

IN THE MATTER OF PERMANENT  
VOCATIONAL NURSE  
LICENSE NUMBER 220724  
ISSUED TO  
BARBARA ELAINE DAVIS,  
RESPONDENT

§ BEFORE THE TEXAS  
§  
§ BOARD OF NURSING  
§  
§ ELIGIBILITY AND  
§  
§ DISCIPLINARY COMMITTEE

**ORDER OF THE BOARD**

TO: BARBARA ELAINE DAVIS  
c/o ,  
3014 EAST 14TH  
AUSTIN, TX 78702

During open meeting held in Austin, Texas, on **December 13, 2016**, 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.

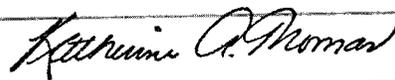
NOW, THEREFORE, IT IS ORDERED that Permanent Vocational Nurse License Number 220724, previously issued to BARBARA ELAINE DAVIS, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

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 13th day of December, 2016.

TEXAS BOARD OF NURSING

BY:



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

Attachment: Formal Charge filed August 25, 2016.

d17r(lvn)(2016.05.11)

Re: Permanent Vocational Nurse License Number 220724  
Issued to BARBARA ELAINE DAVIS  
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 14<sup>th</sup> day of December, 2016, 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

BARBARA ELAINE DAVIS  
3014 EAST 14TH  
AUSTIN, TX 78702

Via USPS First Class Mail

BARBARA ELAINE DAVIS  
3014 EAST 14TH  
AUSTIN, TX 78702

BY:



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

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In the Matter of	§	BEFORE THE TEXAS
Permanent Vocational Nurse	§	
License Number 220724	§	
Issued to BARBARA ELAINE DAVIS,	§	
Respondent	§	BOARD OF NURSING

**FORMAL CHARGES**

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, BARBARA ELAINE DAVIS, is a Vocational Nurse holding License Number 220724, 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 October 8, 2013, Respondent defaulted on her Texas Guaranteed Student Loan. Respondent exhibited unprofessional conduct in her failure to repay a Texas Guaranteed Student Loan, which may have deprived other students of funds necessary for their educational programs.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(7).

**CHARGE II.**

~~On or about November 12, 2015, Respondent failed to comply with the Agreed Order issued to Respondent on November 12, 2014, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Three (3)(A) of the order which reads, in pertinent part:~~

“...RESPONDENT SHALL successfully complete the following remedial education course(s) within one (1) year of entry of this Order, unless otherwise specifically indicated:

- (A.) A course in Texas nursing jurisprudence and ethics that shall be a minimum of six (6) hours in length...

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

### CHARGE III.

On or about November 12, 2015, Respondent failed to comply with the Agreed Order issued to Respondent on November 12, 2014, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Three (3) (B) of the order which reads, in pertinent part:

“...RESPONDENT SHALL successfully complete the following remedial education course(s) within one (1) year of entry of this Order, unless otherwise specifically indicated:

- (B.) 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..."

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations 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).

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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](http://www.bon.texas.gov).

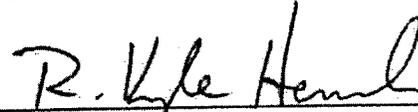
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NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, located at 22 TEX. ADMIN. CODE §213.33(b), which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

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: Order dated December 14, 2010, and Order dated November 12, 2014.

Filed this 25<sup>th</sup> day of August, 2016.

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

John R. Griffith, Assistant General Counsel  
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State Bar No. 00785533

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State Bar No. 19358600

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State Bar No. 24086670

333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701  
P: (512) 305-8657  
F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Board dated December 14, 2010.  
Order of the Board dated November 12, 2014.

D(2015.11.18)



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

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 220724  
ISSUED TO  
BARBARA ELAINE DAVIS

§ BEFORE THE TEXAS  
§  
§  
§  
§ BOARD OF NURSING

**NUNC PRO TUNC ORDER OF THE BOARD**

TO: BARBARA ELAINE DAVIS  
c/o OSCAR SAN MIGUEL, ATTORNEY AT LAW  
505 W. 12TH STREET, SUITE 204  
AUSTIN, TX 78701

On November 12, 2014, an Agreed Order was ratified by the Texas Board of Nursing for Barbara Elaine Davis. However, the Agreed Order omitted a necessary stipulation, allowing the November, 2014, Agreed Order to supersede a prior Order of the Board. Upon notice and hearing, administrative agencies, like the Courts, have the power to enter nunc pro tunc orders where it can be seen by reference to a record that what was intended to be entered, but was omitted by inadvertence or mistake, can be corrected upon satisfactory proof of its rendition provided that no intervening rights will be prejudiced. *Railroad Comm'n v. McClain*, 356 S.W.2d 330, 334 (Tex. App.--Austin 1962, no writ) (citing *Frankfort Ky. Nat. Gas Co. v. City of Frankfort*, 276 Ky. 199, 123 S.W.2d 270, 272).

