BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§	AGREED
License Number 144904	§	
issued to CHARLES LEROY BURKHALTER, JR.	§	ORDER

TEXAS BOARD OF NURSING
I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Executive Director of the Board

On this day the Texas Board of Nursing, hereinafter referred to as the Bo considered the matter of CHARLES LEROY BURKHALTER, JR., Vocational Nurse License Number 144904, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(3)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on August 25, 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 John Peter Smith Hospital, Fort Worth, Texas, on September 2, 1993. Respondent was licensed to practice vocational nursing in the State of Texas on December 1, 1993.

5. Respondent's complete nursing employment history is unknown.

6. On or about October 12, 2009, Respondent submitted a License Renewal Form to the Texas Board of Nursing in which he answered "Yes" to the question: "Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

A. been convicted of a misdemeanor?
B. been convicted of a felony?
C. pled nolo contendere, no contest, or guilty?
D. received deferred adjudication?
E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
F. been sentenced to serve jail or prison time? court-ordered confinement?
G. been granted pre-trial diversion?
H. been arrested or have any pending criminal charges?
I. been cited or charged with any violation of the law?
J. been subject of a court-martial; Article 15 violation; or received any form of military judgement/punishment/action?"

On or about September 1, 2009, Respondent was arrested by the Saginaw Police Department, Saginaw, Texas for ASSAULT PUBIC SERVANT (a 3rd degree felony offense).

On or about October 27, 2009, Respondent entered a plea of Guilty to EVADING ARREST DETENTION (LESSER INCLUDED OFFENSE OF COUNT ONE) (a Class A misdemeanor offense committed on September 1, 2009), in the Criminal District Court No. 3 of Tarrant County, Texas, under Cause No.1173566W. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay a fine and court costs.

7. In response to Finding of Fact Number Six (6), Respondent states he went to pick up his son from elementary school and as he was pulling into the pick-up area, he saw a Fire Marshall standing in the drive-thru area making sure no one was parking in the fire zone. He states he parked in a short parking space, out of the fire zone, but partially blocking a cross walk. Respondent states he got out of his vehicle to call out for his son, and the Fire Marshall told him to move his vehicle because he was obstructing the cross walk, to which he replied his son was close by and he would move it in a second. He states the Fire Marshall told him to move his vehicle "now" and as he was slowly pulling out, he states he saw the officer with a note pad, jotting his license plate number. He states he pulled up to the next crosswalk and believing that he may be obstructing the crosswalk again, slowly backed out about six (6) to eight (8) inches, and put the car in park. Respondent states his son was getting into the vehicle when someone yelled "You tried to run over me." Respondent states the Fire Marshall was beating his fist against the side of his pickup yelling that he tried to run over him. Respondent states he yelled back at the officer that he was not trying to run over anybody and was just there to pick up his son from school. He states the Marshall told him

to stop then grabbed his radio to call for police backup. Respondent states he was not asked for his driver's license, or insurance card. He states he slowly drove away because he figured he just wanted to arrest him in front of his son, the other children, and the teachers and parents and since he already had his license plate number, if they wanted to arrest him, they could do it at home. He states as he was driving away, the man identified himself as a police officer and yelled at him to stop his vehicle. Respondent states he drove straight home and about twenty (20) minutes later, the police showed up at his home to arrest him. He states he was arrested for assault to a public servant and was taken to jail. Respondent states he was out on bail the next afternoon. He states his attorney went to the police station to get a copy of the police report and was informed they had reduced the charge to "failure to stop and render aid."

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)(3)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(13).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 144904, heretofore issued to CHARLES LEROY BURKHALTER, JR., 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.

(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 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://learningext.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:

(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 by the Board, to the Board's office within five (5) days of employment as a nurse.

(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 two (2) years of employment as a nurse.

(7) IT IS FURTHER AGREED, SHOULD RESPONDENT be convicted of or receive a deferred order for the offense(s) as outlined in Finding of Fact Number Six (6), said judicial action will result in further disciplinary action including Revocation of Respondent's license(s) to practice nursing in the State of Texas.

(8) RESPONDENT SHALL CAUSE his probation officer to submit written reports on forms provided to the Respondent by the Board. The reports shall indicate the RESPONDENT'S compliance with the court ordered probation. The reports shall be furnished each and every three (3) month period until RESPONDENT is released from probation.

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.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, 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 8 day of March, 2011.

Charles Leroy Burkhalter Jr.
CHARLES LEROY BURKHALTER, JR., Respondent

Sworn to and subscribed before me this 8th day of March, 2011.

SEAL

Michelle Tanida
Notary Public in and for the State of Texas

MICHELLE TANIDA
Notary Public, State of Texas
My Commission Expires
July 05, 2011

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the _8th_ day of _March_, 20_11_, by CHARLES LEROY BURKHALTER, JR., Vocational Nurse License Number 144904, and said Order is final.

Effective this _14th_ day of _June_, 20_11_.

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