IN THE MATTER OF	§	BEFORE THE ELIGIBILITY
	§	
PERMANENT CERTIFICATE	§	AND DISCIPLINARY
	§	
NUMBER 119373	§	COMMITTEE
	§	
ISSUED TO	§	OF THE TEXAS
	§	
ELIZABETH ANN FOMBY	§	BOARD OF NURSING

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

ORDER OF THE BOARD

TO: Elizabeth Ann Fomby
Rt 6 Box 418M
Texarkana, TX 75503

During open meeting held in Austin, Texas, on Tuesday, June 14, 2011, the 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 of the Texas Board of Nursing 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 to practice vocational 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 Eligibility and Disciplinary 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 Certificate Number 119373, previously issued to ELIZABETH ANN FOMBY, to practice vocational 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 vocational nursing in the State of Texas.

Entered this 14th day of June, 2011.

TEXAS BOARD OF NURSING

BY: _____

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

Attachment: Formal Charge filed April 5, 2011.

Re: Permanent Certificate Number 119373
Issued to ELIZABETH ANN FOMBY
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of June, 2011, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

Elizabeth Ann Fomby
Rt 6 Box 418M
Texarkana, TX 75503

BY: _____
KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of Permanent License	§	**BEFORE THE TEXAS**
Number 119373, Issued to	§	
ELIZABETH ANN FOMBY, Respondent	§	**BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, ELIZABETH ANN FOMBY, is a Vocational Nurse holding license number 119373, 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 March 6, 1998, Respondent entered a plea of Guilty and was convicted of THEFT 50/500 (a misdemeanor offense committed on September 27, 1997), in the District Court of Bowie County, Texas, under Cause No. 98M254-202. As a result of the conviction, Respondent was sentenced to confinement in the Bowie County Jail for a period of sixty (60) days.

The above action constitutes grounds for disciplinary action in accordance with TEX. REV. CIV. STAT. ART. 4528c, Sec. 10(a)(3)&(9)(eff. date 09/01/1997), and is a violation of 22 TEX. ADMIN. CODE §239.11(29)(A){eff. 3/1/1998}.

CHARGE II.

On or about January 25, 1999, Respondent entered a plea of Guilty and was convicted of POSSESSION OF MARIHUANA(a State Jail felony offense committed on February 28, 1997; however, under the provision of Texas Penal Code, Section 12.44, punishment was assessed as a misdemeanor), in the District Court of Bowie County, Texas, under Cause No. 98-F-117-202. As a result of the conviction, Respondent was sentenced to confinement in the Bowie County Jail for a period of two (2) days.

The above action constitutes grounds for disciplinary action in accordance with TEX. REV. CIV. STAT. ART. 4528c, Sec. 10(a)(3)&(9)(eff. date 09/01/1997), and is a violation of 22 TEX. ADMIN. CODE §239.11(29)(A){eff. 3/1/1998}.

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CHARGE III.

On or about November 3, 2003, Respondent entered a plea of Guilty and was convicted of POSSESSION OF A CONTROLLED SUBSTANCE (a State Jail felony offense committed on May 25, 2003), in the 102nd Judicial District Court of Bowie County, Texas, under Cause No. 03F0622-102. As a result of the conviction, Respondent was sentenced to confinement in the State Jail Division of the Texas Department of Criminal Justice for a period of two (2) years; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of five (5) years. Additionally, Respondent was ordered to pay restitution in the amount of one hundred forty dollars ($140), along with a fine and court costs. On or about April 19, 2004, Respondent's probation in Cause No. 03F0622-102 was Revoked, and Respondent was sentenced to confinement in the State Jail Division of the Texas Department of Criminal Justice for a period of twenty-two (22) months.

The above action constitutes grounds for disciplinary action in accordance with Section 302.402(a)(3)(A)&(10), Texas Occupations Code (eff. date 09/01/2001), and is a violation of 22 TEX. ADMIN. CODE §239.11(29)(A)(eff. date 09/01/2003). Moreover, the above offense mandates revocation of Respondent's license to practice nursing in accordance with Section 53.021 of the Texas Occupations Code.

CHARGE IV.

On or about November 3, 2003, Respondent entered a plea of Guilty and was convicted of POSSESSION OF A CONTROLLED SUBSTANCE (a State Jail felony offense committed on May 25, 2003), in the 102nd Judicial District Court of Bowie County, Texas, under Cause No. 03F0621-102. As a result of the conviction, Respondent was sentenced to confinement in the State Jail Division of the Texas Department of Criminal Justice for a period of two (2) years; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of five (5) years. Additionally, Respondent was ordered to pay restitution in the amount of one hundred forty dollars ($140) along with a fine and court costs. On or about April 19, 2004, Respondent's probation in Cause No. 03F0621-102 was Revoked, and Respondent was sentenced to confinement in the State Jail Division of the Texas Department of Criminal Justice for a period of twenty-two (22) months.

