BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse License Number 555160	§	AGREED
and Vocational Nurse License Number 124124	§	
issued to CHRISTINA FRY AKA	§	
CHRISTINA MILES	§	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 Board, considere matter of CHRISTINA FRY AKA CHRISTINA MILES, Registered Nurse License Number 555160, and Vocational Nurse License Number 124124, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Article 4528(c), sec. 10(3)&(9), TEX. REV. CIV. STAT. ANN.(eff. 09/01/93); Article 4525(c), sec. 10(3)&(9), TEX. REV. CIV. STAT. ANN.(eff. 09/01/93); Section 302.402(a)(3)&(10), Texas Occupations Code (eff. date 9/1/99); Section 301.452(b)(3)&(10), Texas Occupations Code (eff. date 09/01/99); Section 302.402(a)(3)&(10), Texas Occupations Code (eff. date 9/1/01); Section 301.452(b)(3)&(10), Texas Occupations Code (eff. date 09/01/01); Section 302.402(a)(3)&(10), Texas Occupations Code (eff. date 9/1/03); Section 301.452(b)(10), Texas Occupations Code (eff. date 09/01/03); Section 301.452(b)(10), Texas Occupations Code (eff. date 09/01/07). Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on February 22, 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.

2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

3. Respondent holds a license to practice professional nursing in the State of Texas, which is in delinquent status. Respondent holds a license to practice vocational nursing in the State of Texas, which is in delinquent status.

4. Respondent received an Associate Degree in Vocational Nursing from Laredo Community College, Laredo, Texas, on May 28, 1989. Respondent was licensed to practice vocational nursing in the State of Texas on May 26, 1989, and Respondent was licensed to practice professional nursing in the State of Texas on August 25, 1989.

5. Respondent's nursing employment history is unknown.

6. On or about March 8, 1994, Respondent was issued the sanction of SUSPEND/PROBATE Order by the Board of Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law and Order dated March 8, 1994, is attached and incorporated, by reference, as part of this Order.

7. On or about March 29, 1995, Respondent was arrested by the La Salle County Sheriff's Office, Cotulla, Texas, for THEFT >=$20 <$500 (a Class B misdemeanor offense). On or about December 12, 1995, Respondent was convicted of a lesser charge and ordered to pay a fine and court costs.

8. On or about November 9, 1998, Respondent was arrested by the McAllen Police Department, McAllen, Texas, for POSS MARIJ < 2OZ (a Class B misdemeanor offense).

   On or about April 8, 1999, Respondent entered a plea of No Contest to POSSESSION OF MARIJUANA U/2 OZ (a Class B misdemeanor offense committed on November 9, 1998), in the County Court at Law No. Four of Hidalgo County, Texas, under Cause No. 160,793-D. 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 one hundred eighty (180) days. Additionally, Respondent was ordered to pay a fine.

   On or about March 9, 2000, Respondent's probation granted under Cause No. 160,793-D was revoked, a judgment of Guilt was entered, and Respondent was sentenced to confinement in the Hidalgo County Jail for a period of thirty (30) days; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of one hundred eighty (180) days.

9. On or about May 19, 1999, Respondent was arrested by the McAllen Police Department, McAllen, Texas, for UNAUTH USE OF VEHICLE (a felony offense).

   On or about March 6, 2000, Respondent entered a plea of Guilty and was convicted of UNAUTHORIZED USE OF A VEHICLE(a felony offense committed on May 17, 1999), in the 398th District Court of Hidalgo County, Texas, under Cause No. CR-2993-99-I. As a result of the

conviction, Respondent was sentenced to confinement in the Institutional Division of the Texas Department of Criminal Justice for a period of five (5) years; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of five (5) years. Additionally, Respondent was ordered to pay a fine.

10. On or about January 17, 2001, Respondent was arrested by the Sarasota Police Department, Sarasota, Florida, for POSSESSION OF COCAINE (a 3rd Degree felony offense) and for COHABITATION LEWD AND LASCIVIOUS BEH (a misdemeanor offense). Respondent subsequently entered a plea of Nolo Contendere, and was convicted. Respondent received credit for time served and was ordered to pay court costs.

