BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Vocational Nurse	§	AGREED
License Number 193525	§	
issued to SHERYL LOUISE JOHNSON	§	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 Bc considered the matter of SHERYL LOUISE JOHNSON, Vocational Nurse License Number 193: hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(2),(9),(10),(12)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on March 24, 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 Nursing from Ozarks Technical Community College, Springfield, Missouri on May 1, 1996. Respondent was licensed to practice vocational nursing in the State of Texas on June 3, 2004.

5. Respondent's complete vocational nursing employment history includes:

1996 - 1997	LVN	Missouri Rahab Center Mt. Vernon, Missouri

Respondent's complete vocational nursing employment history continued:

1998 - 2000	Unknown employment	
2001 - 2002	LVN	Missouri Rahab Center Mt. Vernon, Missouri
2001 - 2002	LVN	Mt. Vernon Place Care Center Mt. Vernon, Missouri
2002 - 2003	LVN	Lawrence County Manor Mt. Vernon, Missouri
2002 - 2004	LVN	Deaconess/Barry County Care Center Cassville, Missouri
2002 - 2004	LVN	Deaconess/Monett Health Care Center Monett, Missouri
2004 - 2005	LVN	Sigma Health Care Inc. Galveston, Texas
12/06 - 02/08	LVN	Texas Home Health Galveston, Texas
03/08 - present	unknown employment	

6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a Licensed Vocational Nurse with Texas Home Health, Galveston, Texas, and had been in this position for one (1) year and three (3) months.

7. On or about February 2, 2008, while employed at Texas Home Health, Galveston, Texas, Respondent lacked fitness to practice vocational nursing in that she smelled of alcohol, and was dressed inappropriately. Additionally, Respondent was impatient with the client she was caring for. Respondent's condition could have affected her ability to recognize subtle signs, symptoms, or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patients in potential danger.

8. On or about February 3, 2008, while employed at Texas Home Health, Galveston, Texas, Respondent admitted that she falsified facility records in that she turned in a skilled nursing visit report for home health visits which she did not actually perform. Respondent's conduct was deceiving to the facility and possibly to subsequent care givers, who would have relied

on her documentation to provide ongoing medical care.

9. On or about February 4, 2008, while employed at Texas Home Health, Galveston, Texas, Respondent engaged in the intemperate use of alcohol in that she submitted to a breath test which resulted positive for alcohol. The use of alcohol by a nurse, while subject to call or duty, could impair the nurses' ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.

10. On or about June 13, 2008, Respondent plead No Contest or Nolo Condentre in the Justice of the Peace Court Precinct 7, Bacliff, Texas, to the charge of Resist Arrest Search or Transport, a Class A Misdemeanor under Cause Number 277795. Subsequently, Respondent was sentenced to six (6) months probation and issued a fine and court costs.

11. On or about March 24, 2009, Respondent submitted her Online Renewal Document for Licensed Vocational Nurses to the Texas Board of Nursing, where she answered "No" to the question:

> "Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal: plead nolo contendre, no contest, or guilty?"

Specifically, on or about June 13, 2008, Respondent plead No Contest or Nolo Condentre in the Justice of the Peace Court Precinct 7, Bacliff, Texas, to the charge of Resist Arrest Search or Transport, a Class A Misdemeanor under Cause Number 277795. Subsequently, Respondent was sentenced to six (6) months probation and issued a fine and court costs.

Respondent's conduct was deceiving to the Board and may have affected its decision to license her.

12. On October 5, 2009, Respondent underwent a forensic psychological evaluation with a chemical dependancy component, performed by J. Ray Hays, PhD, JD, located at 2245 Maroneal Street, Houston, Texas 77030. Dr. Hays recommends that Respondent submit to random urinalysis screening, given her own acknowledgment that she may have trouble controlling alcohol. It is also recommended that Respondent become involved in individual therapy for a period of time (3-6 months is recommended), to help address issues in her personal life which at times may interfere with functioning well in her profession. Based on the interview and the results of the psychological tests results, it is Dr. Hays opinion that Respondent is capable of avoiding behaviors that constitute unprofessional conduct in her work as a nurse, with the recommendations noted above.

13. In response to Finding of Fact Number Seven (7), Respondent stated that on February 2, 2008, she saw a few patients. She had one family member refuse service, and returned to the Galveston office to pick up supplies.

14. In response to Finding of Fact Number Eight (8), Respondent does admit to pre-documenting the time sheet, but it was turned in by mistake. The Office Manager would not allow Respondent to shred it or void it out.

15. In response to Finding of Fact Number Nine (9), Respondent voiced that she was not scheduled to see any patients that day, but was still demanded to come in. The Administrator asked Respondent for a drug test, and took her to the clinic. Respondent stated to the Administrator that she was not working this day due to a Superbowl party that she attended the previous night.

16. 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 violations of Section 301.452(b)(2),(9),(10),(12)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(B)(D), and 22 TEX. ADMIN. CODE §217.12(1)(B),(4),(5),(6)(A)(H),(10)(A)&(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 193525, heretofore issued to SHERYL LOUISE JOHNSON, 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

REPRIMAND WITH STIPULATIONS AND A FINE, 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.*

(2) 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.*

(3) 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.*

(4) RESPONDENT SHALL pay a monetary fine in the amount of five hundred ($500) dollars. RESPONDENT SHALL pay this fine within forty-five days of entry of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

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 TWO YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) 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 probation conditions 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 probation conditions 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 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 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 two (2) years of employment as a nurse.

(9) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical**

indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.

(10) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the stipulation period, random screens shall be performed at least once every three (3) months. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis is the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the RESPONDENT's place of employment at any time during the probation period and require RESPONDENT to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the probation period.

Any positive result for which the nurse does not have a valid prescription or

failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to 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.

(11) RESPONDENT SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. RESPONDENT SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT's progress in therapy, rehabilitation and capability to safely practice nursing. The report must indicate whether or not the RESPONDENT's stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the stipulation period, or until RESPONDENT is dismissed from therapy.

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.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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 21st day of September, 2010.

SHERYL LOUISE JOHNSON, Respondent

Sworn to and subscribed before me this 21st day of September, 2010.

SEAL

Notary Public in and for the State of Texas

KATHY L. ROMERO
Notary Public
STATE OF TEXAS
My Comm. Exp. 08-08-12

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 21st day of September, 2010, by SHERYL LOUISE JOHNSON, Vocational Nurse License Number 193525, and said Order is final.

Effective this 21 day of October, 2010.

Katherine A. Thomas

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