The above action constitutes grounds for disciplinary action in accordance with Section 302.402(a)(3)(A)&(10), Texas Occupations Code (eff. date 09/01/2001), and is a violation of 22 TEX. ADMIN. CODE §239.11(29)(A)(eff. date 09/01/2003). Moreover, the above offense mandates revocation of Respondent's license to practice nursing in accordance with Section 53.021 of the Texas Occupations Code.

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CHARGE V.

On or about May 9, 2008, Respondent entered a plea of Guilty and was convicted of THEFT PROP>=$50<$500(a misdemeanor offense committed on March 24, 2008), in the County Court at Law of Bowie County, Texas, under Cause No.08M0658-CCL. As a result of the conviction, Respondent was sentenced to confinement in the Bowie County Jail for a period of sixty (60) days.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(3)&(10), Texas Occupations Code, and is a violation of 22 Tex. Admin. Code §217.12(13).

CHARGE VI.

On or about March 19, 2009, Respondent entered a plea of Guilty and was convicted of POSSESSION OF CONTROLLED SUBSTANCE (a State Jail felony offense committed on November 29, 2006), in the 102nd District Court of Bowie County, Texas, under Cause No. 07F0611-102. As a result of the conviction, Respondent was sentenced to confinement in the State Jail Division of the Texas Department of Criminal Justice for a period of one (1) year. Additionally, Respondent was ordered to pay court costs.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(3)&(10), Texas Occupations Code and 22 Tex. Admin. Code §217.12(13). Moreover, the above offense mandates revocation of Respondent's license to practice nursing in accordance with Chapter 53.021 of the Texas Occupations Code.

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to revocation of Respondent's license 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 and TEX. OCC. CODE Ch. 53. 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.state.tx.us.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Guidelines for Criminal Conduct, which can be found at the Board's website, www.bon.state.tx.us.

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

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is 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 6, 1999.

Filed this 5th day of April, 2011.

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
Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847
Nikki Hopkins, Assistant General Counsel
State Bar No. 24052269
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State Bar No. 00785533
TEXAS BOARD OF NURSING
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6824
F: (512) 305-8101 or (512)305-7401

D/2010.12.28

BOARD OF VOCATIONAL NURSE EXAMINERS	*	STATE OF TEXAS
VS.	*	
ELIZABETH ANN FOMBY	*	COUNTY OF TRAVIS

AGREED BOARD ORDER

On this day came to be considered by the Board of Vocational Nurse Examiners the matter of vocational nurse license number 119373, held by ELIZABETH ANN FOMBY, hereinafter called Respondent.

By letter, the Board of Vocational Nurse Examiners sent preliminary notice to Respondent of its intent to take disciplinary action with respect to said license held by Respondent, as a result of a complaint and subsequent investigation. Said investigation produced evidence indicating that Respondent has been convicted of a crime of the grade of a misdemeanor that involves moral turpitude, in violation of the Health Occupations Code, Chapter 302, Section 302.402 (a) (3) (B), in the following manner:

a. On or about March 23, 1999, Respondent submitted her Licensure Renewal Application to the Board of Vocational Nurse Examiners. On said Application, Respondent answered "yes" to the question(s) asking: "Were you convicted of a misdemeanor other than a minor traffic violation since your last renewal?".

b. On or about August 13, 1997, Respondent was convicted of the Misdemeanor offense of: THEFT, in the District Court of Bowie County, Texas, under Cause Number 97M457-202. As a result of said conviction; Respondent was placed on probation for a period of two (2) years. Subsequently, on March 6, 1998, Respondent's probation was revoked and Respondent was ordered ninety (90) days confinement in the Bowie County Jail.

c. Respondent has been convicted of a crime, which the Board considers to be directly related to the duties and responsibilities of a License Vocational Nurse. Said conviction is inconsistent with the basic duties and responsibilities inherent in the occupation of vocational nursing in that said occupation requires the maintenance of accurate and complete records, and safeguarding property of the patient, client, and employer.

By Respondent's signature on this Order, Respondent neither admits nor denies the truth of the matters previously set out in this Order with respect to the above-mentioned investigation. By Respondent's signature on this Order, Respondent acknowledges that they have read and understood this Order and have approved it for consideration by the Board.