11. On or about May 26, 2001, Respondent was arrested by the Sarasota Police Department, Sarasota, Florida, for NO VALID DRIVERS LICENSE (a misdemeanor offense). Respondent was subsequently convicted. Respondent received credit for time served and was ordered to pay court costs.

12. On or about May 30, 2001, Respondent was arrested by the Manatee County Sheriff's Office, Manatee County, Texas, for DWI DAMAGE TO PERS PROP and for HIT AND RUN and for NO VALID DRIV LIC (2nd Deg misdemeanor offenses).

    On or about May 31, 2001, Respondent entered a plea of Guilty and was convicted of DRIVING UNDER THE INFLUENCE WITH PROPERTY DAMAGE-COUNT 1 (a 2nd Degree misdemeanor offense), in the Circuit/County Court of the Twelfth Judicial Circuit, In and For Manatee County, Florida, under Cause No. 2001CT001920. As a result of the conviction, Respondent was placed on probation for a period of twelve (12) months. Additionally, Respondent was ordered to pay court costs. On or about August 21, 2002, an Order of Probation Revocation was entered and Respondent was sentenced to confinement in the Manatee County Jail for sixty (60) days.

    On or about May 31, 2001, Respondent entered a plea of Guilty and was convicted of LEAVING SCENE OF CRASH OVER $50 - COUNT 2 and NO VALID DRIVERS LICENSE - COUNT 3 (2nd Degree misdemeanor offenses), in the Circuit/County Court of the Twelfth Judicial Circuit, In and For Manatee County, Florida, under Cause No. 2001CT001920. As a result of the conviction, Respondent was granted credit for time served.

13. On or about March 18, 2002, Respondent was arrested by the Sarasota County Sheriff's Office, Sarasota County, Texas, for DISORDERLY INTOXICATION (a 2nd Degree misdemeanor offense), and for GIVE FALSE NAME AFTER BEING ARRESTED (a 1st Degree misdemeanor offense). On or about April 8, 2002, Respondent was convicted and given credit for time served.

14. On or about July 6, 2002, Respondent was arrested by the Manatee County Sheriff's Office, Manatee County, Florida, for ENGAGE COMMIT OFFER LEWDNESS SUBSQ OFF and for DRUGS-EQUIP-POSSESS (1st Degree misdemeanor offenses), and for POSS CTRL SUB W O RX COCAINE (a 3rd Degree felony offense).

On or about July 14, 2003, Respondent entered a plea of Nolo Contendere and was convicted of PROSTITUTION - COUNT 1 (a 2nd Degree misdemeanor offense committed on March 14, 2003), POSSESSION OF CONTROLLED SUBSTANCE - COUNT 2 (a 3rd Degree felony offense committed on March 14, 2003), and POSSESSION OF DRUG PARAPHERNALIA (a 1st Degree misdemeanor offense committed on March 14, 2003), in the Circuit Court In and For Manatee County, Florida, under Cause No. 2003-CF-822. As a result of the conviction, Respondent was sentenced to confinement in the Manatee County Jail for a period of ninety (90) days. Additionally, Respondent was ordered to pay a fine and court costs. Time to be served concurrent with Cause No. 2003MM2858.

15. On or about March 8, 2003, Respondent was arrested by the Bradenton Police Department, Bradenton, Florida, for PROSTITUTION (a 1st Degree misdemeanor offense).

On or about March 10, 2003, Respondent entered a plea of Nolo Contendere and was convicted of PROSTITUTION (a 1st Degree misdemeanor offense committed on March 8, 2003), in the County Court of Manatee County, Florida, under Cause No.2003 MM 001120. As a result of the conviction, Respondent was placed on probation for a period of six (6) months. Additionally, Respondent was ordered to pay a fine and court costs.

On or about April 29, 2003, Respondent's probation granted under Cause No. 2003 MM 001120 was revoked and Respondent was sentenced to confinement in the Manatee County Jail for a period of forty-five (45) days.

