

IN THE MATTER OF
PERMANENT VOCATIONAL NURSE
LICENSE NUMBER 218031
ISSUED TO
ANN MARIE UNDERWOOD

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BEFORE THE TEXAS
BOARD OF NURSING
ELIGIBILITY AND
DISCIPLINARY COMMITTEE



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.
Ann Marie Underwood
Executive Director of the Board

ORDER OF THE BOARD

TO: ANN MARIE UNDERWOOD
5256 AZTEC
ABILENE, TX 79605

During open meeting held in Austin, Texas, on **September 9, 2014**, the Texas Board of Nursing Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's license(s) to practice nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by

reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing [22 TEX. ADMIN.CODE § 213.16(j)]. All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Vocational Nurse License Number 218031, previously issued to ANN MARIE UNDERWOOD, to practice nursing in the State of Texas be, and the same is/are hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

Entered this 9th day of September, 2014.

TEXAS BOARD OF NURSING



BY:

KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Attachment: Formal Charge filed January 15, 2014.

Re: Permanent Vocational Nurse License Number 218031
Issued to ANN MARIE UNDERWOOD
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of September, 2014, a true and correct copy of the foregoing DEFAULT ORDER was served and addressed to the following person(s), as follows:

Via USPS Certified Mail, Return Receipt Requested

ANN MARIE UNDERWOOD
5256 AZTEC
ABILENE, TX 79605

BY:



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of § BEFORE THE TEXAS
Permanent Vocational Nurse §
License Number 218031 §
Issued to ANN MARIE UNDERWOOD, § BOARD OF NURSING
Respondent §

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, ANN MARIE UNDERWOOD, is a Vocational Nurse holding License Number 218031, which is in delinquent status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about December 15, 2011, Respondent failed to comply with the Agreed Order issued to her on December 14, 2010, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number One (1) of the Agreed Order which states, in pertinent part:

(1) RESPONDENT SHALL, within one year (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics....

A copy of the December 14, 2010, Agreed Order, Findings of Fact and Conclusions of Law, is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) &(10), Texas Occupation Code, and is a violation of 22 TEX. ADMIN. CODE §217.12 (11)(B).

CHARGE II.

On or about December 15, 2011, Respondent failed to comply with the Agreed Order issued to her on December 14, 2010, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Two (2) of the Agreed Order which states, in pertinent part:

(2) RESPONDENT SHALL, within one year (1) year of entry of this Order, successfully complete a course in physical assessment....

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) &(10), Texas Occupation Code, and is a violation of 22 TEX. ADMIN. CODE §217.12 (11)(B).

CHARGE III.

On or about December 15, 2011, Respondent failed to comply with the Agreed Order issued to her on December 14, 2010, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Three (3) of the Agreed Order which states, in pertinent part:

(3) RESPONDENT SHALL, within one year (1) year of entry of this Order, successfully complete a course in nursing documentation....

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) &(10), Texas Occupation Code, and is a violation of 22 TEX. ADMIN. CODE §217.12 (11)(B).

CHARGE IV.

On or about December 15, 2011, Respondent failed to comply with the Agreed Order issued to her on December 14, 2010, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Four (4) of the Agreed Order which states, in pertinent part:

(4) RESPONDENT SHALL, within one year (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills"....

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) &(10), Texas Occupation Code, and is a violation of 22 TEX. ADMIN. CODE §217.12 (11)(B).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

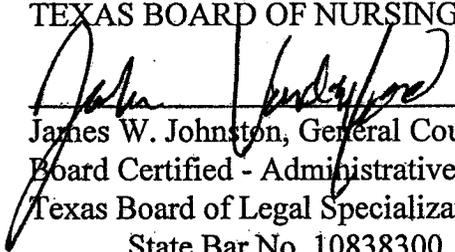
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.texas.gov/disciplinaryaction/discp-matrix.html.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order dated December 14, 2010.

Filed this 15 day of January, 2014.

TEXAS BOARD OF NURSING


James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Abel, Assistant General Counsel
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel
State Bar No. 24066924

John R. Griffith, Assistant General Counsel
State Bar No. 24079751

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

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State Bar No. 00785533

John Vanderford, Assistant General Counsel
State Bar No. 24086670

333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6811
F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Board dated December 14, 2010.

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 218031 §
issued to ANN MARIE UNDERWOOD § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of ANN MARIE UNDERWOOD, Vocational Nurse License Number 218031, 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 September 21, 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(s).
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 Texas State Technical College, Sweetwater, Texas, on August 9, 2008. Respondent was licensed to practice vocational nursing in the State of Texas on September 18, 2008.
5. Respondent's nursing employment history includes:

