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

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§	AGREED
License Number 192560	§	
issued to MELODY RUTH ENNIS	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Boa considered the matter of MELODY RUTH ENNIS, Vocational License Number 192560, hereinat... 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 May 3, 2011, 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 Trinity Valley Community College, Kaufman, Texas, on December 12, 2003. Respondent was licensed to practice vocational nursing in the State of Texas on February 13, 2004.

5. Respondent's vocational nursing employment history includes:

2/04 - 5/04	Staff Nurse	Park Place Nursing and Rehabilitation Tyler, Texas
6/04 - 10/06	Staff Nurse	Health South Rehabilitation Tyler, Texas
4/05 - 7/05	Staff Nurse	Trinity Mother Frances Hospital Tyler, Texas
8/05 - 7/06	Staff Nurse	American Nursing, Inc. Tyler, Texas
6/06 - 11/08	Staff Nurse	Capstone Staffing, Inc. Tyler, Texas
10/06 - 4/07	Staff Nurse	Epic Med Staff Tyler, Texas
7/08 - 3/10	Staff Nurse	Exceptional Staffing Tyler, Texas
4/10 - 6/10	Staff Nurse	Waterton Plaza Senior Care Center Tyler, Texas
4/10 - Unknown	Staff Nurse	Advartis Health Solutions Tyler, Texas
5/10 -Unknown	Staff Nurse	At Home Health Tyler, Texas
8/10 - Unknown	Staff Nurse	Providence Park Nursing and Rehabilitation Tyler, Texas

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as a Staff Nurse with Exceptional Staffing, Tyler, Texas, and had been in this position for four (4) months.

7. On or about September 11, 2008, while holding a license to practice vocational nursing in the State of Texas, Respondent was arrested by Tyler Police Department, Tyler, Texas, and charged with Injury to a Child, a 3rd Degree Felony offense. According to the Grand Jury Indictment, on or about August 25, 2008, Respondent did intentionally or knowingly cause

bodily injury to N.D., a child fourteen (14) years or younger, by striking him with her hand. On June 23, 2009, the charge was dismissed without prejudice because the Respondent agreed to plead guilty to the lesser offense of Misdemeanor Assault.

Subsequently, on July 2, 2010, Respondent was charged with "...intentionally, knowingly, and recklessly cause bodily injury to N.D., a member of the defendant's family or household or dating, by striking N.D. with her hand..." On September 15, 2010, Respondent plead guilty to Assault Causes Bodily Injury Family Violence in County Court at Law 2, Smith County, Texas, Cause Number 002-82676-10. As a result of the guilty plea, Respondent was sentenced to 365 days confinement in the Smith County Jail and assessed fines and court costs.

8. On August 11, 2009, the 321st Judicial District Court, Smith County issued a Family Plan of Service to Respondent which ordered that Respondent not supervise any child under the age of 18 due to the fact that she was convicted of Assault Causes Bodily Injury Family Violence for hitting her two-year-old son.

   Subsequently, on January 1, 2010, through July 1, 2010, Respondent failed to comply with the Family Plan of Service, issued by the 321st Judicial District Court, Smith County, in that she continued to provide care for pediatric patients all under the age of 18 while employed with Maxim Healthcare Services, Tyler, Texas, and while employed with At Home Health Care, Tyler, Texas. Respondent's failure to comply with the Family Plan of Service, issued by the 321st Judicial District Court, Smith County, was likely to injure the pediatric patients under her care.

9. On or about January 1, 2010 through February 24, 2010, while employed with Maxim Healthcare Services, Tyler, Texas, Respondent lacked fitness to safely practice nursing in that she was observed sleeping/dosing on multiple occasions while working the night shift and caring for pediatric Patient Medical Record Number 529377039. 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.

10. In response to the incidents in Findings of Fact Numbers Seven (7) and Eight (8), Respondent denies the allegation stating that she never agreed to plead guilty to the offense of Misdemeanor Assault. She also denies the allegation that she failed to comply with the restrictions placed on her license prohibiting her from supervising pediatric patients under the age of 18. Respondent asserts that there were other members of the family present when she was caring for the patients.

    In response to the incident in Finding of Fact Number Nine (9), Respondent admits that she would occasionally dose off but stated that the other LVN would wake her up. Respondent explains that she was working with another LVN and they were each taking care of

premature twins. She goes on to explain that the twins' equipment and cribs were set up in the family's living room. Respondent states they worked the night shift and that the mother would also sleep in the living room. Respondent asserts that the mother would require all the lights to be off and they had to work using flashlights. Respondent adds that the room was very dark and quiet so it was easy to dose off.

11. Charges were filed on November 15, 2010.

12. Charges were mailed to Respondent on November 15, 2010.

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, and 22 TEX. ADMIN. CODE §§217.11(1)(A),(1)(B)&(1)(T) and 217.12(1)(A),(1)(B),(4),(5),(6)(C),(11)(B)&(13).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational License Number 192560, heretofore issued to MELODY RUTH ENNIS, including revocation of Respondent's license 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 Vocational Nurse License Number 192560, previously issued to MELODY RUTH ENNIS, to practice vocational nursing in Texas is hereby SUSPENDED with the said 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, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in

the State of Texas.

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 is encumbered by this order the 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 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.

(2) RESPONDENT SHALL, within one (1) year 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 <u>not</u> 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.*

(3) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars ($500.00). RESPONDENT SHALL pay this fine within forty-five (45) days of the suspension being stayed. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

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 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 REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:

(4) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the probation conditions on RESPONDENT'S licenses. 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 licenses. 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.

(5) 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.

(6) For the first year 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). 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.

(7) For the remainder of the 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.

(8) 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. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for two (2) years of employment as a nurse.

IT IS FURTHER AGREED and ORDERED that 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.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 5 day of May, 2011.

Melody Ruth Ennis

MELODY RUTH ENNIS, Respondent

Sworn to and subscribed before me this ____ day of _____, 20____.

SEAL

_____

Notary Public in and for the State of _____

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 5th day of May, 2011, by MELODY RUTH ENNIS, Vocational License Number 192560, and said Order is final.

Effective this 14th day of June, 2011.

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