BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§	AGREED
License Number 171486	§	
issued to LORI ANN MANTEGNA-VANDIVER	§	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 Bo considered the matter of LORI ANN MANTEGNA-VANDIVER, Vocational Nurse License Number 171486, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9)&(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 a Certificate in Vocational Nursing from John Peter Smith Hospital, Fort Worth, Texas, on January 14, 1999. Respondent was licensed to practice vocational nursing in the State of Texas on March 15, 1999.

5. Respondent's nursing employment history is unknown.

6. On or about March 3, 2007, Respondent was arrested by the Mansfield Police Department, Mansfield, Texas, and subsequently charged with OBSTRUCTION OR RETALIATION (a 3rd Degree felony offense) and DRIVING WHILE INTOXICATED (a Class B misdemeanor offense). On or about July 31, 2008, Cause Number 1058628001 was dismissed in the County Criminal Court of Tarrant County. On or about November 16, 2007, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED (a Class B Misdemeanor offense), in the County Criminal Court of Law No. 9 of Tarrant County, Texas, under Cause Number 1058629001. As a result of the conviction, Respondent was sentenced to confinement in the Tarrant County Jail for a period of twenty (20) days. Additionally, Respondent was ordered to pay a fine and court costs.

7. On or about September 25, 2008, Respondent submitted a License Renewal Form License Vocational Nurse to the Texas Board of Nursing in which she answered "Yes" to the question:

   "In the past 5 years, have you been diagnosed with or treated or hospitalized for schizophrenia or other psychotic disorder, bipolar disorder, paranoid personality disorder, antisocial personality disorder, or borderline personality disorder?"

8. In response to Findings of Fact Number Six (6) and Seven (7), Respondent states that she had a mishap in the March 2007, she got a DWI charge in Mansfield, Texas. On that night, she had said something to a female officer that very much offended her. She advised the female officer that they we were in the same line of work and then she began to argue with her. During the entire arrest the female officer felt she was very threatening. The officer gave her a Retaliation Charge. She saw the tape of the arrest with her lawyer and was so ashamed she could not watch the entire thing. She has been in many courts with different judges because they separated the cases. She was put into a program called Tarrant County Assertive Treatment. She had gone through many measures to qualify for the special program which is something quite new for Tarrant County based out of MHMR. She had to go through months and months of Counseling . Her councilor was Pam Leary who was once a Parole Officer, but now is the supervisor/officer of Mental Health Diversion Programs. She was a very good participant in the program. She saw both of her Judges as ordered throughout her lengthy program. She also went to the Centers for Therapeutic change in Arlington. Her counselor was Tracy Kholen who decided at one time that she had done so well "she was wasting my time." It was the worst time of her life, but she has come out of it a much better human being. Her Retaliation charge was dismissed.

9. On or about September 28, 2009, Respondent was seen by Emily Fallis Ph.D to undergo a forensic psychological evaluation to include a chemical dependency and polygraph examination.

   Dr Emily Fallis states: This examiner is of the opinion that Ms Vandiver is at moderate risk for relapse in terms of substance abuse. She currently appears to have insight into her

alcoholism. On the other hand, she has a long history of resorting to alcohol when under stress. Moreover, she has continued to drink alcohol since treatment. She admitted she was drinking up to eight beers virtually daily while involved with her previous boyfriend and after her DUI. Furthermore, she acknowledged she drinks alcohol when she and her current boyfriend fight. Note also that this examiner is concerned that she was perceived as compliant with the mental health diversion program but was not compliant with her medication regime and hid this noncompliance from her psychiatrist and therapist. Moreover, this examiner is concerned about her ongoing use of alcohol while also using anxiolytic medication. She seems to be fairly dependent on others and likely feels empty when not in an intimate relationship with a man. This facet of her personality puts her at risk for relapse. Others likely will find her friendly, extroverted person with a lot of energy. She seems to have a sense of purpose for her life. She appears to be fairly trusting. She acknowledged episodes of anxiety when under stress. She likely has developed some coping resources through court-ordered treatment, although these could be reinforced through further treatment. Her support system likely should be strengthened to extend beyond her family and her current paramour. She does not appear to suffer from clinical depression, Bipolar Disorder, or a psychotic disorder. She has had anxiety symptoms and continues to use medication to control these symptoms. These anxiety symptoms do not appear to be panic attacks which occur unexpectedly but, rather, are a response to stress. She appears to have problems modulating negative emotions such as depression and anger at times. She should be participating in a support group such as Alcoholics Anonymous. She likely would benefit from individual counseling, as well as medication monitoring by a psychiatrist.

1. Ms. Vandiver demonstrated evidence of current psychopathology, including significant anxiety and alcohol dependence, through interview and observation. Psychological testing showed she was relatively straightforward during the assessment, acknowledging a history of alcohol abuse and anxiety symptoms. She has a history of treatment for both anxiety and alcohol dependence; and currently is taking psychotropic medication for the former.

2. In this examiner's opinion, Ms. Vandiver may have difficulty avoiding behaviors which the board of Nursing has identified as constituting unprofessional conduct. In particular, this examiner found evidence that she is at moderate risk of abusing alcohol, either as part of her duties as a nurse or in other contexts. This opinion is based on her general history, data generated during the evaluation, and review of records.

3. Ms. Vandiver may have difficulty behaving consistently in accordance with the requirements of Rules 213.27 to 213.29 at 22 Texas Administrative Code (TAC), as well as the minimum standards set by the Board's rules 217.11 at 22 TAC and generally accepted nursing standards. Specifically referencing 213.28, section (c), Ms. Vandiver's alcohol abuse and related behavior are unlikely to recur simply because she is licensed, particularly since her offense conduct has not been particular to someone in the nursing profession. With reference to 213.28, section (d), she has evidence of prosocial, stable behaviors since the time of her most recent legal situation, the DWI arrest. On the other hand, since completing

court-mandated treatment she has continued to drink alcohol while using prescription medication and has resorted to drinking when stressed in her relationship.

Polygraph-Dianne Robinson states: After careful analysis of the charts produced, it is my professional opinion that Ms. Mantegna-Vandiver's results are-No Deception Indicated. The polygraph that Ms. Mantegna-Vandiver's exam was administered on is a Lafayette LX-400 computerized instrument.

10. 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.

14. Respondent's conduct described in Findings of Fact Numbers Six (6) through Nine (9) resulted was significantly influenced by Respondent's impairment by dependency on chemicals and mental illness.

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 violations of Section 301.452(b)(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(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 171486, heretofore issued to LORI ANN MANTEGNA-VANDIVER, 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 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.

Signed this 22 day of Sept, 2010.

LORI ANN MANTEGNA-VANDIVER, Respondent

Sworn to and subscribed before me this 22 day of Sept, 2010.

SEAL

DANIEL WILKES
Notary Public
STATE OF TEXAS
Commission Expires 03/17/2011

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 22th day of September, 2010, by LORI ANN MANTEGNA-VANDIVER, Vocational Nurse License Number 171486, and said Order is final.

Entered and effective this 20th day of October, 2010.

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