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

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| In the Matter of Vocational Nurse | § | AGREED |
| License Number 216905 | § | |
| issued to ELIZABETH A. PALOMINO-GARCIA | § | ORDER |

On this day the Texas Board of Nursing, hereinafter referred to as the Bo considered the matter of ELIZABETH A. PALOMINO-GARCIA, Vocational Nurse License Number 216905, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on July 30, 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.

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 Concord Career Institute - Extended Health, Arlington, Texas, on June 30, 2008. Respondent was licensed to practice vocational nursing in the State of Texas on July 29, 2008.

5. Respondent's nursing employment history includes:

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| 08/2008 - 03/2009 | Charge Nurse | Life Care Center of Haltom<br>Fort Worth, Texas |
| 04/2009 - Present | Unknown | |

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as a Charge Nurse with Life Care Center of Haltom, Fort Worth, Texas, and had been in this position for four (4) months.

7. On or about December 31, 2008, while employed as a Charge Nurse with Life Care Center of Haltom, Fort Worth, Texas, Respondent inappropriately administered intramuscular Valium to Resident DD, who was having a seizure, at 1900 hours and again at 1920 hours, without a physician's order. Although there was injectable Valium with a label dated September 19, 2007, a current physician's order for Valium was not in the medical record. Additionally, she administered Ativan, at least once, without clarifying the route and frequency with the physician. Respondent's conduct was likely to injure the resident from non-efficacious treatment and/or adverse reactions due to medications administered without a current, complete physician's order.

8. On or about January 9, 2009, through January 30, 2009, while employed as a Charge Nurse with Life Care Center of Haltom, Fort Worth, Texas, Respondent inappropriately administered Ativan 1 mg via G-tube to Resident DD fifteen (15) times for treatment of anxiety or agitation, without a physician's order for this indication. The physician had only ordered Ativan to be administered as needed for a seizure. Respondent's conduct was likely to injure the resident from non-efficacious treatment and/or adverse reactions due to medications administered without the benefit of a physician's care or expertise.

9. On or about February 23, 2009, while employed as a Charge Nurse with Life Care Center of Haltom, Fort Worth, Texas, Respondent inappropriately administered intramuscular Valium to Resident DD, who was having a seizure, at 1910 hours and again at 1920 hours, without a physician's order. Additionally, she administered Ativan, which was expired, at 1915 hours, at 1920 hours, and at 1935 hours, without clarifying the route and frequency with the physician prior to administration. Respondent failed to inform the physician of the resident's status, the medications administered, and the resident's transfer to the hospital. Respondent's conduct was likely to injure the resident from non-efficacious treatment and/or adverse reactions due to medications administered without a current, complete physician's order, and deprived the physician of necessary information on which to base care decisions.

10. On or about December 31, 2008, through February 23, 2009, while employed as a Charge Nurse with Life Care Center of Haltom, Fort Worth, Texas, Respondent failed to accurately and completely document in the medical record of Resident DD, as follows:
    - On December 31, 2008, Respondent documented that she administered Ativan once in the Nurse's Notes and Medication Administration Record (MAR), but documented that Ativan was administrated twice on the Resident Transfer Record;
    - Respondent failed to document obtaining the injectable Ativan on the Individual Control Drug Records in December 2008 and February 2009;
    - Respondent documented instructions for administration of Ativan on the MAR in December 2008, without an actual order from the physician; and

- On February 23, 2009, Respondent failed to document the resident's seizure, and when she documented a late entry on February 24, 2010, she dated the entry February 23, 2010, instead of noting the correct date and that it was a late entry for the previous day.

Respondent's conduct resulted in an incomplete, inaccurate medical record, was likely to injure the resident in that subsequent care givers would not have complete information on which to base their care decisions, and placed the hospital in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

11. In response to the incidents in Findings of Fact Numbers Nine (9) and Ten (10), Respondent states that she was called to the room of Resident DD, who was having a continuous seizure with no periods of rest, and the Assistant Director of Nursing (ADON) checked the MAR while Respondent retrieved the resident's seizure medications, with which she was familiar since the resident had experienced a seizure during the previous month. According to Respondent, the ADON stated that Valium had mistakenly been omitted from the MAR upon the resident's readmission from the hospital, that the Ativan order was not complete, and that she would notify the resident's physician about the situation, obtain an order for Valium, and obtain clarification of the Ativan order. Respondent explains that she overlooked the expiration date of the Ativan because she was concerned about the resident's well-being and did not intentionally administer an expired medication. Due to the facility's mandate regarding work hours, Respondent states she was unable to document in the medical record of Resident DD before her work shift ended. Respondent states that she returned to the facility the following day and documented a late entry regarding the seizure episode of Resident DD. Respondent concludes that the situation was a horrific nightmare for her, especially in her first year of nursing, and that she has learned a valuable lesson from her error in judgement.

## 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),(1)(B),(1)(C),(1)(D),(1)(N),(1)(P)&(2)(A) and 217.12(1)(A),(1)(B),(1)(C)&(4).

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 216905, heretofore issued to ELIZABETH A. PALOMINO-GARCIA, 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 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 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. *Information regarding Board-approved courses in Texas Nursing Jurisprudence may be found at the Board's website 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 a course in medication administration. 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. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and

clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor 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.*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. 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. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office 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.*

(4) 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://ncsbn.hivelive.com/hives/a0f6f3e8a0/summary.*

**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:**

(5) 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.

(6) 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.

(7) 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.

(8) 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 1 day of September, 2010.

Elizabeth A. Palomino-Garcia

ELIZABETH A. PALOMINO-GARCIA, Respondent

Sworn to and subscribed before me this 1 day of Sept, 2010.

SEAL

JEFF GRIFFITH
Notary Public, State of Texas
My Commission Expires
10-16-2011

Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 1st day of September, 2010, by ELIZABETH A. PALOMINO-GARCIA, Vocational Nurse License Number 216905, and said Order is final.

Effective this 21st day of October, 2010.

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