BEFORE THE TEXAS BOARD OF NURSING

In the Matter of

AGREED

Registered Nurse License Number 741375

issued to WENDI YVETTE MARTINEZ

ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of WENDI YVETTE MARTINEZ, Registered Nurse License Number 741375, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(1) & (10) and 301.453, Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on June 9, 2013, 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(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 professional nursing in the State of Texas.
- 4. Respondent received an Associate Degree in Nursing from Trinity Valley Community College, Kaufman, Texas, on May 7, 2007. Respondent was licensed to practice professional nursing in the State of Texas on June 5, 2007.
- 5. Respondent's professional nursing employment history includes:

06/07 - 12/08

RN

Lake Pointe Medical Center

Rowlett, Texas

01/09 - 02/09

Unknown

/741375/0:101

C10



Respondent's professional nursing employment history continued:

03/09 - 08/09	RN	THR Kaufman Presbyterian Kaufman, Texas
09/09 - 07/10	RN	AllStar Home Health Arlington, Texas
09/09 - 07/11	RN	AllStar Hospice Arlington, Texas
07/11 - 01/13	RN	Heart 2 Heart Hospice Lewisville, Texas
04/13 - Present	RN	Baybrooke Village McKinney, Texas

- 6. On or about December 18, 2012, Respondent received a WARNING WITH STIPULATIONS AND A FINE through an Agreed Order issued by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated December 18, 2012, is attached and incorporated, by reference, as part of this Order.
- 7. On or about May 14, 2013, Respondent was issued an Order by the Texas Board of Nursing which denied her request for exception to the Agreed Order dated December 18, 2012. A copy of the May 14, 2013, Order denying Respondent's request for exception to the December 18, 2012, Agreed Order, is attached and incorporated, by reference, as part of this Order.
- 8. On or about November 22, 2009, Respondent submitted an online renewal application to the Texas Board of Nursing in which she provided false, deceptive, and/or misleading information, in that she answered "no" to the following question:

"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

H. been arrested or have any pending criminal charges?"

Respondent failed to disclose that on or about July 23, 2008, she was arrested for ASSAULT CAUSES BODILY INJURY, a Class A Misdemeanor, by the Kaufman County Sheriff's Office, Kaufman, Texas.

9. On or about September 24, 2010, Respondent was arrested for ASSAULT CAUSES BODILY INJURY, a Class A Misdemeanor (committed on June 6, 2010), by the Dallas County Sheriff's Office, Dallas, Texas. On or about July 12, 2011, Respondent entered a plea of guilty to ASSAULT, a lesser included Class C Misdemeanor (committed on June 6, 2010), in the Navarro County Court under Cause Number 65,653. As a result of the plea, the

proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on community supervision for a period of ninety (90) days and ordered to pay a fine and court costs.

10. On or about November 23, 2011, Respondent submitted an online renewal application to the Texas Board of Nursing in which she provided false, deceptive, and/or misleading information, in that she answered "no" to the following questions:

"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:"

"pled nolo contendere, no contest, or guilty?"

"received deferred adjudication?"

"been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?"

"been arrested or have any pending criminal charges?"

Respondent failed to disclose that on or about September 24, 2010, she was arrested for ASSAULT CAUSES BODILY INJURY, a Class A Misdemeanor (committed on June 6, 2010), by the Dallas County Sheriff's Office, Dallas, Texas. Respondent also failed to disclose that on or about July 12, 2011, she entered a plea of guilty to ASSAULT, a lesser included Class C Misdemeanor (committed on June 6, 2010), in the Navarro County Court under Cause Number 65,653. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on community supervision for a period of ninety (90) days.

11. On about December 18, 2012, through January 8, 2013, Respondent was noncompliant with the Agreed Order issued to her by the Texas Board of Nursing on December 18, 2012. Noncompliance is the result of Respondent's employment as a Registered Nurse with Heart to Heart Hospice, Carrollton, Texas. Stipulation Number Seven (7) of the Agreed Order dated December 18, 2012, states, in pertinent part:

"RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency."

12. On or about February 8, 2013, Respondent was noncompliant with the Agreed Order issued to her by the Texas Board of Nursing on December 18, 2012. Noncompliance is the result of Respondent's failure to pay monetary fine in the amount of five hundred dollars (\$500.00). Stipulation Number Four (4) of the Agreed Order dated December 18, 2012, states, in pertinent part:

"RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500.00). RESPONDENT SHALL pay this fine within forty-five (45) days of entry of this Order."

