BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse License Number 551183	§	AGREED
issued to LINDA JO CUNNINGHAM	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of LINDA JO CUNNINGHAM, Registered Nurse License Number 551183, 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 conference, notice and hearing, and agreed to the entry of this Order offered on December 6, 2007 , 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 professional nursing in the State of Texas.

4. Respondent received an Associate Degree in Nursing from Tarrant County Junior College, Ft. Worth, Texas, on December 1, 1988. Respondent was licensed to practice professional nursing in the State of Texas on April 4, 1989.

5. Respondent's complete professional nursing employment history is unknown.

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6. On or about January 16, 2006, Respondent provided information which was false and misleading to the Board in that she answered "no" to the following license renewal question when renewing her license to practice professional nursing in the State of Texas, which asked:

"Have you been convicted, adjudged guilty by a court, plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, **including any pending criminal charges or unresolved arrest** since your last renewal? This includes expunged offenses and deferred adjudications with or without prejudice of guilt. **Please note that DUI's, DWI's, PI's must be reported and are not considered minor traffic violations."**

On October 26, 2005, Respondent was arrested for "Driving While Intoxicated" (DWI) by the Arlington Police Department, Arlington, Texas, and on January 25, 2006, Respondent plead guilty to, and was convicted of, "Driving While Intoxicated" (a Class B Misdemeanor offense committed on October 26, 2005) in the County Criminal Court Number Eight, Tarrant County, Texas, Case Number 1007613. Respondent's conduct was deceptive and may have affected the Board's decision regarding renewal of her license to practice professional nursing in the State of Texas.

7. In response to the incident in Finding of Fact Number Six (6), Respondent states that she answered "no" to the question because she had not yet been to court, plead guilty or been convicted at the time of her renewal. Respondent denies drinking alcohol before, during or after being on duty, and adds that during this time she had five(5) days off and had accepted an invitation to a friend's party. Respondent states that she is not making excuses for her actions.

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 and §217.12(6)(H)&(6)(I).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 551183, heretofore issued to LINDA JO CUNNINGHAM, including revocation of Respondent's license to practice professional 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 FINE, 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 Professional 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 professional 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 LINDA JO CUNNINGHAM 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, 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 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 pay a monetary fine in the amount of two hundred fifty dollard ($250.00). 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.

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

Signed this 4 day of February, 2008.

Linda Jo Cunningham

LINDA JO CUNNINGHAM, Respondent

Sworn to and subscribed before me this 4th day of February, 2008.

Ruth Mahonez

Notary Public in and for the State of Texas

SEAL

RUTH MAHONEZ
NOTARY PUBLIC
STATE OF TEXAS
My Comm. Exp. 08-05-09

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 4th day of February, 2008, by LINDA JO CUNNINGHAM, Registered Nurse License Number 551183, and said Order is final.

Effective this 11th day of February, 2008.

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