



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.  
 Katherine A. Thomas  
 Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

\*\*\*\*\*

In the Matter of Vocational Nurse	§	AGREED
License Number 184702	§	
issued to CYNTHIA DIANE LEMING	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of CYNTHIA DIANE LEMING, Vocational Nurse License Number 184702, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Sections 301.452(b)(2),(8)&(10), and 302.402(a)(2),(3)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on June 12, 2008, 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 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 Texas State Technical College, Sweetwater, Texas, on December 18, 2001. Respondent was licensed to practice vocational nursing in the State of Texas on June 20, 2002.
5. Respondent's complete vocational nursing employment history is unknown.

6. On or about December 19, 2000, Respondent entered a plea of Guilty and was convicted of "Theft >=\$20 < \$500 by Check," a Class B misdemeanor offense committed on November 5, 1996, in the County Court at Law No. 2 of Ector County, Texas, under Cause No. 98-1720. Respondent was sentenced to three (3) days confinement in the Ector County Jail (with three (3) days credit given for time already spent in jail), and ordered to pay a fine and court costs.

7. On or about October 4, 2001, Respondent submitted an Application for Licensure by Examination to the Board of Vocational Nurse Examiners for the State of Texas, in which she provided false, deceptive, and/or misleading information, in that she answered "no" to the question:

*"Have you ever been convicted of a misdemeanor other than a minor traffic violation?"*

8. On or about August 10, 2007, Respondent's license to practice vocational nursing in the State of California was FINED by the California Board of Vocational Nursing and Psychiatric Technicians, Sacramento, California, based on a Finding that Respondent failed to disclose her criminal history when applying for licensure in California. A copy of the August 10, 2007, California Board of Vocational Nursing Citation Order is attached and incorporated by reference as part of this Order.

9. On or about October 10, 2007, Respondent submitted a License Renewal Form to the Texas Board of Nursing, in which she provided false, deceptive, and/or misleading information, in that she answered "no" to the question:

*"Has any licensing authority refused to issue you a license or ever revoked, annulled cancelled, accepted surrender of, suspended, placed on probation, refused to renew a nursing license, certificate, or multi-state privilege held by you now or previously, or ever fined, censured, reprimanded, or otherwise disciplined you?"*

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

*"I was fined for the misdemeanor offense of theft by check. I paid the check and paid the fine. I do not remember being sentenced to 3 days in jail...I moved to California for a short period of time. I had my nursing license transferred out there. I had my address changed with the postal service and I have never received any correspondence from the California Board of Nursing. I had no knowledge whatsoever that my license to practice vocational nursing in the State of California was fined."*

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 Sections 301.452(b)(2),(8)&(10), and 302.402(a)(2),(3)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(I), and 22 TEX. ADMIN. CODE §239.11(8)&(29)(A).
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 184702, heretofore issued to CYNTHIA DIANE LEMING, 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 Vocational 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 vocational 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 deliver the wallet-sized license issued to CYNTHIA DIANE LEMING to the office of the Texas Board of Nursing within ten (10) days of the date of ratification of this Order for appropriate notation.

(2) 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 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.

(3) 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 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) 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/disciplinary action](http://www.bon.state.tx.us/disciplinary_action).

IT IS FURTHER AGREED that RESPONDENT SHALL fully comply with all the terms and conditions of the Order of the Board issued to CYNTHIA DIANE LEMING on August 10, 2007, by the California Board of Vocational Nursing. RESPONDENT SHALL CAUSE the California Board of Vocational Nursing to submit quarterly reports, on forms provided by the Texas Board, that CYNTHIA DIANE LEMING is in compliance with the Order of the Board, and RESPONDENT SHALL cause the California Board of Vocational Nursing to submit written verification of Respondent's successful completion of that Order. Evidence of compliance/completion with the terms of the Order of the California State Board of Vocational Nursing will be accepted as evidence of compliance/completion of the terms of this Order issued by the Texas Board of Nursing.

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.

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

Signed this 23 day of October, 2008.

Cynthia Diane Leming  
CYNTHIA DIANE LEMING, Respondent

Sworn to and subscribed before me this 23 day of October, 2008.

SEAL


Melanie Hebert

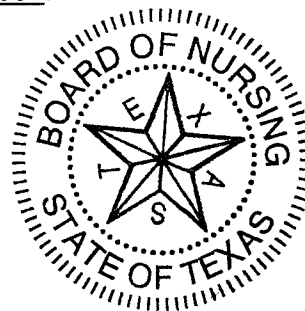
Notary Public in and for the State of <sup>with</sup> Texas



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 23rd day of October, 2008, by CYNTHIA DIANE LEMING, Vocational Nurse License Number 184702, and said Order is final.

