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 59458	§	
issued to MANUEL SALAS GARCIA	§	ORDER

An investigation by the Texas Board of Nursing, hereinafter referred to as the Board, p evidence indicating that MANUEL SALAS GARCIA, hereinafter referred to as Respondent, Vocational Nurse License Number 59458, may have violated Section 301.452(b)(10) & (13), Texas Occupations Code.

An informal conference was held on February 2, 2010, at the office of the Texas Board of Nursing, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Dan Lype, Attorney at Law. In attendance were Mary Beth Thomas, Ph.D., RN Director of Nursing, Executive Director's Designee; Jena Abel, Assistant General Counsel; Lance Brenton, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Cynthia A. Smith, Supervising Investigator; Toni Frizzel, RN, Investigator; and Kathy Duncan, RN, Investigator.

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 notice and hearing and consented 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 Huth Memorial Hospital School of Nursing, Yoakum, Texas, on February 1, 1974. Respondent was licensed to practice vocational nursing in the State of Texas on February 1, 1974.

5. Respondent's vocational nursing employment history includes:

1972 - 1981	Unknown

1982 - 1995	Staff Nurse	Goliad Hospital Goliad, Texas
Unknown	Staff Nurse	Mathis Nursing Home Mathis, Texas
Unknown	Staff Nurse	Refugio Manor Nursing Home Corpus Christi, Texas
Unknown	Staff Nurse	Lyn Haven Nursing Home Corpus Christi, Texas
Unknown	Staff Nurse	The Manor Nursing Home Corpus Christi, Texas
Unknown	Staff Nurse	Alameda Oaks Nursing Home Corpus Christi, Texas
2/08 - present	Staff Nurse	Harbor View Rehabilitation Corpus Christi, Texas
1/09 - 6/09	Staff Nurse	The Palms Rehabilitation Corpus Christi, Texas

6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a Staff LVN with The Palms Nursing and Rehab, Corpus Christi, Texas, and had been in this position for six (6) months.

7. On or about June 13, 2009, while employed at The Palms Nursing and Rehab, Corpus Christi, Texas, Respondent failed to completely and/or properly assess Patient MGG or document an assessment prior to the administration of 25 mg Morphine Sulfate SL to Patient MGG at 0240. Additionally, Respondent administered 25 mg Morphine Sulfate SL to Patient MGG at 0240 despite the fact that the patient's daughter (who held her mother's Power of Attorney) informed Respondent that her mother was comfortable and in no apparent distress after receiving 25 mg Morphine at 0040, which had also been administered by Respondent. Although Patient MGG's daughter protested the administration of any additional Morphine, Respondent ignored her protests and administered 25 mg Morphine at 0240.

8. On or about June 13, 2009, while employed at The Palms Nursing and Rehab, Corpus Christi, Texas, Respondent failed to timely and completely document the administration of 25 mg Morphine Sulfate SL to Patient MGG at 0040 and 0240 in the patient's Medication Administration Record and/or Nurses Notes. Respondent failed to document the need and effectiveness of the medication in the patient's Nurses Notes or the Medication Administration Record until July 7, 2009, subsequent to an investigation by the Texas Department of Disability and Aging (TDADS), which revealed there had been no documentation by Respondent. Respondent's conduct was likely to injure the patient in that subsequent care givers would rely on his documentation to further medicate the patient which could result in an overdose.

9. On or about June 13, 2009, while employed at The Palms Nursing and Rehab, Corpus Christi, Texas, and

assigned the care of Patient MGG, Respondent failed to take precautions to prevent the misappropriation of Morphine Sulfate, Lorazepam and Ativan, after the demise of Patient MGG. Although the facility's policy required the assigned nurse to remove a resident's medications from the medication cart and secure them after death or discharge, Respondent admitted that he left the facility without securing these medications. On July 8, 2009, TDADS conducted an investigation which revealed that the narcotics, including the narcotic count sheets, were missing from the facility. Respondent's conduct defrauded the facility and the patients thereof of the cost of the medications and placed the facility in non-compliance with Chapter 481 of the Health and Safety Code (Texas Controlled Substance Act).

10. In response to Finding of Fact Number Seven (7), the Respondent maintains that he assessed his patient prior to administering the next dosage of morphine and determined she required additional pain control. Patient MGG was receiving end-of-life care and the physician's orders called for additional doses of pain medication every few hours on a PRN basis. The Respondent denies that the patient's daughter asked him not to administer the medication.

11. In response to Finding of Fact Number Eight (8), the Respondent claims he did document the medication administration in the nurse's notes, but not on the Medication Administration Record. Respondent further states that he did not have an opportunity to complete his documentation due to the fact that his supervisor took the chart immediately after the patient passed. Additionally, Respondent states that he did not document the medication's effectiveness, as the patient was deceased and this did not seem necessary for continuity of care purposes.

12. In response to Finding of Fact Number Nine (9), the Respondent denies misappropriating any medication. The Respondent states that it is unclear what happened to Patient MGG's medication after her death, and there are conflicting reports as to when a discrepancy was first noticed.

13. Charges were filed and mailed to Respondent on October 5, 2009.

14. First Amended Formal Charges were filed and mailed to Respondent on March 26, 2010.

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)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(A),(C),(D),(N),(P),&(2) and 217.12 (1)(A),(B),(4),(6)(G)&(11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against MANUEL SALAS GARCIA Vocational Nurse License Number 59458, heretofore issued to MANUEL SALAS GARCIA, 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 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.*

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 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 A VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

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 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 9th day of July, 2010.

Manuel Salas Garcia

MANUEL SALAS GARCIA, Respondent

Sworn to and subscribed before me this 9th day of July, 2010.

SEAL

NOTARY PUBLIC STATE OF TEXAS
Raquel Salazar
My Commission Expires
07/09/2011

Raquel Salazar

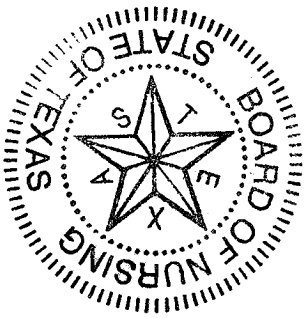
Notary Public in and for the State of Texas

Approved as to form and substance.

Dan Lype, Attorney for Respondent

Signed this 14 day of July, 2010.

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby ratify and adopt the Agreed Order that was signed on the 9th day of July, 2010, by MANUEL SALAS GARCIA, Vocational Nurse License Number 59458, and said Order is final.



Effective this 17th day of August, 2010.

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