BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§	AGREED
License Number 148150	§	
issued to JAMES RICHARD BENNETT	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JAMES RICHARD BENNETT, Vocational Nurse License Number 148150, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on October 28, 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 Vernon Regional Junior College, Vernon, Texas, on July 7, 1994. Respondent was licensed to practice vocational nursing in the State of Texas on September 7, 1994.

5. Respondent's vocational nursing employment history includes:

9/1994 - 8/1995	Staff Nurse	Chillicothe Hospital Chillicothe, Texas

Respondent's vocational nursing employment history continued:

9/1995 - 11/1995	Staff Nurse	Texhoma Christian Care Center Wichita Falls, Texas
12/1995 - Present	Staff Nurse	Texas Tech University Health Sciences Center Correctional Managed Care Amarillo, Texas
7/2001 - 7/2002	Medication Nurse Part time	John Peter Smith Hospital Tarrant County Jail Fort Worth, Texas

6. At the time of the initial incident, Respondent was employed as a Staff Nurse with the Texas Tech University Health Sciences Center, Correctional Managed Care, Amarillo, Texas, was assigned to Texas Department of Criminal Justice, Allred Unit, Iowa Park, Texas, and had been in this position for seven (7) years and eight (8) months.

7. On or about May 31, 2004, while employed with the Texas Tech University Health Sciences Center, Correctional Managed Care, Amarillo, Texas, and assigned to Texas Department of Criminal Justice, Allred Unit, Iowa Park, Texas, Respondent failed to initiate cardiopulmonary resuscitation (CPR) after verifying that Inmate Number 689236 was without respirations and pulse. The inmate was pronounced deceased a short time later. The inmate's autopsy determined that he died as a result of atheroschlerotic cardiovascular disease with marked stenosis of the coronary vessels. Respondent's conduct may have contributed to the inmate's demise.

8. In response to the incident in Finding of Fact Number Seven (7), Respondent states that he was the second responder to the incident and that he knew neither the problem nor what equipment was already on site. Respondent states he arrived at the scene and found another Staff LVN already present. According to Respondent, the offender was on the floor of the shower and no information regarding what had happened to him was available either from security or other offenders. Respondent states that no one could relate how long the inmate had been in the shower and that his skin was cool and dry, his pupils were fixed and dilated, he had no respirations and he did not have a palpable pulse. Respondent states that with assistance from security and from the Staff LVN, the offender was loaded onto the gurney and rushed to the medical building where oxygen, a cardiac monitor, and a crash cart were all available. Respondent says that when they arrived at the medical building, he started CPR while the Staff LVN called for an ambulance and that at no time were vital signs discernable. Respondent states that a three lead EKG was established and that only a flat line response was obtained. CPR was continued until the ambulance arrived, and when the EMTs determined that CPR efforts were ineffective, they contacted the physician who then gave the order to cease CPR and the patient was pronounced deceased.

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 Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE § 239.11(27)(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 148150, heretofore issued to JAMES RICHARD BENNETT, 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 a REPRIMAND WITH STIPULATIONS, and 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.

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 compact states.

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 Texas Board of Nursing 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 JAMES RICHARD BENNETT, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order for appropriate notation.

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 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 Chemical Dependency, 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/about/stipscourses.html.*

(3) RESPONDENT SHALL, within sixty (60) days of entry of this Order, successfully complete a course in Basic Cardiopulmonary Life Support for Healthcare Providers. RESPONDENT SHALL obtain Board approval of the course and instructor 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 shall be a minimum of eight (8) contact hours in length. The course's content shall include: Adult, Infant, and Child 1- and 2-Rescuer CPR; Adult, Infant, and Child Foreign Body Airy Obstruction for both responsive and unresponsive victims; and Adult Automated External Defibrillation. In order to receive credit for completion of this workshop, RESPONDENT SHALL obtain the Verification of Course Completion form from the Board's website, ftp://www.bon.state.tx.us/i17.pdf, and SHALL SUBMIT the Verification of Course Completion form to the Board's office, to the attention of Monitoring, after having the form completed and signed by the course instructor. RESPONDENT SHALL also submit a front and back copy of the course completion card along with the Verification of Course Completion form. 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.

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 STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) 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 STIPULATION PERIOD:

(4) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations 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 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 stipulations 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.

(5) 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.

(6) For the first six (6) months of employment as a 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.

(7) For the remainder of the stipulation 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.

(8) 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 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 one (1) year of employment as a nurse.

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 violation 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 15 day of November, 2007.

James Richard Bennett

JAMES RICHARD BENNETT, Respondent

Sworn to and subscribed before me this 15 day of November, 2007.

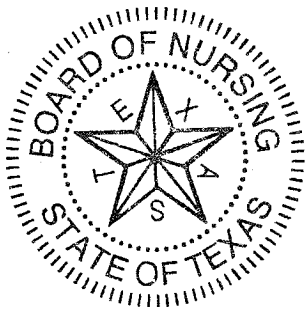
SEAL

Michelle A. Latimer

Notary Public in and for the State of Texas

NOTARY PUBLIC STATE OF TEXAS
MICHELLE A. LATIMER
Notary Public, State of Texas
My Commission Expires 10-11-09

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 15th day of November, 2007, by JAMES RICHARD BENNETT, Vocational Nurse License Number 148150, and said Order is final.

Effective this 17th day of January, 2008.

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