13. Regarding the conduct outlined in Finding of Fact Number Nine (9), Respondent states that she was arrested for defending herself when her ex-husband attacked her at her son's baseball tournament. Regarding the conduct outlined in Finding of Fact Number Ten (10), Respondent states that states that she spoke with her attorney, and her then DON at Allstar Hospice, and they both instructed her that the question did not apply since the charges were resolved.

Regarding the conduct outlined in Findings of Fact Numbers Eleven (11) and Twelve (12), Respondent states that she never received her final notice of the Board's decision, or even notification that the order had been finalized until her employer Heart to Heart Hospice received notification on January 9, 2013, of the final order. She states that on January 9, 2013, she ceased all nursing duties and was given the new position of Patient Care Secretary. She states since that time she has taken a new position of Administrative Assistant but has not performed any nursing duties since her notification of the ratification of the order.

Respondent states that when she spoke to the Board about her original order she was told that she would have one year to complete all the stipulations in the order. Respondent states that she took that as having a year to complete all requirements.

Respondent adds that she has never intentionally acted deceptively toward any nursing requirements.

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(s) of 22 Tex. ADMIN. CODE §217.12(6)(I), (11)(B) & (13).
- 4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1) & (10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 741375, heretofore issued to WENDI YVETTE MARTINEZ, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

<u>ORDER</u>

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of REPRIMAND WITH STIPULATIONS AND A FINE, and RESPONDENT SHALL comply in all respects with the

Nursing Practice Act, Texas Occupations Code, §§301.001 et seq., the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 Tex. ADMIN. CODE §211.1 et seq. and this Order.

IT IS FURTHER AGREED and ORDERED that, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

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.

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse licensure compact 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 pay a monetary fine in the amount of one thousand two hundred fifty dollars (\$1,250.00). RESPONDENT SHALL pay this fine within ninety (90) 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.
- (2) The Order of the Board issued to RESPONDENT on December 18, 2012, is still in effect in its entirety and RESPONDENT SHALL be responsible for completing the terms of that Order.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

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(s) 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Sworn to and subscribed before me this 4th day of

SEAL

Notary Public in and for the State of

SANDRA GAIL JAMES **Notary Public** STATE OF TEXAS My Comm. Exp. Jun. 06, 2015 WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the _9th_day of July, 20_13, by WENDI YVETTE MARTINEZ, Registered Nurse License Number 741375, and said Order is final.

Effective this 6th day of August, 20 13.

Katherine A. Thomas, MN, RN, FAAN

Sterine a. Moman

Executive Director on behalf

of said Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of

AGREED

Registered Nurse License Number 741375

issued to WENDI YVETTE MARTINEZ

ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of WENDI YVETTE MARTINEZ, Registered Nurse License Number 741375, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(10) and 301.453, Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on September 24, 2012, subject to ratification by the Board.

FINDINGS OF FACT

- Prior to the institution of Agency proceedings, notice of the matters specified below in these 1. 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(s).
- Respondent waived representation by counsel, informal proceedings, notice and hearing, and 2. agreed to the entry of this Order.
- Respondent is currently licensed to practice professional nursing in the State of Texas. 3.
- Respondent received an Associate Degree in Nursing from Trinity Valley Community 4. College, Kaufman, Texas, on May 7, 2007. Respondent was licensed to practice professional nursing in the State of Texas on June 5, 2007.
- Respondent's professional nursing employment history includes: 5.

06/07 - 12/08

RN

Lake Pointe Medical Center

Rowlett, Texas

01/09 - 02/09

Unknown

Respondent's professional nursing employment history continued:

03/09 - 08/09	RN	THR Kaufman Presbyterian Kaufman, Texas
09/09 - 07/10	RN	AllStar Home Health Arlington, Texas
09/09 - 07/11	RN	AllStar Hospice Arlington, Texas
07/11 - Present	RN	Heart 2 Heart Hospice Lewisville, Texas

