

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse § AGREED  
License Number 53480 §  
issued to MARTHA McELFRESH § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MARTHA McELFRESH, Vocational Nurse License Number 53480, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on February 10, 2008, 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 Grant-Buie Hospital, Hillsboro, Texas, on September 7, 1970. Respondent was licensed to practice vocational nursing in the State of Texas on October 18, 1972.
5. Respondent's vocational nursing employment history includes:

|                   |             |   |
|-------------------|-------------|---|
| 10/1972 - 10/2002 | Unknown     |   |
| 11/2002 - 6/2003  | Staff Nurse | Park Plaza Nursing Home<br>Whitney, Texas |

Respondent's vocational nursing employment history continued:

|                   |              |   |
|-------------------|--------------|---|
| 02/2003 - Present | Charge Nurse | Crestview Healthcare Residence<br>Waco, Texas |
|-------------------|--------------|---|

6. At the time of the initial incident, Respondent was employed as a Charge Nurse with Crestview Healthcare Residence, Waco, Texas, and had been in this position for four (4) years and four (4) months.
7. On or about June 3, 2007, through June 11, 2007, while employed as a Charge Nurse with Crestview Healthcare Residence, Waco, Texas, Respondent failed to appropriately and timely assess and intervene regarding the change in condition of Resident JM. On June 3, 2007, Respondent was informed by a Certified Nurse Aide (CNA) that the resident seemed to be in pain when her right arm was touched and suggested that the resident's arm be x-rayed. The following day a Staff Nurse reported to Respondent that the resident seemed to be "guarding" her right arm and "yelled out" when her arm was touched, and suggested that Respondent phone the physician and "ask about x-rays." Respondent waited until June 6, 2007, to notify the physician about the resident's change of condition, at which time she sent a facsimile requesting that the resident be evaluated and treated by Physical Therapy (PT) and Occupational Therapy (OT) regarding pain when she moved her extremities, stating that she had spoken with the resident's daughter who approved the request. Respondent neither accurately conveyed the resident's condition to the physician nor requested an order for an x-ray. Respondent was again informed by staff on two consecutive days that the resident continued to experience right arm pain, and on June 9, 2007, a CNA showed Respondent that the resident's arm was swollen and bruised. Respondent then sent a facsimile to the physician on June 12, 2007, nine (9) days after she was made aware of resident's arm pain, notifying the physician of the resident's arm pain and requesting an order to obtain an x-ray of the arm. The x-ray revealed that the resident had sustained and was suffering from a fracture of her right arm. Additionally, Respondent failed to medicate the resident for pain, even though the resident had orders for three different pain medications. Respondent's conduct was neglectful, exposed the patient to the risk of harm from complications of an untreated arm fracture, including neurological damage, caused the resident to suffer untreated pain, and resulted in an unnecessary delay of medical intervention.
8. On or about June 3, 2007, through June 11, 2007, while employed as a Charge Nurse with Crestview Healthcare Residence, Waco, Texas, Respondent failed to appropriately and completely document in the medical record of the aforementioned Resident JM. Although Respondent states that she assessed the resident's arm when she was informed that the resident was indicating pain, she failed to document her assessment. Respondent also failed to document when other staff reported that the resident was having arm pain, her observation that the resident's arm was bruised and swollen, or regarding the resident's behavior changes. Respondent's only documentation concerning the resident's change of condition was on June 6, 2007, which reflected that she sent a facsimile to the physician. Respondent's conduct resulted in an incomplete medical record.

9. In response to the incident in Finding of Fact Number Seven (7), Respondent states that there were no "acceptable reasons" for her behavior; however, she was "going through a lot of personal tragedies" at the time and wasn't focusing on her job fully until her Director of Nursing "addressed this matter" with her, which she described as "a disaster" to her. Respondent states that when she was told her by another nurse that the resident was having arm pain and suggested that Respondent get an x-ray of the resident's arm, Respondent "did go over and raise the resident's arm and the resident did display pain." Respondent explains that the resident had been holding her arms close to her body for some time and was having to be spoon fed. Respondent states that she talked with the resident's daughter about getting PT/OT to evaluate and treat the resident and that she obtained an order from the physician for same. Respondent states that she did not work the next two days and when she returned to work on Saturday, the same nurse asked if Respondent had obtained orders for x-rays because the resident had "a lot" of pain the day before. Respondent states that she intended to obtain an order for x-rays on the following Monday but failed to do so until Tuesday.

### 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)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§ 217.11(1)(A),(1)(B),(1)(C), (1)(D),(1)(M),(1)(P)&(2)(A) and 217.12(1)(A),(1)(B),(4)&(6)(C).
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 53480, heretofore issued to MARTHA McELFRESH, 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 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 MARTHA McELFRESH, 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. *Information regarding Board-approved courses in Texas Nursing Jurisprudence may be found at the Board's website [www.bon.state.tx.us](http://www.bon.state.tx.us) (on the Disciplinary Action page and on the page "About the Board"/"BON Meetings and Events).*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in medication administration. 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. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor 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, within one (1) year of entry of this Order, successfully complete a course in physical assessment. RESPONDENT SHALL obtain Board approval of the course 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 didactic portion of this course shall be a minimum of six (6) hours in length. RESPONDENT SHALL perform physical assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The clinical component SHALL focus on tasks of physical assessment only and shall be provided by the same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. Performing assessments on mock patients or mannequins WILL NOT be accepted. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor 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>.*

(5) 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>*

(6) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address:*  
*<http://www.learningext.com/products/generalce/critical/ctabout.asp>*

**IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A LICENSED VOCATIONAL 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:**

(7) 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.

(8) 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.

(9) 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.

(10) 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 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 13 day of March, 2008.

Martha McElfresh  
MARTHA McELFRESH, Respondent

Sworn to and subscribed before me this 13<sup>th</sup> day of March, 2008



Terrie McCartney  
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 13th day of March, 2008, by MARTHA McELFRESH, Vocational Nurse License Number 53480, and said Order is final.

Effective this 17th day of April, 2008.

A handwritten signature in cursive script, appearing to read "Katherine A. Thomas", is written over a horizontal line.

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