BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Vocational Nurse	§	AGREED
License Number 185862	§	
issued to SHERRI JEAN GUTIERREZ	§	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 Boa considered the matter of SHERRI JEAN GUTIERREZ, Vocational Nurse License Number 185862, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 302.402(a)(2)&(10), Texas Occupations Code, (effective 9/1/1999 through February 1, 2004), and Section 301.452(b)(2)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on June 23, 2010, by Katherine A. Thomas, MN, RN, Executive Director.

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 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 Nursing from Victoria College, Victoria, Texas on August 9, 2002. Respondent was licensed to practice vocational nursing in the State of Texas on October 8, 2002.

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

6. On or about October 8, 2002, Respondent submitted an Application for Initial Licensure by Examination to the Board of Nurse Vocational Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information, in that she answered No to the question:
"Have you ever been convicted of a misdemeanor other than a minor traffic violation?"

Respondent failed to disclose that on or about January 21, 2000, Respondent entered a plea of Guilty and was convicted of ASSAULT CAUSES BODILY INJURY FAMILY MEMBER, in the County Court Jackson County, Texas, under Cause Number 17719. As a result of the conviction, Respondent was sentenced to confinement in the Jackson County Jail for a period of one (1) year; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of one (1) year. Additionally, Respondent was ordered to pay a fine and court costs.

7. In response to Finding of Fact Numbers Six (6), Respondent states On October 25, 1999, her now ex-husband, knocked on her door and forced his way into her apartment that she shared with her 2 children. He pushed her and they started to struggle. She tried to get away and screamed for help. When the police arrived he was choking her and she scratched him while trying to get away. They were both arrested and charged with Assault. When the court date came, Respondent was advised by the DA to take the Plea of nolo contendere and that it would not go her record, so she accepted the plea and received one year probation.

8. On or about November 3, 2003, Respondent submitted an Texas Online Renewal Document for License Vocational Nurses to the Board of Nurse Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information, in that she answered No to the question:

"Were you convicted of a misdemeanor other than a minor traffic violation since your last renewal?"

Respondent failed to disclose:
On or about June 27, 2003, Respondent entered a plea of Guilty and was convicted of THEFT OF PROPERTY >=$20 <$500 BY CHECK, in the County Court Jackson County, Texas, under Cause Number 19,406. As a result of the conviction, Respondent was ordered to pay a fine and court costs.

On or about October 22, 2003, Respondent entered a plea of Guilty and was convicted of THEFT OF PROPERTY >=$20 <$500 BY CHECK, in the County Court Jackson County, Texas, under Cause Number 19,623. As a result of the conviction, Respondent was ordered to pay a fine and court costs.

9. On or about July 28, 2005, Respondent submitted an Texas Online Renewal Document for License Vocational Nurses to the Board of Nurse Examiners for the State of Texas in which

she provided false, deceptive, and/or misleading information, in that she answered No to the question:

"Have you been convicted, adjudicated guilty by a court, plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests (excluding minor traffic violations) since your last renewal? This includes expunged offenses and deferred adjudications with or without prejudice of guilt. Please note that DUIs, DWIs, and PI's must be reported and are not considered minor traffic violations. (One time minor in possession [MIP] or minor in consumption [MIC] does not need to be disclosed; therefore, you may answer "No." If you have two or more MIPs or MICs, you must answer "Yes".)"

Respondent failed to disclose that on or about December 1, 2003, Respondent entered a plea of Guilty and was convicted of ISSUANCE OF BAD CHECK, in the County Court at Law No 1, Victoria County, Texas, under Cause Number 180195. As a result of the conviction, Respondent was ordered to pay a fine and court costs.

10. On or about August 2, 2007, Respondent submitted an License Renewal form for License Vocational Nurses to the Board of Nurse Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information, in that she answered No to the question:

"Have you ever been convicted, placed on community supervision whether or not adjudicated guilty, sentenced to serve jail of prison time or granted pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country, received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests whether or not on appeal (excluding minor Class C traffic violations)? This includes expunged offenses and deferred adjudication withor without a finding of guilt. Please note that DUIs, DWIs, and PI's must be reported and are not considered minor traffic violations. One time minor in possession [MIP] or minor in consumption [MIC] does not need to be disclosed; therefore, you may answer "No." If you have two or more MIPs or MICs, you must answer "Yes". you may answer "No" if you have previously disclosed a criminal matter otherwise responsive to this question in a renewal and/or licensure form.

Respondent failed to disclose on or about August 18, 2005, Respondent entered a plea of Guilty and was convicted of THEFT OF PROPERTY >=$20 <$500 BY CHECK, in the County Court Jackson County, Texas, under Cause Number 20,543. As a result of the conviction, Respondent was ordered to pay a fine and court cost.

11. In response to Finding of Fact Number Eight (8) through Ten (10), Respondent states she did not realize that a theft by check was a misdemeanor charge. She paid all the fines. She asked several co-workers and they all felt that a theft by check did not have to be reported.

12. Charges were filed on February 1, 2010.

13. Charges were mailed to Respondent on February 2, 2010.

14. As of October 24, 2006, Respondent has failed to repay her Texas Guaranteed Student Loan as required by Texas Education Code §57.491. 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.

15. Respondent's conduct deprives other applicants of needed financial aid and is a violation of Texas Occupations Code §301.452(b)(10) and 22 Texas Administrative Code §217.12(7).

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 302.402(a)(2)&(10), Texas Occupations Code, (effective 9/1/1999 through February 1, 2004), and Section 301.452(b)(2)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §239.11(8)&(29)(A) (effective September 1, 1993 through September 28, 2004). and 22 TEX. ADMIN. CODE §217.12(6)(I),(7)&(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 185862, heretofore issued to SHERRI JEAN GUTIERREZ, 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 Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a REMEDIAL EDUCATION WITH A FINE, 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 is 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 State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL pay a monetary fine in the amount of one thousand ($1000) dollars. RESPONDENT SHALL pay this fine within Ninety (90) days of entry of this Order. 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.

(2) RESPONDENT SHALL, within one (1) year of entry of this, 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.*

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.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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 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 revocation of my license to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 1st day of February, 2011.

Sherri Jean Gutierrez

SHERRI JEAN GUTIERREZ, Respondent

Sworn to and subscribed before me this 1 day of February, 2011.

SEAL

MISTI D. GLAZE
Notary Public, State of Texas
My Commission Expires
May 08, 2013

Misti D. Glaze

Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby ratify and adopt the Agreed Order that was signed on the 1st day of February, 2011, by SHERRI JEAN GUTIERREZ, Vocational Nurse License Number 185862, and said Order is final.

Effective this 13th day of April, 2011.

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