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

****

In the Matter of Vocational Nurse	§	AGREED
License Number 203221	§	
issued to SHERRY LYNN FLEMINGS	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the B considered the matter of SHERRY LYNN FLEMINGS, Vocational Nurse License Number 203221, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated 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 January 25, 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 Vocational Nursing from Austin Community College, Austin, Texas, on May 1, 2005. Respondent was licensed to practice vocational nursing in the State of Texas on February 28, 2006.

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

6. On or about September 6, 2005, Respondent was issued an ORDER OF CONDITIONAL ELIGIBILITY by the Board of Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law and Order dated September 6, 2005, is attached and incorporated, by reference, as part of this Order.

7. On or about May 1, 2006, Respondent entered a plea of No Contest and was convicted of DRIVING WHILE LIC INVALID (a misdemeanor offense committed on September 25, 2005), in County Court at Law No. 3 of Travis County, Texas, under Cause No.05-712908. As a result of the conviction, Respondent was sentenced to confinement in the Travis County Jail for a period of four (4) days. Additionally, Respondent was ordered to pay a fine and court costs.

8. On or about October 19, 2006, Respondent submitted a Texas Online Renewal Document Licensed Vocational Nurse to the Texas Board of Nurse Examiners in which she provided false, deceptive, and/or misleading information, in that she answered "No" to the question: "Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:
   A. been convicted of a misdemeanor?
   B. been convicted of a felony?
   C. pled nolo contendere, no contest, or guilty?
   D. received deferred adjudication?
   E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
   F. been sentenced to serve jail or prison time? court-ordered confinement?
   G. been granted pre-trial diversion?
   H. been arrested or have any pending criminal charges?
   I. been cited or charged with any violation of the law?
   J. been subject of a court-martial; Article 15 violation; or received any form of military judgement/punishment/action?"

   Respondent failed to disclose that on or about May 1, 2006, Respondent entered a plea of No Contest and was convicted of DRIVING WHILE LIC INVALID in Travis County, Texas.

9. In response to Finding of Fact Number Eight (8), Respondent states that on renewal of her nursing licensure, she submitted a written explanation about the DWLS and the corrective measures she took to alleviate the problem.

10. On or about February 22, 2008, Respondent entered a plea of Nolo Contendere and was convicted of DRIVING WHILE LICENSE SUSPENDED 2ND (a misdemeanor offense committed on June 5, 2007), in County Court at Law No. 3 of Travis County, Texas, under Cause No.07-211002. As a result of the conviction, Respondent was sentenced to confinement in the Travis County Jail for a period of four (4) days. Additionally, Respondent was ordered to pay a fine and court costs.

11. On or about June 5, 2007, Respondent was arrested by the Bastrop County Sheriff's Office, Palestine, Texas, for DRIVING WHILE LIC INVALID W/PREV CONV (a Class A misdemeanor offense). Respondent was subsequently charged under Cause No. 42,765, for DRIVING WHILE LICENSE INVALID. On or about July 10, 2008, Cause No. 42,765, was dismissed in the Bastrop County Court at Law, Bastrop County, Texas, for the reason: "Defendant has successfully completed deferred prosecution in that all terms and conditions of the agreement have been complied with."

12. In response to Findings of Fact Numbers Ten (10) and Eleven (11), Respondent states that in June 2007, she was stopped by APD because she failed to signal at the stop sign. When he checked her license it came back as invalid. She told the officer it must be a mistake because she had just submitted paperwork to the DPS trooper in Bastrop about her license reinstatement. She later learned that despite her Suspension Clearance Letter, surcharges had made her license invalid again. During court proceedings she submitted the same paperwork to Travis County and also in the Bastrop Court where she complied by maintaining insurance and SR-22 Responsibility. Travis County gave her time served for DWLS and the Bastrop Court dismissed DWLS.

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)(2)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(I).

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 203221, heretofore issued to SHERRY LYNN FLEMINGS, 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 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 multistate licensure privilege, 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 multistate licensure 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 two hundred fifty dollars ($250). 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) contact 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 and RESPONDENT shall be eligible for multistate licensure privileges, if any, to practice nursing in the State of Texas.

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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 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 30th day of March, 20 10.

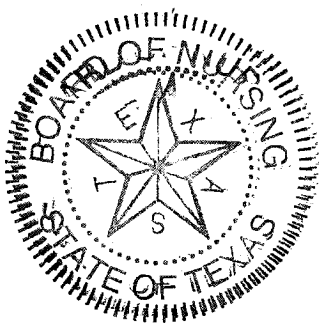
SHERRY LYNN FLEMINGS, Respondent

on this 30th day of March 2010. Personally Appeared. Sherry L. Flemings.

State of Texas
County of Travis

MICHAEL L COWAN
Notary Public
STATE OF TEXAS
My Comm. Exp. 07-15-13

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 30th day of March, 2010, by SHERRY LYNN FLEMINGS, Vocational Nurse License Number 203221, and said Order is final.

Effective this 2nd day of April, 2010.

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