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

****

In the Matter of Vocational Nurse	§	AGREED
License Number 144933	§	
issued to PATRICIA ANN MCINTOSH	§	ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board accepted the voluntary surrender of Vocational Nurse License Number 144933, issued to PATRICIA ANN MCINTOSH, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c) of the Texas Occupations Code.

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

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

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to 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, 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 Paris Junior College, Paris, Texas, on August 18, 1992. Respondent was licensed to practice professional nursing in the State of Texas in December 1, 1993.

5. Respondent's vocational nurse employment history includes:

1993	LVN	Town & Country Home Health Paris, TX

Respondent's vocational nurse employment history continued:

1994	LVN	Cen. Tex. Women's Clinic & Rural Health Clinic Brownwood, TX
1995	LVN	CIGNA Health Care Dallas, TX
1999	LVN	Nurses, Inc. Portland, OR
2006	LVN	Community Homecare NW Portland, OR
2008	LVN	Private Duty Nurse Portland, OR

6. At the time of the incident, Respondent was employed as a licensed vocational nurse providing home health services with Community Home Care, Portland, Oregon.

7. On or about February 10, 2010, the Oregon State Board of Nursing, Portland, Oregon, accepted the voluntary surrender of Respondent's license to practice professional nursing in the state of Oregon. A copy of the Final Order issued by the Oregon State Board of Nursing, Portland, Oregon, on February 10, 2010, is attached and incorporated by reference as part of this Order.

8. In response to the underlying conduct that led to the voluntary surrender of Respondent's Oregon nursing license described in Finding of Fact Number Seven (7), Respondent states she was alleged to have financially exploited a patient under her care. In May 2009, a court revoked the will that gave Respondent some of the patient's property. Respondent signed a settlement with the patient's family to end the matter.

9. Formal Charges were filed on May 4, 2010.

10. Formal Charges were mailed to Respondent on May 12, 2010.

11. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license to practice nursing in the State of Texas.

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)(8), Texas Occupations Code.

4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Vocational License Number 144933, heretofore issued to PATRICIA ANN MCINTOSH, including revocation of Respondent's license to practice nursing in the State of Texas.

5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.

6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.

7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Vocational License Number 144933, heretofore issued to PATRICIA ANN MCINTOSH, to practice nursing in the State of Texas, is accepted by 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 "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 surrendered.

2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order.

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 nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

RESPONDENT'S CERTIFICATION

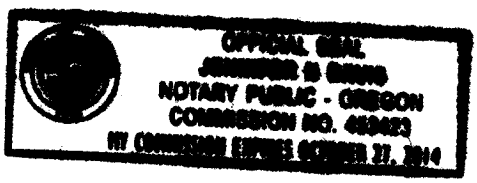
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and 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 becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 5 day of Jan., 2011.

PATRICIA ANN MCINTOSH, Respondent

Sworn to and subscribed before me this 5th day of January, 2011.

SEAL



Notary Public in and for the State of Oregon
County of Washington

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Vocational Nurse License Number 144993, previously issued to PATRICIA ANN MCINTOSH.

Effective this 14th day of January, 2011.

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

BEFORE THE OREGON
STATE BOARD OF NURSING

	)	**FINAL ORDER**
In the Matter of	)	
Patricia Ann McIntosh, LPN	)	
	)	
License No. 096005209LPN	)	**Case No. 09-235**
	)	

The Oregon State Board of Nursing (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including Licensed Practical Nurses, in the State of Oregon. Patricia Ann McIntosh (Licensee) is a Licensed Practical Nurse in the State of Oregon.

This Matter was considered by the Board on February 10, 2010. The issue for the Board was whether to approve the Stipulation signed by Licensee on February 9, 2010 and so dispense with this Matter pursuant to ORS 183.417(3).

Upon review of the Stipulation and the agency file in this Matter, the Board finds that reasonable factual and legal grounds exist to support approval of the Stipulation. It is hereby

ORDERED that the Stipulation signed by Licensee on February 9, 2010 be approved and by this reference incorporated herein, and it is further

ORDERED that the Board accept the Stipulation for Voluntary Surrender of Patricia Ann McIntosh's Licensed Practical Nurse License and that the Stipulation for Voluntary Surrender be adopted.