16. On or about June 17, 2003, Respondent was arrested by the Bradenton Police Department, Bradenton, Florida, for DRUGS-EQUIP-POSSESS (a misdemeanor offense).

On or about July 14, 2003, Respondent entered a plea of Nolo Contendere and was convicted of POSSESSION OF DRUG PARAPHERNALIA (a 1st Degree misdemeanor offense committed on June 17, 2003), in the County Court In and For Manatee County, Florida, under Cause No. 2003MM2858. As a result of the conviction, Respondent was sentenced to confinement in the Manatee County Jail for a period of sixty (60) days. Additionally, Respondent was ordered to pay a fine and court costs. Time to be served concurrent with Cause No. 2003-CF-822.

17. On or about October 7, 2003, Respondent was arrested by the Manatee County Sheriff's Office, Manatee County, Florida, for ENGAGE COMMIT OFFER LEWD ACT (a 3rd Degree felony offense).

On or about December 15, 2003, Respondent entered a plea of Nolo Contendere and was convicted of FELONY PROSTITUTION (a 3rd Degree felony offense committed on September 12, 2003), in the County Court of the Twelfth Judicial Circuit In and For Manatee County, Florida, under Cause No. 2003CF30454. As a result of the conviction, Respondent was sentenced to confinement in the Manatee County Jail for a period of six (6) months.

18. On or about April 2, 2007, Respondent was arrested by the Manatee County Sheriff's Office, Manatee County, Florida, for DISORDERLY CONDUCT (a 2nd Degree misdemeanor offense). Respondent subsequently pled Nolo Contendere and was ordered to pay a fine and court costs.

19. In response to Findings of Fact Numbers Seven (7) through Eighteen (18), Respondent states that she last worked in Texas in1998 under a probated status. She moved to Florida in 2000. From 2001 to 2003 she was deep in her disease of alcoholism, resulting in all her arrests. Each conviction/charge was related to her alcohol/drug abuse. In 1995 she was charged with marijuana possession. In 1999 she was charged with unauthorized use of a motor vehicle after her roommate reported the car stolen when she failed to come home by midnight. In 2006, she had a 2 day relapse (alcohol) in Laredo, TX, and got a DUI that eventually was dropped. Besides this relapse, she has been clean and sober since November 2003.

20. 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.

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 Article 4528(c), sec. 10(3)&(9), TEX. REV. CIV. STAT. ANN.(eff. 09/01/93); Article 4525(c), sec. 10(3)&(9), TEX. REV. CIV. STAT. ANN.(eff. 09/01/93); Section 302.402(a)(3)&(10), Texas Occupations Code (eff. date 9/1/99); Section 301.452(b)(3)&(10), Texas Occupations Code (eff. date 09/01/99); Section 302.402(a)(3)&(10), Texas Occupations Code (eff. date 9/1/01); Section 301.452(b)(3)&(10), Texas Occupations Code (eff. date 09/01/01); Section 302.402(a)(3)&(10), Texas Occupations Code (eff. date 9/1/03); Section 301.452(b)(10), Texas Occupations Code (eff. date 09/01/03); Section 301.452(b)(10), Texas Occupations Code (eff. date 09/01/07); 22 TEX. ADMIN. CODE §217.12(1) (eff. 9/1/99 through 9/28/04); and 22 TEX. ADMIN. CODE §217.12(13)(eff. after 9/28/04).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 555160 and Vocational Nurse License Number 124124, heretofore issued to CHRISTINA FRY, 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 Registered Nurse License Number 555160 and Vocational Nurse License Number 124124, previously issued to CHRISTINA FRY, to practice 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 licenses 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 entry of this Order and prior to practicing as a professional nurse, successfully complete a nursing refresher course. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include Nurses. The course's content shall include: 1) the role of the nurse; 2) a review of the nursing process to include assessment, planning, implementation and evaluation; 3) pharmacology review; 4) medication administration review for all standard routes of administration; 5) documentation, quality assurance and legal implications for nursing practice; and 6) current CPR certification. This course shall include a minimum of the clinical components, providing direct patient care supervised by another registered nurse, as stated on the Board's website, http://www.bon.state.tx.us/olv/pdfs/6mth-rn.pdf. Upon receipt of verification that RESPONDENT has enrolled in a nursing refresher course, the RESPONDENT SHALL apply for a "Six-Month Clinical Permit" for the limited purpose of completing the course. RESPONDENT SHALL NOT, in any way, attempt to use this limited permit for any purpose other than attending this course. RESPONDENT SHALL CAUSE the sponsoring institution to notify the Board of RESPONDENT'S successful completion on the

