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In the Matter of Vocational Nurse

AGREED

License Number 144555

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issued to ELLEN LORRAINE MACMULLAN

§ ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Boalu, accepted the voluntary surrender of Vocational Nurse License Number 144555, issued to ELLEN LORRAINE MACMULLAN, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

The Board makes the following Findings of Fact and Conclusions of Law.

### FINDINGS OF FACT

- 1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
- 2. Respondent waived representation by counsel, informal proceedings, 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 Wharton County Junior College, Wharton, Texas, on August 13, 1993. Respondent was licensed to practice vocational nursing in the State of Texas on December 1, 1993.
- 5. Respondent's nursing employment history includes:

08/1993-08/2008

Unknown

Respondent's nursing employment history continued:

09/2008-12/09

LVN

MSN Home Care San Antonio, Texas

01/10-Present

Unknown

- 6. At the time of the initial incident, Respondent was employed as a LVN with MSN Home Care, San Antonio, Texas, and had been in this position for one (1) year and three (3) months.
- 7. On or about November 29, 2009, while employed at MSN Homecare, San Antonio, Texas, Respondent submitted false documentation and falsified hours worked for fourteen (14) hours of care to Patient Medical Record Number 526907012 which she did not perform. Respondent's conduct was likely to defraud the agency of payment for hours that she did not provide nursing care.
- 8. On or about March 2, 2007, Respondent submitted a renewal application to the Board of Nurse Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information, in that she answered "no" to the following question: "Have you ever been convicted, placed on community supervision whether or not adjudicated, sentenced to serve jail or prison time or granted pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country, or received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrest whether or not on appeal. This excludes expunged offenses and deferred adjudications with or without a finding of guilt."

Respondent failed to disclose that on or about June 25, 2003, she was arrested, for issuing a bad check, by the Jaffrey Police Department, Jaffrey, New Hampshire. On July 25, 2003, Respondent pled nolo contendere and was assessed a one hundred dollar (\$100) fine and required to pay three hundred seventy-four dollars and ninty-five cents (\$374.95) restitution.

9. In response to the incidents in Findings of Fact Numbers Seven (7) and Eight (8), Respondent states that she thought that the allegation about her submitting false documentation was referred to the board by accident. She states that she is still employed with MSN and is trying to get someone to write a letter stating that it was a misunderstanding. "As for the non sufficient funds check in 2003, I had forgotten about it, it was a check that my ex-husband had written for car towing and repair. The police called me at work about it, I went to their office and told them I would pay it so it would keep my husband at the time out of trouble and agreed to plead no contest and pay the amount due on a payment plan."

10. Respondent, by his/her signature to this Order, expresses his/her desire to voluntarily surrender his/her license(s) to practice nursing in the State of Texas.

# 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)(2),(10)&(13), Texas Occupations Code, and 22 Tex. Admin. Code §§217.11(1)(A),(1)(D)and 217.12(1) (A),(4),(6)(A),(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 Vocational Nurse License Number 144555, heretofore issued to ELLEN LORRAINE MACMULLAN, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
- 5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
- 6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
- 7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 Tex. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

### ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Vocational License Number 144555, heretofore issued to ELLEN LORRAINE MACMULLAN, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

- 1. RESPONDENT SHALL NOT practice vocational nursing, use the title "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying herself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse during the period in which the license is surrendered.
- 2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order.
- 3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice 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 becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed	d this 11 day of A ULY, 2011.
	elen MacKullan
ELLE	N LORRAINE MACMULLAN, Respondent
Sworn to and subscribed before me this	day of, 20
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Notary Public in and for the State of \_\_\_\_\_

**SEAL** 

# WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Vocational Nurse License Number 144555, previously issued to ELLEN LORRAINE MACMULLAN.



Effective this 26th day of July, 2011.

Katheria a. Thomas

Katherine A. Thomas, MN, RN Executive Director on behalf

of said Board