BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§	AGREED
License Number 161908	§	
issued to TIMOTHY SILVA	§	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 Bc considered the matter of TIMOTHY SILVA, Vocational Nurse License Number 161908, herein referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(2)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on January 10, 2011, 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 the Army Practical Nurse Course, Fort Sam Houston, Texas, on January 31, 1997. Respondent was licensed to practice vocational nursing in the State of Texas on March 5, 1997.

5. Respondent's nursing employment history is unknown.

6. On or about March 18, 2009, Respondent was arrested by the Las Cruces Police Department, Las Cruces, New Mexico, and subsequently charged under Cause No. D-307-CR-200900664,

for KIDNAPPING (a 2nd Degree felony offense), TAMPERING WITH EVIDENCE (a felony offense), AGGRAVATED BATTERY HOUSEHOLD MEMBER (a misdemeanor offense), and INTERFERENCE WITH COMMUNICATIONS. On or about March 9, 2010, Respondent entered into an agreement in the State of New Mexico, County of Dona Ana, Third Judicial District, under Cause No. C-307-CR-200900664 to participate in the Pre-Prosecution Diversion Program of Dona Ana County, New Mexico.

7. In response to Finding of Fact Number Six (6), Respondent states that on March 17, 2009, he and his then-girlfriend had been to a bar. After leaving they were supposed to meet his girlfriend's sister and her boyfriend, however the sister called and said they weren't going to meet them because she and her boyfriend had had a fight. Respondent and his girlfriend went to his house and his girlfriend demonstrated some kickboxing moves. They proceeded in a playful manner to do these moves on each other, leaving marks and bruises on both of theirs arms, legs and body. After taking a break, his girlfriend called her sister and became angry with Respondent because her sister would not answer the phone. His girlfriend was very intoxicated. His girlfriend then began yelling and accusing Respondent of cheating. Respondent told her to lay down and sleep off the alcohol, because he was not going to drive anywhere because he had been drinking earlier and would not take the chance of getting caught drinking and driving. The girlfriend continued to be upset and determined to walk home. He did what he thought was the right thing and would not let her walk home, telling her they would talk in the morning after she slept off the alcohol. (Kidnapping charge). He then hugged her and she bit him. He pushed her off to get her to release her bite, and she lost her balance and fell and hit her face on the corner of the doorway into the bathroom which resulted in a bloody nose. When he saw the blood he grabbed his jacket to hold pressure and they went back into the living room. He had her hold the jacket and he proceeded to get a couple of towels to help stop the bleeding. After the bleeding had stopped, her face and upper body had blood on it so he asked her if she wanted to clean up. She took a shower and cleaned up. (Tampering with Evidence charge). They talked for a while and then she asked him to take her home. He went to put his boots on and he heard the door slam. She had called her sister again, got angry with Respondent once more and determined to walk home alone. He went outside and asked her to stay and then went to put his boots on. To make sure she would stay and not leave, he asked her for her cell phone and she gave it to him. (Interference with Communications charge). After going inside and coming back out, she had left. Fearing for her safety, he went to his friend's house and asked him to help look for her. His friend took his kids to school and then came back to help him look for her. At that time the door bell rang and the LCPD came in and arrested him at approximately 0830 hours on March 18, 2009 for the above allegations. He later found out that his girlfriend had gone to his neighbor's house to call her sister. The neighbor saw the bruises from the kickboxing and that her nose was still draining a scant amount of blood from her fall (Aggravated Battery Household Member charge), so the neighbor called the police. Respondent has since been placed in the 3rd Judicial District Attorney's Pre-Prosecution Diversion Program (PPD). He has been compliant with the program and has completed the following as ordered: 80 hours of community service, Alternative Sentencing Programs and Education networks of

New Mexico (A.S.P.E.N of New Mexico) and the Battered Intervention Program at La Case INC.

8. On or about December 16, 2009, Respondent submitted an Online Renewal Document Licensed Vocational Nurse to the Texas Board of Nursing in which he provided false, deceptive, and/or misleading information, in that he 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 judgement/punishment/action?"

   Respondent failed to disclose that on or about March 18, 2009, Respondent was arrested by the Las Cruces Police Department, Las Cruces, New Mexico, for KIDNAPPING (a 2nd Degree felony offense), TAMPERING WITH EVIDENCE (a felony offense), AGGRAVATED BATTERY HOUSEHOLD MEMBER (a misdemeanor offense), and INTERFERENCE WITH COMMUNICATIONS.

9. Formal Charges were filed on October 5, 2010.

10. Formal Charges were mailed to Respondent on October 6, 2010.

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 of Section 301.452(b)(2)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(I)&(13).

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 161908, heretofore issued to TIMOTHY SILVA, including revocation of Respondent's license(s) 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 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(s) is/are 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 pay a monetary fine in the amount of two hundred fifty dollars ($250). 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.

(2) 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) contact 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.*

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:

(3) 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.

(4) 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.

(5) 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.

(6) 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(s) 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 22 day of March, 2011.

Timothy Silva

TIMOTHY SILVA, Respondent

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

SEAL

Sandra A Silva exp April 13, 2014

Notary Public in and for the State of NM

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 22nd day of March, 2011, by TIMOTHY SILVA, Vocational Nurse License Number 161908, and said Order is final.

Effective this 28th day of April, 2011.

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