Verification of Course Completion form, available from the Board at http://www.bon.state.tx.us/disciplinaryaction/pdfs/i17.pdf. Upon receipt of the Verification of Course Completion form and the limited permit, the Board will then issue RESPONDENT a license to practice professional nursing with the appropriate notation. 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.

(3) 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 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.*

(4) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars ($500). 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) LICENSE OR VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(5) 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.

(6) 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.

(7) For the first year of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse. Direct supervision requires another professional 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.

(8) For the remainder of the probation period, RESPONDENT SHALL be supervised by a Registered 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.

(9) RESPONDENT SHALL NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Respondent is regularly assigned for one (1) year of employment as a nurse.

(10) RESPONDENT SHALL NOT practice as a nurse in any critical care area for one (1) year of employment as a nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(11) RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a nurse.

(12) 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 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.

(13) 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.**

(14) 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 licenses and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

(15) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. RESPONDENT SHALL

provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by RESPONDENT. RESPONDENT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) month period. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

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 licenses, 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 licenses to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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

Signed this 21 day of April, 2010.

CHRISTINA FRY, Respondent

Sworn to and subscribed before me this 21 day of April, 2010.

SEAL

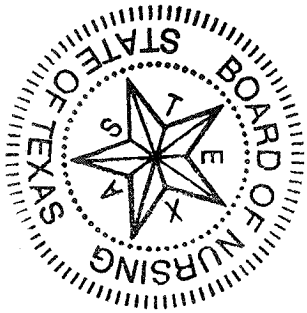
JESSICA DAWN THOMPSON
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
OCT. 24, 2012

Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 21st day of April, 2010, by CHRISTINA FRY, Registered Nurse License Number 555160 and Vocational Nurse License Number 124124, and said Order is final.

Effective this 22nd day of July, 2010.

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



DOCKET NO. 507-94-142

IN THE MATTER OF	§	BEFORE THE
	§	
PERMANENT CERTIFICATE	§	
NUMBER 555160	§	BOARD OF NURSE EXAMINERS
ISSUED TO	§	
	§	
CHRISTINA MILES	§	FOR THE STATE OF TEXAS

ORDER OF THE BOARD

TO: CHRISTINA MILES
1713 Aldama (Rear)
Laredo, Texas 78043

During open meeting at Austin, Texas, the Board of Nurse Examiners finds that after proper and timely notice was given, the above-styled case was heard by an Administrative Law Judge who made and filed a proposal for decision containing the Administrative Law Judge's findings of fact and conclusions of law. The proposal for decision was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein.

The Board of Nurse Examiners, after review and due consideration of the proposal for decision, and exceptions and replies filed, if any, adopts the findings of fact and conclusions of law of the Administrative Law Judge as if fully set out and separately stated herein. All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that License Number 555150 previously issued to CHRISTINA MILES (RESPONDENT) to practice professional nursing in the State of Texas be, and the same is hereby, suspended for two years from the date of this Order, the

suspension to be stayed and the suspension period probated, subject to the following stipulations:

1. RESPONDENT shall return her current certificate of re-registration (wallet-size) to the office of the Board for appropriate notation within ten days of the date of entry of the Board Order.

2. RESPONDENT shall, within six months of entry of this Order, successfully complete a course in Nursing Jurisprudence. RESPONDENT shall obtain Board approval of the course prior to enrollment. RESPONDENT shall cause the sponsoring institution to submit a Verification of Completion form to verify RESPONDENT's successful completion of the course.

