

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational License Number 164747 § AGREED
issued to MATTIE HENDERSON § ORDER

An investigation by the Texas Board of Nursing, hereinafter referred to as the Board, produced evidence indicating that MATTIE HENDERSON, hereinafter referred to as Respondent, Vocational Nurse License Number 164747, may have violated Section 301.452(b)(10)&(13), Texas Occupations Code.

An informal conference was held on November 6, 2007, at the office of the Texas Board of Nursing, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person, and was represented by Matthew T. Slimp, Attorney at Law. In attendance were Mary Beth Thomas, PhD, MSN, RN, Executive Director's Designee; James W. Johnston, General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Doug Boone, Investigator; and Kim L. Williamson, RN, Investigator.

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 notice and hearing, and consented to the entry of this Order.
3. Respondent is currently licensed to practice vocational nursing in the State of Texas.
4. Respondent received Certificate in Vocational Nursing from Austin Community College, Austin, Texas, on August 6, 1997. Respondent was licensed to practice vocational nursing in the State of Texas on October 1, 1997.
5. Respondent's vocational nursing employment history includes:
10/97 to 1998 Licensed Vocational Nurse (LVN)
Heritage Park Nursing Home
Austin, Texas

Respondent's vocational nursing employment history continued:

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| 10/97 to 2002 | LVN, Agency Nurse E-Staffing Nursing Agency Austin, Texas |
| 1998 to 2000 | LVN, Charge Nurse Regency Park Nursing Home Austin, Texas |
| 2001 to Present | LVN, Agency Nurse Care Staff Austin, Texas |
| 2003 to Present | Owner/Administrator Mattie's Homecare Services Austin, Texas |
| 3/27/04 to 8/25/05 | LVN Charge Nurse The Summit at Westlake Hills Austin, Texas |
6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a LVN Charge Nurse with The Summit at Westlake Hills, Austin, Texas, and had been in this position for one (1) year and five (5) months.
 7. On or about August 16, 2005, while employed as a LVN Charge Nurse with The Summit at Westlake Hills, Austin, Texas, and working the 7:00 p.m. to 7:00 a.m. shift, Respondent falsified documentation of assessments for at least twenty-one (21) patients assigned to her care in that she documented current vital signs using earlier photocopied assessment forms completed by another nurse working the previous night shift. Respondent's conduct was likely to injure the patients from lack of a current, accurate assessment of their status, which could result in missed changes in their condition that may have required nursing interventions. In addition, subsequent caregivers would have relied on her documentation while providing further care to the patients.
 8. In response to the incidents in Finding of Fact Number Seven (7), Respondent states that she used the photocopied assessments to assist her with her assessments of the patients; however, she asserts that she performed her own assessment to verify the information before signing her name. Further, Respondent states that she had requested not to work on that unit for the night shift as the patient load was too much for one nurse to perform all patient assessments, and that one nurse was required to respond to any other emergencies throughout the facility, which would leave that floor without a nurse. Respondent states she was told she would have to work that assignment and additional nursing staff would be provided, but that did not happen.
 9. On October 19, 2007, Respondent successfully completed a Board approved course in physical assessment, which would have been a requirement of this Order.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, 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)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(B),(1)(D)&(2)(A) and 217.12(1)(A),(1)(C),(4)&(6)(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 164747, heretofore issued to MATTIE HENDERSON, 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 WARNING 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 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.

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IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to MATTIE HENDERSON, to the office of the Texas Board of Nursing within ten (10) days of the date of this Order.

(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 one (1) year of entry of this Order, successfully complete a course in nursing documentation. 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)

hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office 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>

(4) RESPONDENT SHALL pay a monetary fine in the amount of two thousand one hundred dollars (\$2,100.00). RESPONDENT SHALL pay this fine within one hundred thirty-five (135) days 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.

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 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 A VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD.

(5) 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.

(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) 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, with the exception of Respondent's current employment as a LVN Agency Nurse with Care Staff, Austin, Texas, and contingent upon RESPONDENT'S accepting ONLY assignments at a single, predetermined facility for a

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minimum assignment length of three (3) months at a time. RESPONDENT SHALL NOT be self-employed as a LVN or contract for services as a LVN. Multiple employers in nursing are prohibited. Should RESPONDENT's employment with Care Staff, Austin, Texas, cease, then any employment exception(s) regarding that employer SHALL also cease.

(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, with the exception of Respondent's current employment as the Owner/Administrator of Mattie's Homecare Services, Austin, Texas. 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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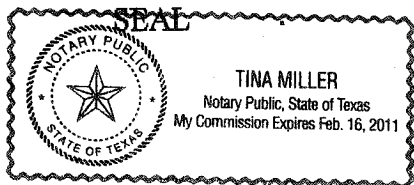
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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. 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 3rd day of December, 2007.
Mattie Henderson
MATTIE HENDERSON, Respondent

Sworn to and subscribed before me this 3rd day of December, 2007.



Tina Miller
Notary Public in and for the State of Texas

Approved as to form and substance.

Matthew T. Slimp
Matthew T. Slimp, Attorney for Respondent

Signed this 7th day of Dec, 2007.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 3rd day of December, 2007, by MATTIE HENDERSON, Vocational Nurse License Number 164747, and said Order is final.

Effective this 17th day of January, 2008.



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