



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.  
*Katherine A. Thomas*  
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of § AGREED  
Vocational Nurse License Number 147508 §  
issued to MELISSA RENE CARMICHAEL § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MELISSA RENE CARMICHAEL, Vocational Nurse License Number 147508, 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)&(13), Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on December 29, 2014.

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 notice and hearing, and agreed to the entry of this Order.
3. Respondent's license to practice as a vocational nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Cisco Junior College, Abilene, Texas, on May 13, 1994. Respondent was licensed to practice vocational nursing in the State of Texas on July 14, 1994.
5. Respondent's vocational nursing employment history includes:
 

07/94 - 10/94	Unknown
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Respondent's vocational nursing employment history continued:

11/94 - 03/97	LPN	Dr. Gregorio Uy Chesapeake, Virginia
04/97 - 01/98	LVN	Dr. Daniel Witheiler Dallas, Texas
01/98 - 04/03	LVN	Mid Cities Family Care Bedford, Texas
04/03 - 01/07	LVN	Dr. Kenneth Talkington Arlington, Texas
02/07 - 03/12	LVN	Family Health Care Associates Mansfield, Texas
04/12 - 06/13	LVN	USMD Medical Clinics of North Texas Arlington, Texas
07/13 - Present	LVN	Texas Pulmonary and Critical Care Consultants, Fort Worth, Texas

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with USMD Medical Clinics of North Texas, Arlington, Texas, and had been in that position for seven (7) months.
7. On or about November 26, 2012, while employed with USMD Medical Clinics of North Texas, Arlington, Texas, Respondent completed a prescription triplicate for Patient Number 1343875 [C.C.] for Adderall XR 30mg instead of 20mg, as ordered by the physician. As a result, Patient C.C. received two (2) prescription refills of Adderall XR. Respondent conduct may have injured the patient in that ingesting amphetamines in excess of the physician's order could result in the patient suffering from adverse reactions.
8. On or about May 23, 2013 through May 24, 2013, while employed with USMD Medical Clinics of North Texas, Arlington, Texas, Respondent exceeded her scope of practice as a licensed vocational nurse in that she approved prescription refills for Spironolactone 100 mg tablets and Clonidine HCL 0.1 mg tablets, respectively, for Patient D.W., without consent from the physician and after the refills had been denied. Respondent's conduct unnecessarily exposed the patient to risk of harm from unknown or undetected complications and deprived the physician of the opportunity to provide therapeutic drug monitoring for the patient.

9. On or about June 5, 2013, while employed with USMD Medical Clinics of North Texas, Arlington, Texas, Respondent exceeded her scope of practice as a licensed vocational nurse in that she approved a prescription renewal for Patient M.T. for Furosemide 40mg tablets, without consent from the physician and after the requested refill for Cyclobenzaprine 5mg had been denied. Respondent's conduct unnecessarily exposed the patient to risk of harm from complications and adverse reactions associated with ingesting a medication which was not prescribed or approved by a physician.
10. In response to Findings of Fact Numbers Seven (7) through Nine (9), regarding Patient C.C., Respondent states that this was the Monday following the Thanksgiving Holiday and it was a very hectic day with a higher work load than normal due to accumulation of phone calls and refill requests during the long holiday period. Respondent states that the patient had a change in dosage at some point and she accidentally wrote the prescription with the former dosage instead of the new dosage. Respondent states the prescription was signed by the physician and given to the patient with the incorrect dosage. Respondent further states that the patient had the prescription filled and did not discover the error until after the medication had been picked up. As a result, the patient had to obtain a new prescription with the correct dosage and thus filled the prescription twice. Regarding Patient M.T., Respondent states that she was informed by her manager Sharon Edwards that she renewed a prescription for Cyclobenzaprine for a patient who had not been seen in the office for an appointment within an appropriate time frame, and Respondent was terminated a week later after the error involving Patient D.W. was discovered. Respondent points out that the medications in question are maintenance medications, or medications that the patients are scheduled to take on a regular basis, and it is not typical practice to discontinue medications due to non-compliance with keeping regular appointments. Respondent also states that she was never provided any clear-cut written guideline on how to refill medications, when to deny medications, when to extend medications past the appropriate time frame, or when to consult the physician before making these decisions.
11. Respondent supplied letters of recommendation and a recent work performance evaluation at her current employer, Texas Pulmonary and Critical Care Consultants, Fort Worth, 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(s) of 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B),(1)(C),(1)(D),(1)(P)&(2) and 22 TEX. ADMIN. CODE §217.12(1)(A), (1)(B)&(4).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 147508, heretofore issued to MELISSA RENE CARMICHAEL, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