THE FOLLOWING TERMS OF THIS ORDER CAN ONLY BE SERVED WHILE RESPONDENT IS EMPLOYED AS A PROFESSIONAL NURSE.

3. RESPONDENT shall notify each present employer, if any, in professional nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT shall present a copy of this Order to each present employer within five days of notification of this Order. RESPONDENT shall notify all potential employers in professional nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT shall present a copy of this Order to each potential employer prior to employment.

4. RESPONDENT shall cause each present employer, if any, in professional nursing to submit the Notification of Employment form to the Board's office within ten days of notification of this Order. RESPONDENT shall cause each potential employer to submit the Notification of Employment form to the Board's office within five days of employment as a professional nurse.

5. RESPONDENT shall cause each employer to submit, on forms provided by the Board, periodic reports as to RESPONDENT's capability to practice professional nursing. These reports shall be submitted to the office of the Board at the end of each three months for two years of employment as a professional nurse.

6. RESPONDENT shall be supervised by a professional nurse who is on the premises. RESPONDENT shall work only on regularly assigned, identified and predetermined unit(s). RESPONDENT shall NOT be employed by a nurse registry, temporary nurse employment agency or home health agency. RESPONDENT shall NOT be self employed or contract for services. Multiple employers are prohibited.

7. RESPONDENT shall participate in therapy with a "professional counselor" possessing credentials approved by the Board. RESPONDENT shall cause the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT's progress in therapy, rehabilitation and capability to safely practice

professional nursing. The report must indicate that the RESPONDENT's emotional stability is sufficient to provide direct patient care safely. Such reports are to be furnished each three months for the duration of the stipulation period or until RESPONDENT is dismissed from therapy. The original forms shall be received in the Board's office no later than the due date indicated on the report form.

8. RESPONDENT shall comply in all respects with TEX. REV. CIV. STAT. ANN. arts. 4513 through 4528, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice of The Board of Nurse Examiners and the provisions of the terms of this Order of the Board.

Entered this 8th day of March, 1994.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

BY: Louise Waddill
Louise Waddill, R.N., Ph.D.
Executive Director on behalf
of said Board

DOCKET NO. 507-94-142

IN THE MATTER OF	§	BEFORE THE
	§	
PERMANENT CERTIFICATE	§	
NUMBER 555160	§	STATE OFFICE OF
ISSUED TO	§	
	§	
CHRISTINA MILES (FRY)	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Board of Nurse Examiners for the State of Texas brought this case seeking disciplinary action against a licensee for leaving her nursing assignment without notifying appropriate personnel. The staff recommended that the licensee be issued a reprimand with stipulations. The licensee did not attend the hearing. This proposal finds that the subject license should be suspended and the suspension probated subject to conditions.

I. Procedural History

On July 21, 1993, the staff of the Board of Nurse Examiners (the Staff), filed a sworn complaint against Christina Miles (Respondent). The Staff alleged that the Respondent left her nursing assignment without notifying appropriate authorities. The Staff further alleged that such actions constitute grounds for disciplinary action against the Respondent's license.

The hearing commenced on February 8, 1994, in the Clements Building, 300 West 15th Street, Austin, Texas. After the taking of evidence, the hearing concluded the same day. The Staff was represented by Roy J. Rawls, Assistant General Counsel, Board of Nurse Examiners. Christina Miles did not appear and was not represented at the hearing.

II. Jurisdiction and Notice

The Board of Nurse Examiners has jurisdiction over this matter pursuant to TEX. REV. CIV. STAT. ANN. art. 4525. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law pursuant to TEX. GOV'T CODE ANN., Chapter 2003 (Vernon Supp. 1994).