The Executive Director, as agent of the Board, after review and due consideration of the record and the facts therein, invalidates the incorrect Agreed Order for Barbara Elaine Davis and enters the corrected version of the Agreed Order, which includes the superseding stipulation on page 7 of the Order. No other terms of the Agreed Order have been modified. Ms. Davis received due process regarding her license; therefore, her rights have not been prejudiced.

NOW, THEREFORE, IT IS ORDERED that the corrected Agreed Order is hereby approved and entered on the dates set forth below.

Order effective November 12, 2014.

Entered this 19th day of November, 2014.

TEXAS BOARD OF NURSING

BY: Katherine A. Thomas  
KATHERINE A. THOMAS, MN, RN, FAAN  
EXECUTIVE DIRECTOR, ON BEHALF OF THE BOARD

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED
Vocational Nurse License Number 220724	§	
issued to BARBARA ELAINE DAVIS	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BARBARA ELAINE DAVIS, Vocational Nurse License Number 220724, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(10),(12)&(13), Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on September 23, 2014.

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 notice and hearing, and agreed to the entry of this Order.
3. Respondent's license to practice as a vocational nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Nursing from Austin Community College December 11, 2008. Respondent was licensed to practice vocational nursing in the State of Texas on February 24, 2009.
5. Respondent's nursing employment history includes:

2/09-5/09	LVN	St. David's Hospital Austin, Texas
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Respondent's nursing employment history continued:

6/09-7/10	LVN	Querencia at Barton Creek Austin, Texas
8/10-1/11	Unknown	
2/11-5/11	LVN	Govalle Care Center Austin, Texas
6/11-7/11	Unknown	
8/11-3/12	LVN	Elgin Nursing & Rehabilitation Center Elgin, Texas
4/12-Present	Unknown	

6. On or about December 14, 2010, Respondent's license to practice professional nursing in the State of Texas was issued a WARNING WITH STIPULATIONS by the Board. The Findings of Fact, Conclusions of Law, and Agreed Order dated December 14, 2010, is attached and incorporated by reference, as part of this Order.
7. At the time of the incidents, Respondent was employed as a Vocational Nurse with Elgin Nursing & Rehabilitation Center, Elgin, Texas, and had been in that position for seven (7) months.
8. On or about March 1, 2012, while employed as a Vocational Nurse with Elgin Nursing & Rehabilitation Center, Elgin, Texas, Respondent lacked fitness to practice vocational nursing ~~in that she exhibited impaired behavior while on duty that included but is not limited to:~~ loudly moaning and groaning, sweating, laying her head down at the nurses' station, dry heaving, and being hard to arouse after she was found laying down asleep under the covers in a vacant room. 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, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
9. On or about March 1, 2012, while employed as a Vocational Nurse with Elgin Nursing & Rehabilitation Center, Elgin, Texas, Respondent abandoned patients in that she went to lay down while on duty without giving report and before a replacement nurse had arrived. Respondent's conduct created an unsafe environment which was likely to injure patients in that leaving the nursing assignment could have resulted in the patients not getting the care that they needed.

10. In response to Findings of Fact Numbers Eight (8) and Nine (9), Respondent states she suffered a low back strain and contusions to both knees a month and a half prior to the date in question. Respondent explains that even after taking tylenol, she felt sharp stabbing pains in her back down into her right leg. According to Respondent, the pain caused her to vomit, become dizzy, nauseated, diaphoretic and to experience hand tremors. Respondent states she decided to go to an empty room so she would not alarm the residents and was not in the break room where staff prepared their food.
11. Formal Charges were filed on December 18, 2013.
12. Formal Charges were mailed to Respondent on December 23, 2013.

#### 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(s) of 22 TEX. ADMIN. CODE §217.11(1)(B)(I)&(P) and 22 TEX. ADMIN. CODE §217.12(1)(A)&(B),(4),(5)&(12).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10),(12)&(13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 220724, heretofore issued to BARBARA ELAINE DAVIS, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

#### TERMS OF ORDER

##### I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Vocational Nurse License Number 220724, previously issued to BARBARA ELAINE DAVIS, to practice nursing in Texas is hereby **SUSPENDED** with the suspension **STAYED** and Respondent is hereby placed on **PROBATION**, in accordance with the terms of this Order, for a minimum of two (2) years **AND** until Respondent fulfills the requirements of this Order.

to practice nursing in the State of Texas.

- B. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

## II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to 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.

## III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) within one (1) year of entry of this Order, unless otherwise specifically indicated:

- A. A course in Texas nursing jurisprudence and ethics that 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. Home study courses and video programs will not be approved.
- B. 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/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form

or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at [www.bon.texas.gov/compliance](http://www.bon.texas.gov/compliance).*

#### IV. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse, providing direct patient care in a licensed healthcare setting, for a minimum of sixty-four (64) hours per month for eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) quarterly periods of employment as a nurse have elapsed. Any quarterly period without continuous employment with the same employer for all three (3) months will not count towards completion of this requirement. Periods of unemployment or of employment that do not require the use of a registered nurse (RN) or a vocational nurse (LVN) license, as appropriate, will not apply to this period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** RESPONDENT SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.
- C. **Direct Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational

Nurse. Direct supervision requires another nurse, as applicable, 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). 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.

