BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS
****

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

In the Matter of Vocational Nurse License Number 174128	§	AGREED
issued to ERICA MICHELLE MACIAS, A/K/A	§	
ERICA FOWLER	§	ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter refer to as the Board, considered the matter of ERICA MICHELLE MACIAS, Vocational Nurse Lice Number 174128, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9),(10)&(12), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on February 16, 2007, 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 conference, 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 Weatherford College, Weatherford, Texas, on August 20, 1999. Respondent was licensed to practice vocational nursing in the State of Texas on October 27, 1999.

5. Respondent's vocational nursing employment history includes:

10/99 - 12/99	Unknown

Respondent's vocational nursing employment history (continued):

01/00 - 09/00	Office Nurse	Texas Hip & Knee Center Fort Worth, Texas
10/00 - 03/01	Unknown	
04/01 - 08/01	Floor Nurse	Harris Methodist Fort Worth Hospital Fort Worth, Texas
08/01 - 03/04	Office Nurse	Faires Plastic Surgery Fort Worth, Texas
04/04 - 03/05	Unknown	
04/05 - 06/05	Continuous Care Nurse	Preferred Medical Staffing Grand Prairie, Texas
06/05 - 08/05	LVN	Campbell Health System Weatherford, Texas
09/05 - Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with Campbell Health System, Weatherford, Texas, and had been in this position for approximately one (1) month and three (3) weeks.

7. On or about August 3, 2005, while employed as a Licensed Vocational Nurse with Campbell Health System, Weatherford, Texas, Respondent lacked fitness to practice vocational nursing in that her behavior was not usual or customary, to-wit: she seemed distracted; she was not able to focus on the task at hand; and she made several mistakes during a case when she was handing off instruments and preparing equipment. Respondent's conduct could have affected her ability to recognize subtle signs, symptoms or changes in the patient's condition, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

8. On or about August 3, 2005, while employed as a Licensed Vocational Nurse with Campbell Health System, Weatherford, Texas, Respondent engaged in the intemperate use of Methamphetamine and Alprazolam, in that Respondent produced a specimen for a reasonable suspicion/cause drug screen which resulted positive for Methamphetamine and Alprazolam. Possession of Methamphetamine and Alprazolam is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Methamphetamine and

Alprazolam by a Licensed Vocational 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.

9. On or about February 9, 2006, while employed as a Licensed Vocational Nurse with Continuous Care Solutions, Fort Worth, Texas, and furthermore, while completing the hiring process with Staff Quest, Inc., Burleson, Texas, Respondent engaged in the intemperate use of Amphetamine and Methamphetamine, in that Respondent produced a specimen for a pre-employment drug screen requested by Staff Quest, Inc., which resulted positive for Amphetamine and Methamphetamine. Possession of Amphetamine and Methamphetamine is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Amphetamine and Methamphetamine by a Licensed Vocational 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.

10. In response to Findings of Fact Numbers Seven (7), Eight (8) and Nine (9), Respondent stated:

- I admit that "I seemed distracted" and "made several mistakes while handing off instruments." This distraction was due to being very new on this job and making a mistake while very first opening up the back table to set up for the surgery.

- I admit that I engaged in the intemperate use of Methamphetamine, while producing a urine specimen, while employed at Campbell Health Systems. I also admit to the use of Alprazolam at the same time; however, I have held a prescription from my PCP for this medication for several years. He is aware of my occupation and has never advised me against taking my medication each day as he has prescribed.

- I admit to the intemperate use of Methamphetamine while producing a pre-employment drug screen for Staff Quest, Inc. However, I was employed with Continuous Care Solutions at the time, but I have never been unsuitable for work while employed there. Since this time, I have quit the use of this drug. I do understand that what I have done was in violation of the nursing board laws, codes and regulations. I have been to counseling since this time with the pastor of my church, who holds legal certifications for counseling. I am willing to do anything the Board asks in order to keep my license in good standing. I have had a steady job (2 of them) since all this has occurred. I would hope that this is something we could keep confidential so that I do not put my jobs in jeopardy.

11. 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.

