BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§	AGREED
License Number 146451	§	
issued to JUDY MAE MAYBERRY	§	ORDER

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

On this day the Texas Board of Nursing, hereinafter referred to as the Boa considered the matter of JUDY MAE MAYBERRY, Vocational Nurse License Number 146451, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(2),(3)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on December 17, 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, Victoria, Texas, on August 20, 1993. Respondent was licensed to practice vocational nursing in the State of Texas on May 6, 1994.

5. Respondent's nursing employment history includes:

05/1994 - 1997	Unknown

Respondent's nursing employment history continued:

1997 - unknown	Agency Nurse	Pediatric Services of America Norcross, Georgia
1997 - 1999	Home Health Nurse	Rosy Home Health Austin, Texas
06/1999 - 12/2002	Private Duty Nurse	Interim Healthcare Bryan, Texas
12/2001 - 07/2003	Charge Nurse	Bryton Inn College Station, Texas
01/2003 - 07/2003		Unknown
08/2003 - 12/2004	Charge Nurse	Bryton Gardens by Marriot Austin, Texas
03/2002 - 07/2008	Agency Nurse	Medical Staffing Network Austin, Texas
03/2008 - Unknown	Staff Nurse	Marbridge Foundation Manchaca, Texas

6. At the time of the initial incident, Respondent was employed as an Agency Nurse with Medical Staffing Network, Austin, Texas, and had been in this position for five (5) years and eight (8) months.

7. On or about October 16, 2007, Respondent submitted an on-line license renewal to the office of the Board in which she answered "No" to the following renewal questions:

   > Have you within the last 24 months or since your last renewal, for any criminal offense including those pending appeal pled nolo contendere, no contest or guilty; received deferred adjudication; been arrested?

   Respondent failed to disclose that on March 9, 2006, she pled "No Contest or Nolo Contendere" to "Theft of Property Greater than or Equal to $20 and Less Than $500 by check, a Class B Misdemeanor, in the Hays County Court, Texas, at Law San Marcos, Cause No. 080459. Respondent's conduct was likely to deceive the Board and may have affected the decision regarding renewal of her license to practice vocational nursing in the state of Texas.

8. On or about August 30, 2009, Respondent submitted an on-line license renewal to the office of the Board and she answered "No" to the following renewal questions: "Have you within the last 24 months or since your last renewal, for any criminal offense including those pending appeal pled nolo contendere, no contest or guilty? Received deferred adjudication? Been arrested or have any pending criminal charges? Are you currently the target or subject of a grand jury or governmental agency investigation? Respondent failed to disclose the following:
   - On February 12, 2009, she was arrested in Hays County, San Marcos, Texas, on a charge of Insurance Fraud Greater Than $1500 and Less Than $20,000, a State Jail Felony.
   - On October 12, 2009, she pled guilty to Insurance Fraud Greater Than $500 and Less Than $1500, a Class A Misdemeanor.
   - On December 2, 2009, she received an Order of Deferred Adjudication, a $500.00 fine, ordered to pay court costs and restitution of $10,164.00, perform eighty (80) hours of community service, and placed on probation for two (2) years.

   Respondent's conduct was likely to deceived the Board and may have affected the Board's decision regarding renewal of her license to practice vocational nursing in the state of Texas.

9. In response to Findings of Fact Numbers Seven (7) and Eight (8) Respondent states that:
   - When she renewed her vocational nursing license on March 9, 2006, she was in the process of filing Chapter 7, and had many other things on her mind and that she "can honestly admit that she forgot about it."
   - "My mind is really vague to the situation, but I know it (the check) was not written to defraud anyone out of money, nor was I trying to keep from paying it."
   - When she renewed her vocational nursing license on August 30, 2009, she states she "had not been officially charged with anything, from what I understood." She was not aware that she was not supposed to have received the funds. She pled No Contest in October, 2009, to Insurance Fraud and paid back $10,164.00. Respondent further states that she thought her attorney was handling the situation for her but that she "should have stayed on top of things better."

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)(2),(3)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE 217.12(6)(I).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2),(3),(10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 146451, heretofore issued to JUDY MAE MAYBERRY, 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 A 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 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. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address: http://learningext.com/hives/a0f6f3e8a0/summary.*

(3) 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, 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 22nd day of February, 2011.

Judy Mae Mayberry

JUDY MAE MAYBERRY, Respondent

Sworn to and subscribed before me this 22nd day of February, 2011.

SEAL

Sharon Ann Taylor

Notary Public in and for the State of Texas

SHARON ANN TAYLOR
MY COMMISSION EXPIRES
June 17, 2014

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 22nd day of February, 2011, by JUDY MAE MAYBERRY, Vocational Nurse License Number 146451, and said Order is final.

Effective this 28th day of April, 2011.

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