BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS
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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

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| In the Matter of Vocational Nurse | § | AGREED |
| License Number 134726 | § | |
| issued to SHIRLEY ANN MARTIN | § | ORDER |

On this day the Board of Nurse Examiners for the State of Texas, hereinafter r to as the Board, considered the matter of SHIRLEY ANN MARTIN, Vocational Nurse License Number 134726, 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 conference, notice and hearing, and agreed to the entry of this Order offered on July 13, 2007, 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 conference, 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 Trinity Valley Community College, Kaufman, Texas, on December 31, 1990. Respondent was licensed to practice vocational nursing in the State of Texas on December 3, 1991.

5. Respondent's nursing employment history includes:

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| 12/1991 - 5/1991 | Staff Nurse | Terrell Medical Center<br>Terrell, Texas |
| 5/1991 - 2/1995 | Charge Nurse | Terrell Care Center<br>Terrell, Texas |
| 2/1995 - 6/1995 | Staff Nurse | Terrell State Hospital<br>Terrell, Texas |
| 6/1995 - 1/1996 | Relief Nurse | Windsor Care Center<br>Terrell, Texas |
| 1/1995 - 1/1996 | Office Nurse | Dr. Ray Hammond<br>Terrell, Texas |
| 2/1996 - 1997 | Not employed in nursing | |
| 1998 | Staff Nurse | Family Medical Center<br>Terrell, Texas |
| 1999 - 2004 | School Nurse<br>Special Needs Class | Terrell Intermediate School<br>Terrell, Texas |
| 2004 | Staff Nurse | Terrell Manor<br>Terrell, Texas |
| 2/2004 - 6/2005 | Charge Nurse | Terrell Care Center<br>Terrell, Texas |
| 7/2005 - 9/2005 | Charge Nurse | Windsor Care Center<br>Terrell, Texas |
| 2005 | Staff Nurse | Crestwood Care Center<br>Wills Point, Texas |
| 2005 | Staff Nurse | Sunflower Park Nursing<br>Home, Kaufman, Texas |
| 2006 - Present | Staff Nurse | Country View Care Center<br>Terrell, Texas |

6. At the time of the initial incident, Respondent was employed as a Staff Nurse with Windsor Care Center, Terrell, Texas, and had been in this position for one (1) month.

7 On or about August 27, 2005, while employed as a Staff Nurse with Windsor Care Center, Terrell, Texas, Respondent failed to assess Resident E.S. over a two hour period, after the resident had fallen. Resident E.S. became lethargic with labored breathing and with decreased oxygen saturation levels. Resident E.S. was having visual hallucinations and was noted, approximately two (2) hours after the fall, to be slumped over in his wheelchair, unresponsive, drooling, and incontinent of stool. Shortly thereafter, Resident E.S. expired. Respondent's conduct may have contributed to the patient's demise.

8. On or about August 27, 2005, while employed as a Staff Nurse with Windsor Care Center, Terrell, Texas, Respondent failed to take interventions to address possible head injuries after the aforementioned Resident E.S. suffered a fall. Respondent failed to apply oxygen when the Speech Therapist reported four (4) times that Resident E.S.'s breathing was shallow and his oxygen saturation levels had dropped. Respondent did not call the physician to report Resident E.S.'s fall and subsequent deteriorating mental, physical and respiratory status. Respondent's conduct unnecessarily exposed the patient to a delay of treatment of his disease process, and may have contributed to the patient's demise.

9. On or about August 27, 2005, while employed as a Staff Nurse with Windsor Care Center, Terrell, Texas, Respondent failed to document the mental and physical deterioration of the aforementioned Resident E.S. in the medical record after the resident fell. Respondent's conduct resulted in an incomplete medical record and may have been deceptive in that it may have prevented investigative agencies from effectively investigating the resident's demise.

10. In response to the incidents in Findings of Fact Numbers Seven (7) through Nine (9), Respondent denies that she failed to assess Resident E.S., stating that she performed neurological checks on him and that they were within normal limits. Respondent states that she performed a complete body assessment looking for injuries and only found wounds on his arm. Respondent states that she placed oxygen on Resident E.S. after the initial fall and after he was found slumped over near the dining room, approximately two (2) hours later. Respondent states that she called 911 after Resident E.S. started to have labored breathing, shortly before his demise. Respondent states that she was unable to document her assessment and interventions for Resident E.S. because the R.N. Weekend Supervisor was documenting her nurse's notes first, while telling her that "the less we write, the less we have to explain."

## 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)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(B),(1)(D), (1)(M)&(2)(A) and 217.12(1)(A)&(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 134726, heretofore issued to SHIRLEY ANN MARTIN, 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 Board of Nurse Examiners, that Vocational Nurse License Number 134726, previously issued to SHIRLEY ANN MARTIN, to practice vocational nursing in Texas is hereby SUSPENDED for a period of two (2) years with the suspension STAYED and Respondent is hereby placed on PROBATION for two (2) years with the following agreed terms of probation:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate privilege, if any, to practice vocational nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this order the Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

(1) RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

(2) RESPONDENT SHALL deliver the wallet-sized license issued to SHIRLEY ANN MARTIN, to the office of the Board of Nurse Examiners within ten (10) days of the date of this Order for appropriate notation.

(3) RESPONDENT SHALL, within one (1) year of entry of the suspension being stayed, 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) contact 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 Chemical Dependency, 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.bne.state.tx.us/about/stipscourses.html.*

(4) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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.bne.state.tx.us/about/stipscourses.html.*

(5) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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.bne.state.tx.us/about/stipscourses.html.*

(6) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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.*

**IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A LICENSED VOCATIONAL 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 PROBATION CONDITIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY 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 PROBATIONARY PERIOD:**

(7) 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.

(8) 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.

(9) For the first year of employment as a Licensed Vocational Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse or a 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.

(10) For the remainder of the probation 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.

(11) 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) months for two (2) years of employment as a nurse.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license, the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if

any, to practice vocational 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. 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.

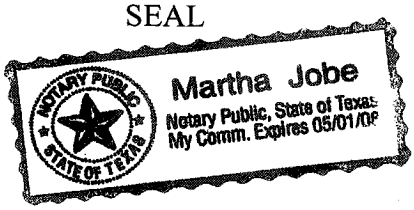
Signed this 22 day of Aug., 2007.

Shirley Ann Martin

SHIRLEY ANN MARTIN, Respondent

Sworn to and subscribed before me this 22 day of Aug., 2007.

SEAL

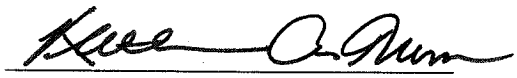



Martha L. Jobe

Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 22nd day of August, 2007, by SHIRLEY ANN MARTIN, Vocational Nurse License Number 134726, and said Order is final.

Effective this 18th day of October, 2007.



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