BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§
License Number 165632	§
issued to DEANNA KAY MCFARLIN	§

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

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 165632, issued to DEANNA KAY MCFARLIN, 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 is currently licensed to practice vocational nursing in the State of Texas.

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

3. Respondent received a Certificate in Vocational Nursing from Cisco Junior College, Abilene, Texas, on August 29, 1997. Respondent was licensed to practice vocational nursing in the State of Texas on October 30, 1997.

4. Respondent's vocational nursing employment history includes:

10/1997 - 06/2003	LVN	Abilene State School Abilene, Texas
06/2003 - 08/2003	LVN	Carriage House Manor Sulphur Springs, Texas

Respondent's vocational nursing employment history continued:

08/2003 - 03/2009	LVN	Trinity Mission Health and Rehab Winnsboro, Texas
03/2009 - 08/2009	Employment history unknown.	
08/2009 - 09/2009	LVN	Carriage House Manor Sulphur Springs, Texas
08/2009 - 05/2010	LVN.	Sunny Springs Nursing and Rehabilitation Sulphur springs, Texas
05/2010 - Present	Employment history unknown.	

5. On or about May 5, 2010, Respondent was issued an Agreed Order by the Texas Board of Nursing. A copy of the Finding of Fact, Conclusions of Law and Order dated May 5, 2009 is attached and incorporated herein by reference as part of this Order.

6. On or about May 1, 2010, while employed as Vocational Nurse with Sunny Springs Nursing and Rehab, Sulphur Springs, Texas, Respondent administered Hydrocodone belonging to patient B.B. to patient P.J., who did not have an order to receive Hydrocodone. Respondent's conduct was likely to injure the patient in that the administration of Hydrocodone without a valid physician's order could result in the patient suffering from adverse reactions.

7. On or about May 2, 2010, while employed as Vocational Nurse with Sunny Springs Nursing and Rehab, Sulphur Springs, Texas, Respondent administered Hydrocodone belonging to patient B.B. to patient P.J., who did not have an order to receive Hydrocodone. Respondent's conduct was likely to injure the patient in that the administration of Hydrocodone without a valid physician's order could result in the patient suffering from adverse reactions.

8. On or about May 8, 2010 through May 9, 2010 while employed as Vocational Nurse with Sunny Springs Nursing and Rehab, Sulphur Springs, Texas, Respondent misappropriated Hydrocodone belonging to the facility and patient's thereof, or failed to take the precautions to prevent such misappropriation.

9. On or about May 8, 2010, Respondent became non-compliant with the Agreed Order issued to her by the Texas Board of Nursing on May 5, 2010. Non-compliance is the result of her failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract. Stipulation number three (3) of the Order dated May 5, 2010, states:

> (3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term.

On May 27, 2010, Respondent was dismissed from TPAPN and referred to the Board.

10. On October 25, 2010, Respondent submitted a notarized statement to the Board voluntarily surrendering the right to practice vocational nursing in Texas. A copy of Respondent's notarized statement, dated October 22, 2010, is attached and incorporated herein by reference as part of this Order.

11. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.

12. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

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)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(A)&(C) and 217.12(1)(B)(4), (6)(G),(9)&(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.

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ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 165632, heretofore issued to DEANNA KAY MCFARLIN, 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 immediately deliver the wallet-size license, heretofore issued to DEANNA KAY MCFARLIN, to the office of the Texas Board of Nursing.

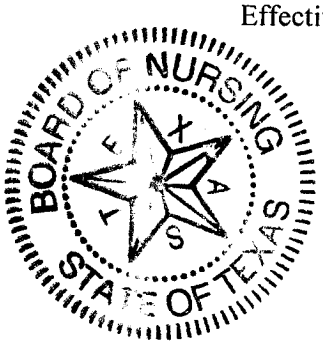
2. RESPONDENT SHALL NOT practice vocational nursing, use the title of vocational nurse or the abbreviation LVN or wear any insignia identifying herself as a vocatioanl nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during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

3. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.

4. 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 vocational nursing in the State of Texas.

Effective this 25th day of October, 2010.



TEXAS BOARD OF NURSING

By: Katherine A. Thomas

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

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse License Number 165632 issued to DEANNA KAY MCFARLIN	§ § §	AGREED ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of DEANNA KAY MCFARLIN, Vocational Nurse License Number 165632, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on March 11, 2010, by Katherine A. Thomas, MN, RN, Executive Director.

