BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§	AGREED
License Number 44454	§	
issued to MARY E. MERRILL	§	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 Bc considered the matter of MARY E. MERRILL, Vocational Nurse License Number 44454, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Tex. Rev. Civ. Stat. Art. 4528c Section 10 (effective January 1978). Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on April 14, 2011, 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(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 St. Philip's College, San Antonio, Texas, on August 1, 1969. Respondent was licensed to practice vocational nursing in the State of Texas on October 29, 1969.

5. Respondent's nursing employment history unknown.

6. On or about July 15, 1980, Respondent entered a plea of Guilty and was convicted of VIOLATED TEXAS UNEMPLOYMENT ACT (a misdemeanor offense committed on September 1, 1978), in the County Court at Law No. 5 of Bexar County, Texas, under Cause

No. 267,529. As a result of the conviction, Respondent was sentenced to confinement in the Bexar County Jail for a period of six (6) months; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of twelve (12) months. Additionally, Respondent was ordered to pay six hundred and seventy dollars ($670.00) in restitution, along with a fine and court costs. Sentence to run concurrently with Cause No. 267,531.

7. On or about July 15, 1980, Respondent entered a plea of Guilty and was convicted of VIOLATED TEXAS UNEMPLOYMENT ACT (a misdemeanor offense committed on August 14, 1978), in the County Court at Law No. 5 of Bexar County, Texas, under Cause No. 267,531. As a result of the conviction, Respondent was sentenced to confinement in the Bexar County Jail for a period of six (6) months; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of twelve (12) months. Additionally, Respondent was ordered to pay six hundred and seventy dollars ($670.00) in restitution, along with a fine and court costs. Sentence to run concurrently with Cause No. 267,529.

8. On or about November 13, 1981, Respondent's probation granted under Cause Nos. 267,529 and 267,531 was revoked and Respondent was sentenced to confinement in the Bexar County Jail for a period of six (6) months.

9. Respondent by her own admission failed to disclose to the Board that she was convicted of VIOLATED TEXAS UNEMPLOYMENT ACT (a misdemeanor offense) under Cause No. 267,529, and VIOLATED TEXAS UNEMPLOYMENT ACTION (a misdemeanor offense) under Cause No. 267,531.

10. In response to Findings of Fact Numbers Six (6) through Nine (9), Respondent states she received some unemployment benefits while she was unemployed, and when she became employed, she reported the information. She states she did not receive additional benefits, but was told she had to pay the money back, which was $670.00. Respondent states she completed the probation and was never told her probation had been revoked. She states she did not know or remember to notify the Board at the time, as it was a very hard time in her life. Additionally, she states there was only one charge of violating the unemployment act, not two.

11. On or about March 26, 1987, Respondent was convicted of AGGRAVATED ASSAULT - SERIOUS BODILY INJURY (NO AFFIRMATIVE FINDING OF A WEAPON) (a felony offense committed on July 1, 1986), in the 186th Judicial District Court of Bexar Courty, Texas, under Cause No. 87-CR-0004-W. As a result of the conviction, Respondent was sentenced to confinement in the Texas Department of Corrections for a period of ten (10) years; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of ten (10) years Additionally, Respondent was ordered to pay four hundred and ninety-two dollars ($492.00) in in restitution, along with a fine and court costs.

12. Respondent states she disclosed the offenses to the board, however a review of the records on-file at the Texas Board of Nursing failed to reveal any documentation which would suggest that Respondent disclosed the above-mentioned conviction to the Board of Vocational Nurses Examiners for the State of Texas.

13. In response to Findings of Fact Number Eleven (11) and Twelve (12), Respondent states she was protecting her child and was given ten (10) years of probation, which she fulfilled. She states she did not write to the Board regarding the offense, but when she renewed her license, she always marked the form with the information requested. Respondent states she would not ever do anything to effect her license and asks for forgiveness.

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 Tex. Rev. Civ. Stat. Art. 4528c Section 10 (effective January 1978).

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 44454, heretofore issued to MARY E. MERRILL, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of 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, 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, 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 five hundred dollars ($500.00). RESPONDENT SHALL pay this fine within forty-five (45) 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 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 <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.

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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 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 nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 3rd day of June, 2011.

Mary Merrill

MARY E. MERRILL, Respondent

Sworn to and subscribed before me this 3rd day of June, 2011.

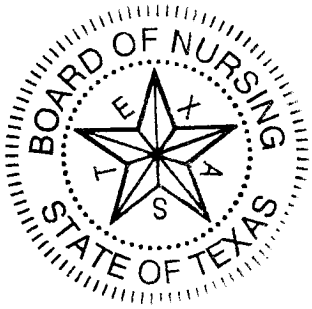
SEAL

Karen Croom

Notary Public in and for the State of TX

KAREN CROOM
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
08-17-2014

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 3rd day of June, 2011, by MARY E. MERRILL, Vocational Nurse License Number 44454, and said Order is final.



Effective this 10th day of June, 2011.

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