | LVN | Schulenberg Regency Home Health<br>Schulenberg, Texas |
| 02/06 - 03/06 | LVN | Girling Health Care, Inc.<br>Austin, Texas |
| 04/06 - Present | Unknown | |

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with Girling Health Care, Inc., and had been in this position for one (1) month.

7. On or about March 3, 2006, to March 20, 2006, while employed with Girling Health Care, Inc., Austin, Texas, Respondent failed complete her assigned patients' visits and also failed to she notify her employer that she failed to complete said assigned visits. Respondent's conduct was likely to injure the patients in that they failed to receive the care they needed.

8. On or about March 3, 2006, to March 20, 2006, while employed with Girling Health Care, Inc., Austin, Texas, Respondent failed to document that she completed her assigned patients' visits. Respondent's conduct was likely to injure the patients in that subsequent care givers would not have documentation on which to base their decisions to further administer patient care.

9. Respondent admits to the conduct outlined in Findings of Fact Numbers Seven (7) and Eight (8). She states that she regrets not following through with her work obligations and procrastinating in submitting important paperwork on which continuity of patient care relies heavily. Respondent states that she is truly sorry. Respondent states that due to concerns about personal matters she was having trouble focusing on her daily tasks. Respondent adds that it didn't help that she wasn't being assigned to areas that she had been hired to cover. She states that she had been hired to cover a local forty (40) mile radius but "very often" was given assignments over sixty (60) miles from her hometown. Respondent states that she never meant for any of this to happen and can only blame herself.

## 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 violations of Section 301.452(b)(10) & (13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(D), and 22 TEX. ADMIN. CODE §217.12(1)(A)(C), (4) & (6)(A)(H).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 173989, heretofore issued to MARY JANE GARCIA, including revocation of Respondent's license to practice nursing in the State of Texas.

## ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS AND FINE, and 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.* and this Order.

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

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

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL, within one (1) year of entry of this Order, 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 <u>not</u> 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.state.tx.us/disciplinaryaction/stipscourses.html.*

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. 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. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form,

provided by the Board, to the Board's office 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.state.tx.us/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 entry of this Order. 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, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:**

(4) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge,

if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT'S license. RESPONDENT 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.

(5) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(6) RESPONDENT SHALL be supervised by a Registered Nurse or 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 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.

(7) 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 Registered Nurse or Licensed Vocational Nurse

who supervises the RESPONDENT. 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 (1) year 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 RESPONDENT'S license to practice nursing in the State of Texas and RESPONDENT shall 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 Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, 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 Board. When this Order is ratified, the terms of this Order become effective, 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 to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 23 day of August, 2010.

Mary Jane Garcia

MARY JANE GARCIA, Respondent

Sworn to and subscribed before me this 23 day of August, 2010.

SEAL

VERONICA SHIELDS
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
04-23-2012

Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the _23rd_ day of August, 20 10, by MARY JANE GARCIA, Vocational Nurse License Number 173989, and said Order is final.

Effective this 21st day of October, 20 10.

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

Mary Jane Garcia
P.O. Box 785
Hallettsville, TX 77964
Texas LVN License #173989

Voluntary Surrender Statement

Dear Texas Board of Nursing:

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 Mary Jane Garcia

Date 6/5/2012

Texas LVN License Number 173989

The State of Texas

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

Sworn to before me the 5th day of June, 2012.

SEAL

Michelle Steinhauer

Notary Public in and for the State of Texas

MICHELLE L. STEINHAUER
Notary Public, State of Texas
My Commission Expires
May 01, 2013