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.

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 Certificate in Vocational Nursing from Cisco Junior College, Abilene, Texas, on August 29, 1997. Respondent was licensed to practice vocational nursing in the State of Texas on October 30, 1997.

5. Respondent's vocational nursing employment history includes:

10/1997 - 06/2003	LVN	Abilene State School Abilene, Texas

Respondent's vocational nursing employment history continued:

06/2003 - 08/2003	LVN	Carriage House Manor Sulphur Springs, Texas
08/2003 - 03/2009	LVN	Trinity Mission Health and Rehab Winnsboro, Texas
03/2009 - 08/2009	Employment history unknown.	
08/2009 - 09/2009	LVN	Carriage House Manor Sulphur Springs, Texas
09/2009 - Present	Employment history unknown.	

6. At the time of the incident, Respondent was employed as a Vocational Nurse with Trinity Mission Health and Rehabilitation of Winnsboro, Winnsboro, Texas, and had been in this position for five (5) years six (6) months.

7. On or about February 13, 2009 through February 22, 2009, while employed as a Licensed Vocational Nurse with Trinity Mission Health and Rehabilitation of Winnsboro, Winnsboro, Texas, Respondent misappropriated Hydrocodone belonging to the facility and residents thereof, or failed to take the precautions to prevent such misappropriation. Possession of Hydrocodone, without a valid prescription, is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). Respondent's conduct was likely to defraud the facility and patients of the cost of medications.

8. In response to Finding of Fact Number Seven (7), Respondent states: "I began my employment at Trinity Mission in 2003. Over the course of the next 6 ½ years I worked very hard and pushed myself beyond limits and no one tried to stop me. This is the time at the end that I met a downward spiral of thoughts of suicide constantly. I felt embarrassed to ask for help. I gathered 26 pills over two days of sixteen hour shifts and made a plan to take them all. I didn't care at the time what the consequences were. These thoughts and behaviors were very unlike me. I had never felt like this before. This was the worst mistake I had ever made in my life."

9. On or about February 25, 2009, Respondent was arrested by the Hopkins County Sheriff's Office, Sulphur Springs, Texas, for DRIVING WHILE LICENSE INVALID.

10. On or about July 2, 2009, Respondent was arrested by the Wood County Sheriff Office, Quitman, Texas, for THEFT OF A SERVICE >= $20 < $500 (a Class B Misdemeanor).

11. On or about September 14, 2009, while employed with Carriage House Manor, Sulphur Springs, Texas, Respondent misappropriated Hydrocodone belonging to Patient J.C., or failed to take precautions to prevent such misappropriation. Possession of Hydrocodone, without a valid prescription, is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). Respondent's conduct was likely to defraud the facility and patients of the cost of medications.

12. In response to Finding of Fact Number Eleven (11), Respondent states: "My last job was at Carriage House Manor. I was asked to leave because they were missing a narcotic and had me on camera taking the medication. I know that when I left my count was correct. I feel that my actions at Trinity Mission followed all over this area."

13. The Respondent's conduct described in the preceding Finding of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.

14. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

15. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, 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)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(B),(4),(6)(G),(8),(10)(E),(11)(B)&(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 165632, heretofore issued to DEANNA KAY MCFARLIN, including revocation of Respondent's license to practice nursing in the State of Texas.

5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars ($350.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her license to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED, SHOULD RESPONDENT be convicted of the offenses as outlined in Findings of Fact Numbers Nine (9) and Ten (10), said judicial action will result in further disciplinary action including Revocation of Respondent's license to practice vocational nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all

respects with the Nursing Practice Act, Texas Occupations Code, Section §§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 multistate licensure 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, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

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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. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

29th day of April 2010

Signed this 29th day of April, 2010.

DEANNA KAY MCFARLIN, Respondent

Sworn to and subscribed before me this 29 day of April, 2010.

SEAL

CAMEIL LITTRELL
NOTARY PUBLIC
STATE OF TEXAS
My Commission Expires 9-29-2012

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 accept and enter the Agreed Order that was signed on the 29th day of April, 2010, by DEANNA KAY MCFARLIN, Vocational Nurse License Number 165632, and said Order is final.

Entered and effective this 5th day of April, 2010.

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