8/2008-3/2009	LVN (GVN)	Hendrick Health System French Robertson Unit Correctional Health Care Infirmary Abilene, Texas
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6. At the time of the initial incident, Respondent was employed as a LVN with Hendrick Health System, French Robertson Unit Correctional Health Care Infirmiry, Abilene, Texas, and had been in this position for two (2) months.
7. On or about October 18, 2008, while employed with Hendrick Health System, Abilene, Texas, and assigned to French Robertson Unit Correctional Health Care Infirmiry, Abilene, Texas, Respondent failed to assess Patient Offender Number 1485887 when he was admitted to the infirmiry complaining of nausea, vomiting, and no urine output for several hours. Physician's orders where received from the on-call provider to insert a Foley catheter, to start intravenous (IV) fluid replacement, and to draw blood for laboratory tests. When the provider called later and spoke to the Charge Nurse, asking for a report on the patient's condition, it was discovered that Respondent had been unable to complete the tasks and that she had neglected to report to the Charge Nurse that she was having difficulty completing the orders. The Charge Nurse then placed the Foley catheter and reported to the provider that there was no urine return. Additional orders were received that included leaving the catheter in place and reporting urine output over the next few hours to the provider. After the change of shift, Respondent failed to notify the oncoming Charge Nurse of the patient's condition or her failure to obtain the blood samples or start the IV fluids, as expected. When the patient had a significant change in condition later in the shift, Respondent waited for two (2) hours before calling the Charge Nurse to come assess the patient. Upon assessment of the patient, the Charge Nurse notified the provider of the change in condition and received orders to have the patient transferred to a nearby hospital for additional assessment and care. While preparing to transfer the patient, the Charge nurse was unable to locate in the patient's medical record documentation of assessments or interventions provided during the day by Respondent. The patient was transferred to the hospital where he later died. Respondent's conduct may have contributed to the patient's demise.
8. In response to the incident in Finding of Fact Number Seven (7), Respondent states that on October 4, 2008, she was oriented in the infirmiry for twelve (12) hours and then left alone for the remaining four (4) hours of her shift. Respondent states that she did not return to the infirmiry until October 18, 2008, the day of the incident and that there were eight (8) inmates in the infirmiry when she arrived before Offender 1485887 came in for observation due to complaints of nausea and abdominal distress. Respondent states that she assessed the offender and asked him to describe in detail his symptoms and what he had consumed prior to the onset of symptoms. Respondent states that the medical record will show that a RN was involved with the care of the offender which would not have been the case if she had not called and reported the changes in condition because she was working the infirmiry alone. Respondent states that at the change of shift she asked the Charge Nurse if she could go to her car and call her daughter. Respondent states while she was in the parking lot she encountered a nurse who had helped her in the past, and so she asked this nurse some questions about the offender's symptoms because she had never seen anything like them before. Respondent states that because she was a new nurse she reported each and every change she observed and did what she was told to do. Respondent states that when she

returned to the infirmary she assessed the offender again and he told her he was throwing up blood, so she called the Charge Nurse and reported what the inmate had said. Respondent states she had not seen the blood, so the Charge Nurse told her to "keep watching him and let her know." Respondent states that at 7:00 p.m., the Charge Nurse had not come to the infirmary to assess the offender and she was concerned about the offenders appearance, so she went to the clinic and asked the Charge Nurse to come to the infirmary to assess the offender, which is when the Charge Nurse assessed the offender and noted a rapid decline in his condition. Respondent states she followed all interventions and suggestions made by the Charge Nurse and that when the decision to transfer the offender to Hendrick Medical Center was made, she was asked for her documentation and was unable to locate it, so she was asked to write a summary to send to the hospital with the offender. Respondent states that the next day she was assigned to the infirmary again, and, while moving charts to a desk, the documentation from the day before fell to the floor so she submitted them to the charge nurse.

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)(D),(1)(P),(1)(T)&(2)(A). and 217.12(1)(A),(1)(B),(1)(E)&(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 218031, heretofore issued to ANN MARIE UNDERWOOD, including revocation of Respondent's license(s) 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 REPRIMAND 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(s) is/are 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. *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 physical assessment. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. 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. RESPONDENT SHALL perform physical assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The clinical component SHALL focus on tasks of physical assessment only and shall be provided by the same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. Performing assessments on mock patients or mannequins WILL NOT be accepted. 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 TWO (2)

YEARS 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 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) For the first year of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse or a Licensed Vocational Nurse. Direct supervision requires another professional or vocational nurse to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT

SHALL work only on regularly assigned, identified and predetermined unit(s). The 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) For the remainder of the stipulation period, 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.

(9) 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 two (2) years 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(s) to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

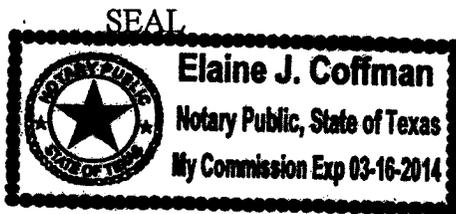
RESPONDENT'S CERTIFICATION

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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 17 day of NOV, 2010

Ann Underwood
ANN MARIE UNDERWOOD, Respondent

Sworn to and subscribed before me this 17th day of November, 2010.



Elaine J. Coffman
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 17th day of November, 2010, by ANN MARIE UNDERWOOD, Vocational Nurse License Number 218031, and said Order is final.

Effective this 14th day of December, 2010.



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