DATED this 10 day of February, 2010

Patricia Markesino RN

Patricia Markesino, RN
Board President

COPY

BEFORE THE BOARD OF NURSING
OF THE STATE OF OREGON

In the Matter of	)	**STIPULATION FOR**
Patricia Ann McIntosh, LPN	)	**VOLUNTARY SURRENDER**
	)	
	)	
	)	
License No.: 096005209LPN	)	**Case No.: 09-235**

Patricia Ann McIntosh, hereinafter referred to as "Licensee" is a Licensed Practical Nurse (LPN) in the State of Oregon. Licensee endorsed her license from Texas in 1996.

On December 17, 2008, the Board received a complaint that Licensee had financially exploited a patient under her care that had recently died.

Patient WC had hired an unlicensed, live-in caregiver in September of 2007. Licensee worked for a nursing agency that provided nurses to regularly visit WC's home, including Licensee. Licensee states that she initially met WC while on-assignment in April or May of 2007. WC's wife passed away in July of 2007.

Licensee stated that she got to know WC during her visits and, in March or April of 2008, she attended WC's 91st birthday party at his home and brought her daughter and granddaughter along.

Licensee said that during the time she worked with WC, he repeatedly approached her about being his live-in caregiver because he wanted a nurse so he could stay in his home. She initially declined, then said she would "think about it". She told him in May of 2008 that she would accept his offer to be his live-in caregiver and that her husband was "fine" with it.

WC subsequently fired his existing live-in caregiver and Licensee moved into WC's home on May 26, 2008. That day, WC lost consciousness and was transported to the hospital via ambulance. Hospital staff wanted to keep WC overnight. During his stay in the hospital, Licensee states that WC asked her to get a pen and paper because he "wanted to make some changes" to his will and wanted her to write those changes down. Licensee states that she argued with WC that she did not want to do it, but he insisted so she did what she was asked.

WC's original will was executed in 1974, leaving his entire estate to his wife. This will did not change until a codicil was executed in 1997 that made FJ, WC's stepson, the sole beneficiary of WC's estate should his wife pre-decease him, which she did. FJ became sole beneficiary and personal representative of WC's estate in July of 2007.

The document produced in Licensee's handwriting on May 26, 2008 stated that:

- FJ would no longer be named as Executor of the estate and that there was no replacement at that time
- In the event of his death, he wished for his body to be donated to science and his remains cremated.
- That in the event of his passing, Licensee, Licensee's daughter and Licensee's granddaughter shall remain at his physical address for six months at no rental charge and when the home was sold, LPN would have first option to purchase
- That $50,000 be given to Licensee and if Licensee passes, it shall be given to Licensee's daughter and granddaughter.
- The remainder of his estate be given to Meals on Wheels

Upon returning from the hospital stay, WC contacted his long-time attorney Mr. Winfree. There were some communication issues, but Mr. Winfree visited WC at his home on June 2, 2008. During their meeting, Mr. Winfree asked WC how long Licensee had been there and WC told him "a couple of months" although it had been about a week. WC denied that he was being influenced.

On June 23, 2008, the new will was signed with the same specifications as were written at the hospital. The same day, Mr. Winfree had WC sign a durable Power of Attorney to allow Mr. Winfree to monitor WC's finances. Mr. Winfree stated he felt this was important because he was uncomfortable with the situation between WC and Licensee given the short amount of time she had been there.

Sometime between June 23, 2008 and July 3, 2008, WC had a pacemaker placed in order to attempt to improve his quality of life.

On July 9, 2008, WC contacted Mr. Winfree and said he wanted to make more changes to his will as soon as possible. He said he wanted to leave his entire estate to Licensee and wanted to revoke the Power of Attorney in favor of Winfree to make Licensee his Power of Attorney. The same day, LPN contacted Mr. Winfree's office to confirm receipt of WC's message but Mr. Winfree was on vacation at that time.