Notice of the Staff's intention to institute disciplinary action, dated April 2, 1992, was properly addressed and mailed by certified mail, return receipt requested, to the Respondent at 2402 Corpus Christi, Laredo, Texas 78043. The letter was received by the Respondent's agent on April 6, 1992. The Respondent responded by an undated letter postmarked April 16, 1992. A copy of the

formal charges, dated July 23, 1993, was sent by certified mail, return receipt requested, to the Respondent at the same address and to the Respondent at her record address, 1713 Aldama (Rear), Laredo, Texas 78043. The letter addressed to the Respondent's record address was returned by the Post Office to the Staff marked, "Unclaimed." The letter addressed to 2402 Corpus Christi, was received by the Respondent's agent on July 26, 1993. The notice of the hearing, dated January 20, 1994, was properly addressed and sent by certified mail, return receipt requested, to the Respondent's record address. As of the date of hearing, neither the envelope containing the notice letter nor the receipt evidencing delivery of same had been returned by the Post Office to the Staff. The Board of Nurse Examiners has provided by Rule, at 22 TAC §213.4, "Service of Notice. Service on the respondent shall be complete and effective if the document to be served is sent by registered or certified mail to the respondent at his or her most recent address as shown in the records of the board." The Staff's attempts to notify the Respondent of the hearing upon her license comport with the Administrative Procedure Act, TEX. GOV'T CODE ANN., Chapter 2001 (Vernon Supp. 1994) and 22 TAC §213.4. The notice of hearing contained a statement of the time, place and nature of the hearing, and a statement of the matters asserted and of the legal authority and jurisdiction under which the hearing was to be held.

III. Discussion

About October 7, 1991, the Respondent was employed as a registered nurse at the Laredo State Center, Laredo, Texas. On December 23, 1991, the Respondent was scheduled to work the 10:00 p.m. to 6:00 a.m. shift. The Respondent together with an LVN, Debra Cavazos, was assigned to oversee two cottages.

Debra Cavazos, LVN, testified that on December 23, 1991, she was scheduled to work the same shift as the Respondent. Ms. Cavazos was responsible to oversee one cottage and the Respondent another. The Respondent reported for duty as scheduled. After approximately 30 minutes the Respondent informed Ms. Cavazos that she, the Respondent, was hungry and was leaving to get something to eat. At approximately 1:00 a.m. the Respondent called Ms. Cavazos and informed her that she had her children with her in her car and was looking for a babysitter. At approximately 3:00 a.m. the Respondent called Ms. Cavazos and informed her that she, the Respondent, could not return to finish her shift. Ms. Cavazos testified that she was left to supervise two cottages without the supervision of a registered nurse that night.

Rose Saldivar, Director of Nurses, Laredo State Center, testified that she learned on December 24, 1991, that the Respondent had not completed her shift as scheduled. Ms. Saldivar contacted the Respondent who stated that she had been ill and unable to work. Ms. Saldivar requested that the Respondent provide

documentation of the illness and the Respondent provided Ms. Saldivar with a copy of an emergency room form from Mercy Regional Medical Center, Laredo, Texas. The form indicated that the Respondent had received emergency room treatment at 12:21 p.m. on December 24, 1991. Ms. Saldivar contacted Mercy Regional Medical Center to verify the information and learned that the form had been for services rendered on December 21, 1991, and that the date on the form had been altered. The Respondent was terminated by Laredo State Center.

Ms. Saldivar testified that a registered nurse was required on the 10:00 p.m. to 6:00 a.m. shift at Laredo State Center to protect the safety and well being of the patients. She testified that an LVN was not adequate to provide the treatments which could arise during a shift. Mr. Saldivar also testified that if she had been contacted by the Respondent that she could have provided someone to cover the shift.

The Respondent sent a letter to the Staff about April 16, 1992, in which the Respondent wrote: "As far as my leaving my nursing post for the date 12/24/91 (on or before) I left for my allotted 30 min. break in my car when I was assaulted by an ex-boyfriend. I was so severely beaten that I could not return to work. I kept in contact with the facility every hour and explained what happened."

Authority for taking disciplinary action against the licenses of professional nurses is found at TEX. REV. CIV. STAT. art. 4525 which states, in part: "(b) The Board may take disciplinary action against a registered nurse for any of the following reasons: (9) Unprofessional or dishonorable conduct which, in the opinion of the Board, is likely to deceive, defraud, or injure patients or the public."