### TERMS OF ORDER

#### **I. SANCTION AND APPLICABILITY**

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **REPRIMAND WITH STIPULATIONS** in accordance with the terms of this Order.

- A. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- B. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

#### **II. COMPLIANCE WITH LAW**

While under the terms of this Order, RESPONDENT agrees to 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.

#### **III. REMEDIAL EDUCATION COURSE(S)**

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) **within one (1) year of the effective date of this Order, unless otherwise specifically indicated:**

- A. **A Board-approved course in Texas nursing jurisprudence and ethics** that 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. Home study courses and video programs will not be approved.
- B. **A Board-approved course in pharmacology** that shall be a minimum of six (6) hours in length, not including homework assignments. The course shall include content on: all of the major drug classifications and their physiological and therapeutic effects; dosages and administration; precautions; contraindications; and nursing implications. Courses focusing on only one (1) or two (2) groups of drugs, or relating to only one (1) clinical area of practice, 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.
- C. **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/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at [www.bon.texas.gov/compliance](http://www.bon.texas.gov/compliance).*

#### IV. **EMPLOYMENT REQUIREMENTS**

In order to complete the terms of this Order, RESPONDENT must work as a nurse, providing direct patient care in a licensed healthcare setting, for a minimum of sixty-four (64) hours per month for four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until four (4) quarterly periods of employment as a nurse have elapsed. Any quarterly period without continuous employment with the same employer for all three (3) months will not

count towards completion of this requirement. 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 period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** RESPONDENT SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.
- C. **Indirect Supervision:** 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.
- D. **Nursing Performance Evaluations:** 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 and these reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month quarterly period for four (4) quarters [one (1) year] of employment as a nurse.

**V. RESTORATION OF UNENCUMBERED LICENSE(S)**

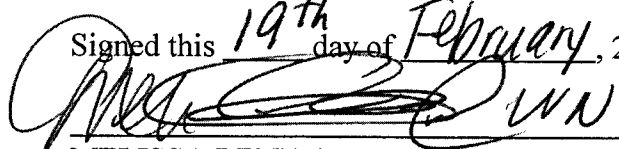
Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

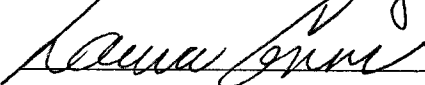
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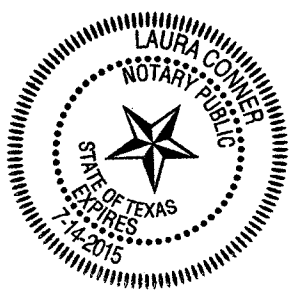
RESPONDENT'S CERTIFICATION

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 entry of this 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 possible revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 19<sup>th</sup> day of February, 2015.  
  
MELISSA RENE CARMICHAEL, Respondent

Sworn to and subscribed before me this 19<sup>th</sup> day of February, 2015.  
  
Notary Public in and for the State of TEXAS

SEAL





WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 19th day of February, 2015, by MELISSA RENE CARMICHAEL, Vocational Nurse License Number 147508, and said Order is final.

Effective this 16<sup>th</sup> day of April, 2015.



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