On July 10, 2008, WC was taken to the ER for shortness of breath. A note from the visit indicated that WC requested CPR, defibrillation and intubation but he would not want prolonged mechanical ventilation. Another note indicated there was a "long discussion with his nurse and healthcare POA, Patricia McIntosh". At this time, Mr. Winfree was still legally WC's Power of Attorney.

On July 12, 2008, Licensee signed WC into Hospice care. The Hospice admission papers were all signed by Licensee, indicating that WC was unable to sign due to "debility". LPN also signed the papers representing that she was Power of Attorney for WC and that she would be named WC's Power of Attorney on Monday when the attorney was back in town. DNR (Do Not Rescucitate) was checked on the form although WC made it clear the night before at the ER that he wished to have CPR, defibrillation and intubation.
On July 14, 2008, Mr. Winfree returned from vacation and met with WC. Mr. Winfree was extremely concerned about WC's sudden changes and while discussing his concerns with WC,

Licensee entered the room unannounced, stating she overheard their conversation on a baby monitor. She and Mr. Winfree exchanged words and Licensee left the room. After this meeting, Mr. Winfree consulted with other attorneys and decided that he could not draft the requested will.

Licensee stated that after Mr. Winfree refused to draft the changes, another attorney came to WC's home in July of 2008 to discuss the estate plan but also refused to draft it.

On July 17, 2008, WC visited his primary care physician, Dr. Coodley. During this visit, WC stated that he was not ready to stop aggressive treatment. Dr. Coodley noted during this visit "I don't think he needs to be on hospice, nor do I think he qualifies, as it is not clear that he has only 6 months to live, nor does he have a clear terminal illness". Based on this meeting, Dr. Coodley discharged WC from hospice, however, WC's hospice records do not show that he was ever discharged from their care.

On July 24, 2008, a hospice nurse asked Licensee whether WC was still interested in hospice and she replied that she strongly felt he was still interested.

On August 5, 2008, WC contacted Mr. Harper, another attorney. Mr. Harper met WC for the first time on August 6, 2008. He made subsequent visits on August 7, 11, 12 and 13.

On August 12, 2008, WC visited Dr. Coodley and complained that he was having respiratory distress in the mornings in response to the Roxinol he had been prescribed. Dr. Coodley indicated that it was unclear whether the Roxinol was helping WC's anxiety or helping with some failure.

On August 13, 2008, Mr. Harper met with WC. A Joint Property Agreement (JPA) and another will were executed. The JPA purported to transfer to Licensee outside of probate all of WC's property upon his death. Licensee signed this document. On the same day, WC signed a Bill of Sale transferring his personal property to Licensee as joint tenants, a deed transferring his home to Licensee as joint tenants and a request to make Licensee a joint owner of his brokerage account. WC also sent a letter to Seattle Northwest Securities making his account joint with Licensee. The new will left Licensee all of WC's property and, if Licensee passed away before him, it would go to Licensee's husband. WC placed conditions on the gift to Patricia McIntosh; she would not collect anything if she was not providing care for him when he died. David Harper states that this was his idea, not hers. Patricia McIntosh was made aware of WC's change in his estate plan, but states that she did not participate in the planning itself.

On August 19, 2008, WC signed a "Consent for Use of My Whole Body Upon My Death" donating his body to BioGift. The consent form was signed as witnessed by Licensee on the same day, but Licensee's husband was the other witness and signed it on September 4, 2008.

From September 15, 2008 to September 23, 2008, there were communications between Dr. Coodley's office and Hospice doctor's office because WC's appointments kept getting cancelled

with Dr. Coodley, Dr. Coodley was unable to speak with WC and he did not feel it appropriate to sign the Hospice forms until he could speak with WC.

On September 23, 2008, a hospice nurse faxed Dr. Coodley's office stating that WC was not willing to visit Dr. Coodley and wanted his care transferred to the hospice doctor. In response, Dr. Coodley expressed his concerns that the hospice doctor should speak directly with WC to ensure that hospice was really what WC wanted and that he was hesitant about a conflict of interest given that Licensee was in a position where she was to gain financially from WC's death.