The Board has defined "unprofessional conduct" at 22 TAC §217.13, to include, "...(13) leaving a nursing assignment without notifying one's immediate supervisor."

The Respondent engaged in unprofessional conduct by leaving her nursing assignment without notifying her immediate supervisor. She abandoned her patients and subjected them to a risk of inadequate care. The Respondent's actions were irresponsible. The Staff recommended that the Respondent be issued a reprimand with stipulations effective for one year. After a review of the evidence, including the letter written by the Respondent, and giving consideration to the failure of the Respondent to respond to the formal charges or the notice of hearing, the Administrative Law Judge is of the opinion that the Respondent's actions warrant a more severe sanction than a reprimand. The Administrative Law Judge recommends that the license of the Respondent be suspended for two years with the suspension stayed and the Respondent placed on probation for the two year period subject to conditions. The

Administrative Law Judge recommends that in addition to the conditions proposed by the Staff that the Respondent be required to obtain counselling as well.

PROPOSED FINDINGS OF FACT

1. On July 21, 1993, formal charges were filed with the Board of Nurse Examiners for the State of Texas against Christina Miles (Respondent).

2. Notice of the intention to take disciplinary action, of the formal charges, and of the hearing were mailed by certified mail to the Respondent at her record address.

3. The Respondent holds permanent certificate number. 555160 issued by the Texas Board of Nurse Examiners.

4. About October 7, 1991, the Respondent was employed as a registered nurse at the Laredo State Center, Laredo, Texas.

5. On December 23, 1991, the Respondent was scheduled to work the 10:00 p.m. to 6:00 a.m. shift. The Respondent together with an LVN was assigned to oversee two cottages.

6. The Respondent reported for duty at approximately 10:00 p.m. on December 23, 1991, then left her duty post at 10:30 p.m. ostensibly to obtain something to eat.

7. After leaving her post as described in Finding of Fact No. 6, the Respondent did not return to work at any time during the shift described in Finding of Fact No 5.

8. The Respondent left Debra Cavazos, LVN, alone to oversee two separate cottages with patients on the subject shift.

9. The Respondent did not report to her supervisor prior to leaving her nursing assignment on December 23, 1991.

10. A registered nurse was required on the 10:00 p.m. to 6:00 a.m. shift at Laredo State Center to protect the safety and well being of the patients. An LVN was not adequate to provide the treatments which could arise during a shift.

11. The record contains no credible explanation for the Respondent's absence from her nursing assignment.

PROPOSED CONCLUSIONS OF LAW

1. The Board of Nurse Examiners has jurisdiction over this matter pursuant to TEX. REV. CIV. STAT. ANN. art. 4525.

2. The Board provided the Respondent with proper notice of the hearing and of the charges pursuant to the Administrative Procedures Act, TEX. GOV'T CODE ANN., Chapter 2001 (Vernon Supp. 1994) and 22 TAC §213.4.

3. Authority for taking disciplinary action against the licenses of professional nurses is found at TEX. REV. CIV. STAT. ANN. art. 4525 which states, in part: "(b) The Board may take disciplinary action against a registered nurse for any of the following reasons: ... (9) Unprofessional or dishonorable conduct which, in the opinion of the Board, is likely to deceive, defraud, or injure patients or the public."

4. The Board has defined "unprofessional conduct" at 22 TAC §217.13, to include, "...(13) leaving a nursing assignment without notifying one's immediate supervisor."

5. Based upon Findings of Fact Nos. 5 - 10, the Respondent has engaged in unprofessional conduct in violation of TEX. REV. CIV. STAT. ANN. art. 4525(b)(9) and 22 TAC §217.13(13).

6. Based upon the foregoing, disciplinary action against the Respondent's license to practice professional nursing in the State of Texas is warranted.

Signed and entered this 15th day of February, 1994.

Earl A. Corbitt
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF
ADMINISTRATIVE HEARINGS