



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.
Patricia P. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 80335 §
issued to MARYLENE DAVIS § ORDER

An investigation by the Texas Board of Nursing, hereinafter referred to as the Bo produced evidence indicating that MARYLENE DAVIS, Vocational Nurse License Number 80335, hereinafter referred to as Respondent, may have violated Section 301.452 (b)(10), Texas Occupations Code.

An informal conference was held on June 23, 2009, at the office of the Texas Board of Nursing, in accordance with Section 301.464, Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Jeff B. McDonald, Attorney at Law. In attendance were Denise Benbow, MSN, RN, Nursing Practice Consultant, Executive Director's Designee; Kyle Hensley, Assistant General Counsel; Anthony Diggs, MSCJ, Director, Enforcement Division; J. L. Skylar Caddell, RN-BC, Lead Investigator; and Amy Grissom, RN, Investigator. Subsequent to the informal conference, Respondent waived representation by counsel.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in the 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.
2. Respondent waived representation by counsel, notice and hearing, and consented 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 Practical Nursing from Health Occupations Careers, Chicago City College - Skill Center, Chicago, Illinois, on December 30, 1977. Respondent was licensed to practice vocational nursing in the State of Texas in April 11, 1979.

5. Respondent's nursing employment history includes:

1979-1988	Unknown	
1988-1992	Hospice Nurse	Visiting Nurses Association Houston, Texas
1992-1994	Utilization Review QI/ Nurse	Rosewood Hospital Houston, Texas
1995-1998	QA Nurse	Choice Homehealthcare Houston, Texas
1998-2004	Pediatric Nurse Home Care Visits	The Care Group Houston, Texas
2002-2006	Ventilator/Pedi/ Staff/Private Duty	Maxium Healthcare Houston, Texas
2003-2005	QA Nurse	Kingspoint Healthcare Services, Inc. Houston, Texas
2005-2008	QA Nurse/Case Manager Alternate Administrator	BEMA Healthcare, Inc. Stafford, Texas
2008-Present	Administrator	BEMA Healthcare, Inc. Stafford, Texas

6. At the time of the initial incident, Respondent was employed as a QA Nurse/Case Manager and Alternate Administrator with BEMA Healthcare, Inc., Stafford, Texas, and had been in this position for one (1) year.

7. On or about September 15, 2006, while employed with Bema Healthcare, Inc., Stafford, Texas, Respondent had knowledge of falsified documentation submitted to a state surveyor and failed to inform the surveyor. Respondent knew the original consent for service and comprehensive nursing assessment were missing from the medical record of Patient OW, yet when the facility's administrator recreated those documents, including a patient signature on each, and submitted the medical record as complete to the state surveyor, Respondent failed to communicate to the surveyors that the documents were copies. As a result, the surveyors erroneously interpreted the documents as originals. Respondent's conduct was deceptive and

constituted interference with a state investigation.

8. In response to the incident in Finding of Fact Number Seven (7), Respondent denies submitting falsified documentation to the state surveyors or having knowledge of the missing/falsified documentation prior to the first day of the state survey, despite her having subsequently submitted an affidavit to Board indicating that she had personal knowledge of the missing documents on the first day of survey. She states the documents were brought to her attention when a Surveyor asked if two (2) signatures on the documents "looked alike" to her. Respondent admits overhearing the facility Administrator telling the Surveyor that she, the administrator, had re-created the documents to complete the patient file, and in no way intended to present them as originals.

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), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(C),(6)(A),(6)(B), (6)(H)&(11)(D).
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 80335, heretofore issued to MARYLENE DAVIS, including revocation of Respondent's license to practice vocational 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 REMEDIAL EDUCATION WITH A FINE, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, 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 privilege, 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 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.state.tx.us/disciplinaryaction/stipscourses.html>

(2) RESPONDENT SHALL pay a monetary fine in the amount of five hundred (\$500.00) dollars. 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, 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 when this Order becomes final and the terms of this Order become effective, 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

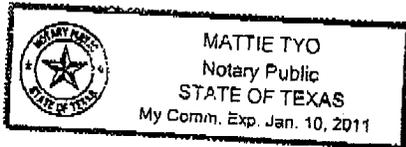
Signed this 21 day of July, 2010.

Marylene Davis
MARYLENE DAVIS, RESPONDENT

Sworn to and subscribed before me this 21 day of July, 2010.

SEAL

Mattie Tyo



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 ratify and adopt the Agreed Order that was signed on the 21st day of July, 2010, by MARYLENE DAVIS, Vocational Nurse License Number 80335, and said Order is final.

Effective this 22 day of July, 2010.



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