- D. **Indirect Supervision:** For the remainder of the stipulation/probation period, RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as 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.
- E. **Nursing Performance Evaluations:** 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 nurse who supervises the RESPONDENT and these reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month quarterly period for eight (8) quarters [two (2) years] of employment as a nurse.

## V. FURTHER COMPLAINTS

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

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**VI. RESTORATION OF UNENCUMBERED LICENSE(S)**

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 may be eligible for nurse licensure compact privileges, if any.

**VII. SUPERCEDING ORDER**

IT IS FURTHER AGREED and ORDERED that the sanction and conditions of this Order SHALL supercede all previous stipulations required by any Order entered by the Texas Board of Nursing.

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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 violation(s) alleged herein. By my signature on this Order, I agree to the entry of this 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 when this Order becomes final and the terms of this Order become effective, 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 possible revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

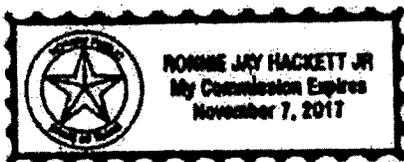
Signed this 1 day of Oct, 2014

Barbara Elaine Davis  
BARBARA ELAINE DAVIS, Respondent

Sworn to and subscribed before me this 1 day of October, 2014.

SEAL

Nonnie Jay Hackett Jr  
Notary Public in and for the State of Texas



Approved as to form and substance.

Oscar San Miguel  
Oscar San Miguel, Attorney for Respondent

Signed this 08 day of \_\_\_\_\_, 2014

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 1<sup>st</sup> day of October, 2014, by BARBARA ELAINE DAVIS, Vocational Nurse License Number 220724, and said Order is final.

Effective this 12<sup>th</sup> day of November, 2014.



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

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse  
License Number 220724  
issued to BARBARA ELAINE DAVIS

§     AGREED  
§  
§     ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BARBARA ELAINE DAVIS, Vocational Nurse License Number 220724, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(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 September 17, 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 Austin Community College, Austin, Texas, on December 11, 2008. Respondent was licensed to practice vocational nursing in the State of Texas on February 24, 2009.
5. Respondent's complete vocational nursing employment history includes:

02/09 - 05/09

LVN

St. David's Hospital  
Austin, Texas

Respondent's complete vocational nursing employment history continued:

06/09 - 07/10	LVN	Querencia at Barton Creek Austin, Texas
08/10 - present	unknown	

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with Querencia at Barton Creek, Austin, Texas, and had been in this position for one (1) year.
7. On or about June 27, 2010 and July 3, 2010, while employed as a Licensed Vocational Nurse with Querencia at Barton Creek, Austin, Texas, Respondent lacked fitness to practice vocational nursing in that she was observed asleep while on duty. 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, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
8. In response to Finding of Fact Number Seven (7), Respondent states she was sitting in a chair with her feet propped up facing the television. Respondent claims that she was not feeling well due to possible food poisoning, and was feeling faint and nauseated. Respondent states that the second alleged incident is not true. Respondent feels that she was not given a chance to explain anything, she was just terminated. Respondent feels as though she was set up, and was disappointed about the entire situation.

#### 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)(10),(12)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A),(B)&(T) and §217.12(1)(B),(E),(4)&(5).
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 220724, heretofore issued to BARBARA ELAINE DAVIS, 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 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(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.*

(2) 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://www.learningext.com/products/generalce/critical/ctabout.asp>.*

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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:**

(3) 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.

(4) 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

(5) 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.

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

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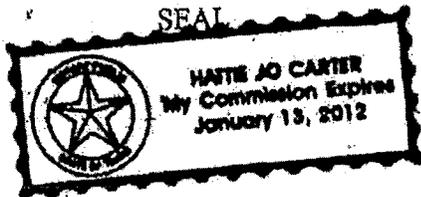
RESPONDENT'S CERTIFICATION

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

Signed this 25<sup>th</sup> day of October, 2010.

Barbara Elaine Davis  
BARBARA ELAINE DAVIS, Respondent

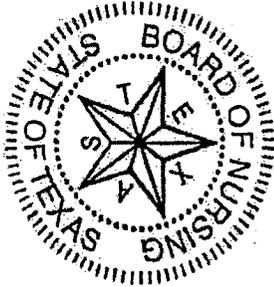
Sworn to and subscribed before me this 25<sup>th</sup> day of October, 2010.



Hattie Jo Carter  
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 25<sup>th</sup> day of October, 2010, by BARBARA ELAINE DAVIS, Vocational Nurse License Number 220724, and said Order is final.

Effective this 14<sup>th</sup> day of December, 2010.



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