On September 24, 2008, Licensee reported to hospice that WC had improved and did not want an after-hours visit. The same day, WC's stepson and his wife left on a vacation to Europe. The stepson attempted to see WC but Licensee informed him that she was ill so he should not come by the house.

On September 25, 2008, WC died shortly before midnight.

On October 1, 2008, Licensee contacted WC's stepson and his wife via email regarding Licensee's passing. They emailed back the same day indicating that it would be some time before they returned home to see to the tasks as WC's executor.

On October 8, 2008, Licensee emailed them stating "I want to be forthright in telling you that [WC] has left the house to myself and [my husband]. Due to this I have sought legal counsel. You can contact him with any questions or concerns you may have".

Shortly after WC's death, LPN liquidated WC's bank and securities accounts worth in excess of $450,000 and was living off the money as of the date of her personal interview with Board staff, February 18, 2009. Licensee was also in possession of WC's home, worth about $450,000.

On May 20, 2009, a court ruled that Licensee exercised undue influence over WC and revoked the will that gave her WC's property. An injunction was entered to restrain her from using any additional funds from any of the accounts. The matter was settled with the family prior to entry of any findings and entry of any judgment, and mutual releases were exchanged with the estate and any family members.

WHEREAS by the above actions, Licensee is subject to disciplinary action pursuant to violations of **ORS 678.111 (1)(f) and OAR 851-045-0070(1)(n); (2)(h) and (4)(b)** which provide as follows:

ORS 678.111 Causes for denial, revocation or suspension of license or probation, reprimand or censure of licensee. In the manner prescribed in ORS chapter 183 for a contested case:
(1) Issuance of the license to practice nursing, whether by examination or by indorsement, of any person may be refused or the license may be revoked or suspended or the licensee may be placed on probation for a period specified by the Oregon State Board of Nursing and subject to such condition

as the board may impose or may be issued a limited license or may be reprimanded or censured by the board, for any of the following causes:

(f) Conduct derogatory to the standards of nursing.

Conduct Derogatory to the Standards of Nursing Defined
851-045-0070

Nurses, regardless of role, whose behavior fails to conform to the legal standard and accepted standards of the nursing profession, or who may adversely affect the health, safety, and welfare of the public, may be found guilty of conduct derogatory to the standards of nursing. Such conduct shall include, but is not limited to, the following:

(1) Conduct related to the client's safety and integrity:

(n) Failing to maintain professional boundaries with a client.

(2) Conduct related to other federal or state statute/rule violations:

(h) Using the nurse client relationship to exploit the client by gaining property or other items of value from the client either for personal gain or sale, beyond the compensation for nursing services.

(4) Conduct related to achieving and maintaining clinical competency:

(b) Failing to conform to the essential standards of acceptable and prevailing nursing practice. Actual injury need not be established.

Licensee does not admit or deny the above violations and wishes to cooperate with the Board in resolving the present disciplinary problem. She has elected to voluntarily surrender her Practical Nurse license.

THEREFORE, the following will be proposed to the Oregon State Board of Nursing and is agreed to by Licensee:

That the voluntary surrender of the Licensed Practical Nurse license of Patricia Ann McIntosh be accepted. Ms. McIntosh agrees that she will not seek re-licensure in the State of Oregon.

Licensee agrees that she will not practice as a Licensed Practical Nurse in the State of Oregon from the date of signature on this Stipulation.

Licensee understands that this Stipulation will be submitted to the Board of Nursing for their approval and is subject to the Board's confirmation.

Licensee understands that by signing this Stipulated Agreement she waives the right to an administrative hearing. She acknowledges that no promises, representations, duress or coercion have been used to induce her to sign this Stipulation.

Licensee has read the Stipulation, understands the Stipulation completely, and freely signs the Stipulation

DATED this 9th day of February, 2010

Patricia Ann McIntosh, LPN

FOR THE BOARD OF NURSING OF THE STATE OF OREGON

Linda Fisher-Lewis
Program Manager
Investigations Division