12. Formal Charges were filed on November 27, 2006.

13. Formal Charges were mailed to Respondent on November 28, 2006.

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 a violation of Section 301.452(b)(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(E),(5),(10)(A)&(D)&(11)(B).

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 174128, heretofore issued to ERICA MICHELLE MACIAS, including revocation of Respondent's vocational license to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that Vocational Nurse License Number 174128, previously issued to ERICA MICHELLE MACIAS, to practice vocational nursing in Texas is hereby SUSPENDED and said suspension is enforced until Respondent completes a treatment program approved by the Board, provides documentation of successful completion, and has obtained twelve (12) consecutive months of sobriety. Any relapse prior to the completion of the twelve (12) consecutive months of sobriety will result in an extension of the enforced suspension until such twelve (12) consecutive months of sobriety and additional treatment have been attained.

IT IS FURTHER ORDERED that Permanent Certificate Number 174128, previously issued to ERICA MICHELLE MACIAS, upon receipt of this Order, be immediately delivered to the office of the Board of Nurse Examiners for the State of Texas.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate privilege, if any, to practice vocational nursing in compact states.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this order the 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, upon verification of successful completion of the approved inpatient treatment and twelve (12) consecutive months of sobriety as set out in this Order, the Suspension will be stayed, and RESPONDENT will be placed on probation for three (3) years with the following agreed terms of probation:

(1) RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Vocational Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

(2) RESPONDENT SHALL pay all re-registration fees, if applicable, and be issued a license to practice vocational nursing in the State of Texas with the appropriate notation.

(3) RESPONDENT SHALL pay a monetary fine in the amount of three hundred fifty dollars ($350). RESPONDENT SHALL pay this fine within forty-five (45) days of the suspension being stayed. Payment is to be made directly to the Board of Nurse Examiners in the form of cashier's

check or U.S. money order. Partial payments will not be accepted.

(4) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete a course in nursing jurisprudence. 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 Registered 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, and documentation of care. 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 can be found on the Board's website www.bne.state.tx.us (under BNE events).*

(5) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete a course in nursing 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. The course shall be a minimum of six (6) contact hours in length. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify RESPONDENT's successful completion of the course. This course is to be taken in addition to any

continuing education requirements the Board may have for relicensure. *Board-approved courses may be found at the following Board website address: http://www.bne.state.tx.us/about/stipscourses.html.*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A VOCATIONAL 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 THREE (3) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) 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:

(6) RESPONDENT SHALL notify all future employers in vocational 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.

(7) RESPONDENT SHALL CAUSE each present employer in vocational 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 vocational nurse.

(8) For the first year of employment as a Licensed Vocational 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.

(9) 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.

(10) RESPONDENT SHALL NOT practice as a vocational 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 vocational nurse.

(11) RESPONDENT SHALL NOT practice as a vocational nurse in any critical care area for one (1) year of employment as a vocational 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.

(12) 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 vocational nurse.

(13) 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 vocational 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) months for three (3) years of employment as a vocational nurse.

(14) 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.

(15) 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 second three (3) 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.

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 will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board.

(16) 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 vocational nursing. The report must indicate whether or not the RESPONDENT's stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the probation period, or until RESPONDENT is dismissed from therapy.

(17) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and 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) months. 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 license, 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, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice vocational nursing in the State of Texas.

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

Signed this 22 day of May, 2007.

Erica Macias

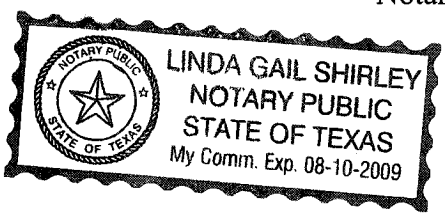
ERICA MICHELLE MACIAS, Respondent

Sworn to and subscribed before me this 22 day of May, 2007.

SEAL

Linda Shirley

Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 22nd day of May, 20 07, by ERICA MICHELLE MACIAS, Vocational Nursed License Number 174128, and said Order is final.

Effective this 19th day of July, 20 07.

Katherine A. Thomas

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