Effective this 3rd day of November, 2008.

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





STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR  
**BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS**  
 2535 Capitol Oaks Drive, Suite 205, Sacramento, CA 95833-2945  
 Phone (916) 263-7800 Fax (916) 263-7855 | Web www.bvnpt.ca.gov



## CITATION ORDER

August 10, 2007

Cynthia Leming, LVN

Dear Ms. Leming:

Pursuant to the Business and Professions Code, Sections 125.9 and 148, the Board of Vocational Nursing and Psychiatric Technicians (hereinafter referred to as the "Board") issues this citation.

Date of Issuance	Citation Number	Fine Assessed
August 10, 2007	07-0220-L	\$250.00

### Licensing History

Board records reflect that on November 30, 2006, the Board issued license number VN 224554 to Cynthia Diane Leming, also known as Cynthia Diane Jackson; said license will expire on November 30, 2008.

### Cause for Citation

Violation of Section 2878 (a) of the California Business and Professions Code, which reads as follows:

"The board may suspend or revoke a license issued under this chapter for any of the following:

(a) Unprofessional conduct..."

Violation of Section 2878 (b) of the California Business and Professions Code, which reads as follows:

"The board may suspend or revoke a license issued under this chapter for any of the following...

(b) Procuring a certificate by fraud, misrepresentation or mistake..."



Violation of **Section 2878 (e)** of the California Business and Professions Code, which reads as follows:

"The board may suspend or revoke a license issued under this chapter for any of the following...

- (e) Making or giving any false statement or information in connection with the application for issuance of a license..."

Violation of **Section 2878 (f)** of the California Business and Professions Code, which reads as follows:

"The board may suspend or revoke a license issued under this chapter for any of the following...

- (f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction..."

Violation of **Section 2878 (j)** of the California Business and Professions Code, which reads as follows:

"The board may suspend or revoke a license issued under this chapter for any of the following...

- (j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee..."

Violation of **Section 2521** of the California Code of Regulations, which reads as follows:

"...a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare..."

When applying for licensure as a vocational nurse, you signed a completed Record of Conviction form on or about October 17, 2006. You responded "No" to the question "Have you ever been "convicted" of any offense, including traffic violations?" You attested to the accuracy and truthfulness of this information, signing the document under penalty of perjury.

Documents from County Court at Law No. 2, of Ector County, Texas indicate that you sustained a conviction on December 19, 2000 for the violation 'Theft by Check'. You failed to disclose this conviction on your application for licensure. This conviction is substantially related to the duties, functions, and responsibilities of a licensed vocational nurse. Moreover, such actions are inconsistent with standard practice and unacceptable for a licensed vocational nurse.

**Fine and/or Order of Abatement**

You are hereby ordered to pay an administrative penalty (fine) in the amount of **\$250.00** within 30 days from the date this citation was served (mailed); no later than **September 10, 2007**.

Payment of this administrative penalty should be made directly to the Board at 2535 Capitol Oaks Drive, Suite 205, Sacramento, CA 95833. Payment will only be accepted in the form of a cashier's check or money order and must include the citation number. Please complete and submit the enclosed Payment of Fine – Waiver of Appeal Rights form with your payment.

**Appeal Rights**

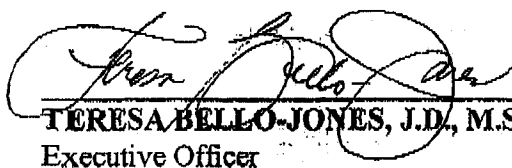
You may appeal this citation or any portion thereof. Please use the enclosed Notice of Appeal form to request an Informal Citation Review Conference or a formal Administrative Hearing.

Your request for an Informal Citation Review Conference must be in writing and submitted to the Board within **fourteen (14) calendar days** after service of the citation.

Your request for a formal Administrative Hearing must also be in writing and submitted to the Board within **thirty (30) calendar days** after service of the citation.

Pursuant to Section 125.3 of the Business and Professions Code, the Board has authority to request the administrative law judge to direct you to pay reasonable costs for the investigation and/or enforcement of this citation. Please refer to the enclosed Statement of Rights for additional appeal information.

Failure to request an Informal Citation Review or Administrative Hearing within the time specified above will waive your right to contest this citation. If you neither pay the fine nor request a review within the allotted time frame, **your license will not be renewed until the fine is paid.**

  
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**TERESA BELLO-JONES, J.D., M.S.N., R.N.**  
Executive Officer

August 10, 2007

Date

**ATTACHMENTS**

- Payment of Fine – Waiver of Appeal Rights
- Notice of Appeal
- Statement of Rights

AS