By their notarized signature on this Order, Respondent does hereby waive the right to a formal Complaint, Notice of Hearing and a Public Hearing held before an Administrative Law Judge with the State Office of Administrative Hearings, and to judicial review of this disciplinary action. Notice of this disciplinary action will appear in the Board's newsletter sent to Texas employers.

ORDER OF THE BOARD

NOW THEREFORE, IT IS ORDERED, subject to ratification by the Board of Vocational Nurse Examiners that license number 119373, heretofore issued to ELIZABETH ANN FOMBY to practice vocational nursing in the State of Texas be, and the same is hereby suspended, with said suspension stayed and placed on probation for a period of one (1) year.

The probation of said license is subject to the following stipulations, to wit:

1. That if Respondent's place of employment, name, address or telephone number changes, Respondent is to notify the Board office immediately, or no later than ten (10) days after said change has occurred. Said notification shall be in the form of a written letter or report.

2. That Respondent shall comply with Federal, State, and local laws, and all the provisions of the Vocational Nurse Act and Rules and Regulations of the Board.

3. That by copy of this Board Order, Respondent shall provide notice of Board disciplinary action to his/her immediate nursing supervisor(s) and Director(s) of Nursing, throughout the term of probation.

4. That Respondent shall be responsible for causing his/her immediate nursing supervisor(s) to submit satisfactory reports directly to the Board office on a monthly basis for the first six (6) months of probation. Thereafter, and throughout the remainder of said probation, Respondent shall be responsible for causing his/her immediate nursing supervisor(s) to submit satisfactory reports directly to the Board office on a quarterly basis. The receipt of an unfavorable and/or untimely report shall be considered a violation of probation.

5. That any period(s) of nursing unemployment must be documented in writing by Respondent and submitted to the Board office, as provided in Stipulation No. four (4).

6. That Respondent shall work only under the supervision of a licensed medical professional (MD, RN, LVN) who is physically present on the work premises during Respondent's shift assignment(s), throughout the term of the probation.

7. That Respondent shall not be employed by a nurse registry, temporary nurse employment agency, home health agency, or as a private duty nurse, throughout the term of probation.

8. That if Respondent is discharged from court ordered probation prior to completion of this probationary term, Respondent shall be responsible for causing his/her probation officer to submit a final satisfactory report directly to the Board office.

9. That Respondent shall pay a Probation Monitoring fee in the amount of thirty ($30.00) dollars in the form of a cashier's check or money order, payable to the Board of Vocational Nurse Examiners. Said fee shall be paid quarterly, due on the 15th of each quarter, commencing the quarter following the date of the Board's endorsement of the Order, and continuing thereafter until the successful completion of Respondent's probation. Said fee shall be sent to the Board office, addressed to the "Board of Vocational Nurse Examiners, 333 Guadalupe, Suite 3-400, Austin, TX 78701". Failure by Respondent to make any quarterly payment on time shall constitute a violation of probation.

This Agreed Order shall not be effective or take effect and become enforceable in accordance with its terms until ratified by a majority of the Board present and voting, at its next regularly called session.

Dated this the 14th day of Nov., 1999.

Signature of Respondent

3623 Elizabeth
Current Address

Texarkana, Tx 75503
City, State and Zip

903 792 1179
Area Code and Telephone Number

The State of Texas
County of Bowie

Before me, the undersigned authority, on this day personally appeared ELIZABETH ANN FOMBY, who being duly sworn by me stated that he or she executed the above for the purpose therein contained, and that he or she understood same.

SWORN TO AND SUBSCRIBED before me on this the 19th day of November, 1999.

RONALD TED CARR
Notary Public, State of Texas
My Commission Expires 6-11-2002

Ronald Ted Carr
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My Commission Expires 6-11-2002

Mary M. Strange
Mary M. Strange, RN
Agent for the Board of
Vocational Nurse Examiners

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the 30th day of November, 1999.

LINDA RAE KENT
NOTARY PUBLIC
STATE OF TEXAS
Expires
10-27-01

Linda Rae Kent
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

WHEREFORE, PREMISES CONSIDERED, the Board of Vocational Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed order that was signed on the 19th day of November, 1999 by Respondent, license number 119373 and that Said Order is Final.

Effective this 6th day of December, 1999.

Mary M. Strange, BSN, RN, CNA
Executive Director
On Behalf of Said Board

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of December, 1999, a true and correct copy of the foregoing **BOARD ORDER** was served by placement in the U.S. Mail, first class, and addressed to the following person(s):

ELIZABETH ANN FOMBY
3623 ELIZABETH
TEXARKANA, TX 75503

Mary M. Strange

Mary M. Strange, BSN, RN, CNA
Executive Director
Agent for the Board of Vocational Nurse Examiners