- 6. At the time of the initial incident, Respondent was employed as a registered nurse with AllStar Hospice, Arlington, Texas, and had been in this position for one (1) year and ten (10) months.
- 7. On or about July 8, 2011 and July 9, 2011, while employed with AllStar Hospice, Arlington, Texas, Respondent submitted falsified Hospice Nursing Visit Notes for Patients B.K., H.R., M.G., and D.I. Additionally, Respondent submitted fraudulent time sheets for hours she did not actually work. Respondent's conduct was deceptive, created inaccurate medical records, and was likely to deceive AllStar Hospice of monies for payment of hours that Respondent did not actually work.
- 8. In response to Finding of Fact Number Seven (7), Respondent states:

"[B.P.], Executive Director, said that I made a few mistakes on my time sheet. I had not left drive time between two patients who lived just a few miles from each other. At this time the new assistant administrator, began accusing me of falsifying my time sheets. When I tried to explain that was not the case...she informed me that I was being terminated for falsifying time and seeing home health and hospice patients at the same time.

It had been my experience previously if there was a mistake of time...the person was asked to correct the time and a note was made on the time sheet with the individual's initials by corrected time, corrected note or any other corrected document."

CONCLUSIONS OF LAW

- 1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
- Notice was served in accordance with law.

- 3. The evidence received is sufficient to prove violation(s) of 22 Tex. ADMIN. CODE §217.12(6)(A)&(H).
- 4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 741375, heretofore issued to WENDI YVETTE MARTINEZ, including revocation of Respondent's license(s) to practice 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 WARNING WITH STIPULATIONS AND A FINE, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 et seq., the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 Tex. ADMIN. CODE §211.1 et seq. and this Order.

IT IS FURTHER AGREED and ORDERED that, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

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.

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse licensure compact 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, 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) 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 Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; 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.texas.gov/disciplinaryaction/stipscourses.html.

(2) 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 <u>not</u> 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.texas.gov/disciplinaryaction/stipscourses.html.

- (3) 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. Board-approved courses may be found at the following Board website address: http://www.bon.texas.gov/disciplinaryaction/stipscourses.html.
- (4) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500.00). 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, 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 AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1)

YEAR(S) 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 REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, 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(s). 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(s). 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, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as 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 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) month period for one (1) year(s) of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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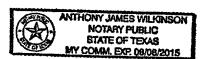
RESPONDENT'S CERTIFICATION

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(s) 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 29 day of October, 2012
WENDI YVETTE MARTINEZ, RESPONDENT
WENDI YVETTE MARTINEZ, RESPONDENT

Sworn to and subscribed before me this 29 day of October, 20 13

SEAL



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 29th day of October, 2012, by WENDI YVETTE MARTINEZ, Registered Nurse License Number 741375, and said Order is final.

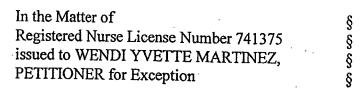
Effective this 18th day of December, 2012.

Katherine A. Thomas, MN, RN, FAAN

Executive Director on behalf

of said Board

BEFORE THE TEXAS BOARD OF NURSING





I do bereby certify this to be a complete, accurate, and true copy of the document w is on file or is of record in the offices of the Texas Board of Nursing.

Executive Director of the Board

Executive Director of the Board

ORDER DENYING PETITIONER'S REQUEST FOR EXCEPTION

A public meeting of the Eligibility and Disciplinary Committee of the Board, hereinafter referred to as the Committee, was held on May 14, 2013, at 333 Guadalupe, Tower 3, Suite 460, Austin, Texas, to consider the Petition for Exception and supporting documents filed by WENDI YVETTE MARTINEZ, hereinafter referred to as PETITIONER.

PETITIONER appeared in person.

Board Members in attendance were: Patricia Clapp, BA; Kathy Leader-Horn, LVN; and Mary LeBeck, MSN, RN. Staff present were: Katherine A. Thomas, MN, RN, FAAN, Executive Director; James W. Johnston, General Counsel; Earl E. Stearns, CFE, Supervising Investigator; Nicole Binkley, BSN, RN, Nurse Consultant; Paul Longoria, Supervising Investigator; Diane E. Burell, Investigator; and Andrea Gonzalez, Legal Secretary.

After review and due consideration of the filed Petition, the Committee voted to deny the Petitioner's Petition for Exception. The Board's Order dated December 18, 2012, stands.

Entered this 14th day of May, 2013.

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