BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Vocational Nurse	§	AGREED
License Number 186229 issued	§	
to CYNTHIA MICHELE MATTHEWS	§	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 B considered the matter of CYNTHIA MICHELE MATTHEWS, Vocational Nurse License Nu 186229, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(1),(2),(3),(9),(10)&(12), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on November 30, 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 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 Brazosport Community College, Lake Jackson, Texas, on July 25, 2002. Respondent was licensed to practice vocational nursing in the State of Texas on October 24, 2002.

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

6. On or about September 17, 2007, Respondent was arrested by the Brazoria County Sheriff's Office, Brazoria County, Texas, for "Theft of Service >=$20<$500 by Check," a Class B misdemeanor committed on April 20, 2007. On or about October 12, 2007, Respondent entered a plea of Guilty and was convicted of the reduced charge of "Issuance of Worthless Check," a Class C misdemeanor offense, in the County Court at Law #2 of Brazoria County, Texas, under Cause No. 159913. As a result of the conviction, Respondent was ordered to pay a fine and court costs.

7. On or about October 4, 2007, Respondent submitted a License Renewal Form (Delinquent for over 90 days) to the Texas Board of Nursing, 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 or prison time or granted pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country, or 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 misdemeanor traffic violations)?"

   On or about September 17, 2007, Respondent was arrested by the Brazoria County Sheriff's Office, Brazoria County, Texas, for "Theft of Service >=$20<$500 by Check," a Class B misdemeanor committed on April 20, 2007.

8. In response to Finding of Fact Numbers Six (6) and Seven (7), Respondent states:

   "During the month of April I was going through some issues. I apparently accidentally wrote a hot check. During that time period my mail was sent to an old place of residence. My hot check turned into a warrant for my arrest, the charge was theft of service. I was notified of the warrant on September 14, 2007. On Monday, September 17, 2007, I called the court house and an officer was sent to arrest me. This was during the time period when I was renewing my delinquent license. I was not aware that the theft of service charge was a class b misdemeanor until I went to court on October 12th. By then my license had already been fixed. I did not notify the board because my charge was lessened to a class c, which I thought did not have to be reported. I pled guilty to the charge of insufficient funds and paid a fine."

9. On or about May 1, 2007 through October 7, 2007, while employed as a Licensed Vocational Nurse with Angleton Danbury Medical Center, Angleton, Texas, Respondent failed to renew her nursing license and, consequently, practiced professional nursing on a delinquent license. Respondent's license expired on or about April 30, 2007, and became delinquent on or after May 1, 2007. Respondent's conduct deceived residents, their families, fellow care givers, and the public in that they believed Respondent's nursing practice was in compliance with all Board Rules and Regulations.

10. In response to Finding of Fact Number Nine (9), Respondent states:

"In April I had some personal issues with my roommate, so I went to stay with a friend for a few weeks. When I returned I never received any notification about my license becoming delinquent. I worked from April 30 to September 3. I was not allowed to work my scheduled shift on the 5th and 6th of September until I spoke with the Director. On September 10th the Director of Nurses, Rose McCullough, told me that she was notified by a concerned citizen that my license was invalid. This person apparently overheard it at the Wal-mart check out line. When Rose contacted me, that was the first I heard of my license being delinquent. My father passed away unexpectedly on August 29th. I was taking care of his personal matters and did not work any where the full six weeks after I learned my license was not valid. I returned to work on October 14, 2007."

11. On or about January 25, 2008, while employed as a Licensed Vocational Nurse with Angleton Danbury Medical Center, Angleton, Texas, Respondent engaged in the intemperate use of Cocaine in that Respondent submitted a specimen for drug/alcohol screening which tested positive for Cocaine metabolites. Possession of Cocaine is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Cocaine by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

12. In response to Finding of Fact Number Eleven (11), Respondent states:

"I plea guilty to the positive drug test. I just lost my father and had a lot of personal issues with family dealing with his estate, and I got thrown out by my landlord. I had gone out with some old friends. I was drinking a lot, which I don't normally do. I blacked out. I only know what I have been told. Until I talked to some of my friends and mentioned that I had been selected for a random drug testing the next day at work, is when I learned of the cocaine at the party and what I apparently did. I understand that this was very stupid of me to put myself in that place."

13. On or about November 16, 2009, Respondent underwent a chemical dependency assessment with Herbert C. Munden, M.D. wherein Dr. Munden advised the following:

"It does not appear to me that her ability to practice nursing has ever been compromised. I do not feel that she meets criteria for a Substance Dependency Diagnosis. I also do not see any evidence that [Respondent] has any type of antisocial personality disorder that would make her a continual threat to her patients or society.

I do believe that [Respondent] does need individual therapy with someone who is qualifies(sic) to help her with her eating disorder NOS, and her Post Traumatic Stress

Disorder...I see no reason why [Respondent] could not practice nursing as she is receiving therapy. I believe that therapy now would be preventative and that it would allow [Respondent] to reach her full potential.
I did ask [Respondent] to submit a hair specimen for drug screening. I have not yet received those results.
Addendum: [Respondent] did call on or around December 2, 2009 stating she did not do the hair screen. She asked if she could submit a specimen at a lab in her hometown area. I advised her she could, but it must be a NIADA approved lab and that the results be faxed to me. As of 12/16/09, I have not received any test results. I was clear with [Respondent] at the end of our session that this specimen was an important way for her to prove that she was not using drugs. I am concerned about this."

14. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

15. Formal Charges were filed on November 13, 2008.

16. Formal Charges were mailed to Respondent on November 17, 2008.

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 violation of Section 301.452(b)(1),(2),(3),(9),(10)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(E),(5),(6)(H),(6)(I),(10)(A),(10)(D),(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 Nurse License Number 186229, heretofore issued to CYNTHIA MICHELE MATTHEWS, 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 Vocational Nurse License Number 186229, previously issued to CYNTHIA

MICHELE MATTHEWS, 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 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 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 seven hundred fifty dollars ($750). RESPONDENT SHALL pay this fine within ninety (90) 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) YEAR(S) 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:

(4) 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.

(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 or a Licensed 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.

(7) 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.

(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 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) year(s) of employment as a nurse.

(9) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results**

of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.

(10) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the probation period, random screens shall be performed at least once every three (3) months. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the RESPONDENT'S place of employment at any time during the probation period and require RESPONDENT to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the probation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary

action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

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(s) 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 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 1 day of December, 2010.

Cynthia Matthews

CYNTHIA MICHELE MATTHEWS, Respondent

Sworn to and subscribed before me this 1st day of December, 2010.

SEAL

Pinkie D. Henderson

Notary Public in and for the State of Texas

PINKIE D. HENDERSON
Notary Public, State of Texas
My Commission Expires
SEPT. 9, 2011

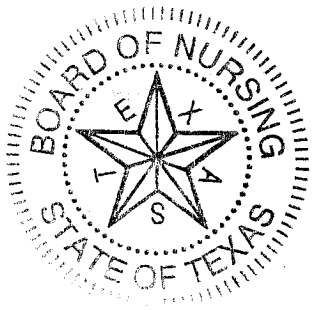
Approved as to form and substance.

Dan Lype, Attorney for Respondent

Signed this 1 day of December, 2010.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 1st day of December, 2010, by CYNTHIA MICHELE MATTHEWS, Vocational Nurse License Number 186229, and said Order is final.

Effective this 27th day of January, 2011.



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