BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Vocational License Number 156084	§	AGREED
issued to SARAH MARTINEZ ABREGO	§	ORDER

An investigation by the Texas Board of Nursing, hereinafter referred to as the Board, produced evidence indicating that SARAH MARTINEZ ABREGO, hereinafter referred to as Respondent, Vocational Nurse License Number 156084, may have violated Section 301.452(b)(1),(3)&(10) Texas Occupations Code.

An informal conference was held on December 18, 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. Respondent was represented by Courtney Newton, Attorney at Law. In attendance were Mary Beth Thomas PhD, RN, Executive Director's Designee; E. Joy Sparks, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Cynthia Smith, Supervising Investigator; Doug Boone, Investigator; Scott Torres, Investigator; and Denise Benbow MSN, RN, Nurse Consultant.

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, 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 Howard College, Del Rio, Texas, on August 28, 1991. Respondent was licensed to practice vocational nursing in the State of Texas on January 25, 1996.

5. Respondent's vocational nursing employment history includes:

09/12/1997 - 09/10/2001	LVN Progressive Home Care San Antonio, Texas
06/18/2001 - 09/28/2004	LVN Charge Nurse Alamo Heights Health & Rehab San Antonio, Texas
02/01/2004 - 08/01/2005	LVN/ADON Stone Brook Manor San Antonio, Texas
07/10/2006 - 03/30/2007	LVN/Charge Nurse Princeton Place at Bandera San Antonio, Texas
05/08/2005 - present	LVN/ADON Memorial Medical Nursing Center San Antonio, Texas

6. At the time of the incident, Respondent was employed as an LVN/ADON with Memorial Medical Nursing Center and had been in this position for approximately one (1) month.

7. On or about April 10, 2006, Respondent was placed on Deferred Adjudication probation for a period of five (5) years, under Case No. 2005CR4051, in the 175th Judicial District Court of Bexar County, Texas, for the Felony Offense of Assault of a Public Servant-Bodily Injury. Furthermore, Respondent was ordered to pay a total of $1,793.00 in assessed fines and court costs.

8. A Voluntary Surrender Order was offered to the Respondent, and mailed in a letter dated September 10, 2007.

9. Respondent presented a letter of support from Irma Subirias, RN.

10. On January 10, 2008, a notarized affidavit was received from Attorney Arnulfo Ortiz, who is representing Respondent's niece Rubina Garcia, stating that they are still exploring the possibility of filing a lawsuit against the San Antonio Police Department. The potential lawsuit is based on allegations that during the incident with Respondent, Ms. Garcia was struck on the back of the head several times by the arresting officer. Ms. Garcia was taken to the hospital to have her injuries treated and has suffered nerve damage as a result of the

blows. Mr. Ortiz has engaged in discussions with the District Attorney's Office and the San Antonio Police Department regarding Ms. Garcia's injuries. All criminal charges against Ms. Garcia were dropped.

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)(1),(3)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(C)&(13).

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 156084, heretofore issued to SARAH MARTINEZ ABREGO, 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 Vocational Nurse License Number 156084, previously issued to SARAH MARTINEZ ABREGO, to practice vocational nursing in Texas is hereby SUSPENDED for a period of three (3) years with the suspension STAYED and Respondent is hereby placed on PROBATION for three (3) years with the following agreed terms of probation:

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 SARAH MARTINEZ ABREGO, to the office of the Texas Board of Nursing within ten (10) days of the date of this Order for appropriate notation.

(2) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars ($250). 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 <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.*

(4) RESPONDENT SHALL CAUSE her probation officer to submit written reports on forms provided to the Respondent by the Board. The reports shall indicate the RESPONDENT's compliance with the court ordered probation. The reports shall be furnished each and every three (3) month period until RESPONDENT is released from probation.

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 THREE (3) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE A VOCATIONAL NURSE 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. 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 three (3) year(s) 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 to practice professional 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 8th day of February, 2008.

SARAH MARTINEZ ABREGO, Respondent

Sworn to and subscribed before me this 8th day of February, 2008.

SEAL

Notary Public in and for the State of Texas

MARY ANN ESCOBEDO
Notary Public, State of Texas
My Commission Expires
January 05, 2011

Approved as to form and substance.

COURTNEY NEWTON, Attorney for Respondent

Signed this 14th day of February, 2008.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 8th day of February, 2008, by SARAH MARTINEZ ABREGO, Vocational Nurse License Number 156084, and said Order is final.

Effective this 18th day of March, 2008.

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