

5. Respondent's nursing employment history includes:

November 2011 to June 2012	LVN	Huebner Creek Rehabilitation Center San Antonio, Texas
August 2012 to June 2013	LVN	AKA Heart to Home San Antonio, Texas
July 2013 to April 2014	LVN	The Medical Team San Antonio, Texas
April 2014 to June 2015	LVN	Childrens' Home Health Agency Fredericksburg, Texas
June 2015 to Present	LVN	Nurses Etc. Staffing Agency San Antonio, Texas
October 2015 to Present	LVN	Assure Pediatric Home Health San Antonio, Texas

6. On or about November 14, 2013, Respondent was issued an Agreed Order by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order for Deferred Discipline dated November 14, 2013 is attached and incorporated, by reference, as part of this Order.
7. On or about July 23, 2015, Respondent was issued a WARNING WITH STIPULATIONS AND A FINE by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated July 23, 2015 is attached and incorporated, by reference, as part of this Order.
8. On or about October 24, 2015, Respondent failed to comply with the Agreed Order issued to Respondent on July 23, 2015, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Term Number III of the Agreed Order which states, in pertinent part:

III. RESPONDENT SHALL pay a monetary fine in the amount of one thousand dollars (\$1,000) within ninety (90) days of entry of this Order.

9. On or about January 24, 2016, Respondent failed to comply with the WARNING WITH STIPULATIONS AND A FINE issued to Respondent on July 23, 2015, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Term Number IV of the Agreed Order which states, in pertinent part:

- IV. The Order of the Board issued to RESPONDENT on November 14, 2013, is still in effect in its entirety and RESPONDENT SHALL be responsible for completing the terms of that Order within six (6) months from the date of this Order.

Respondent failed to pay the monetary fine assessed in the Agreed Order issued to her on July 23, 2015.

10. In response to Findings of Facts Eight (8) and Nine (9), Respondent admits to being late paying the fine due to depression, eviction, and extreme financial difficulties.

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(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1) & (10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 232294, heretofore issued to MARIA ESTHER TOLBERT, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Vocational Nurse License Number 232294, previously issued to MARIA ESTHER TOLBERT, to practice nursing in Texas is hereby **SUSPENDED** and said suspension is **ENFORCED** until Respondent:

A. Successfully completes:

- (i) **A 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;
- (ii) **A Board-approved course in medication administration** with a didactic portion of not less than six (6) hours and a clinical component of not less than twenty-four (24) hours. Both the didactic and clinical components be provided by the same Registered Nurse. The course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the six (6) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The clinical component SHALL focus on tasks of medication administration only. 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. Successful completion of this course requires RESPONDENT to successfully complete both the didactic and clinical portions of the course; and
- (iii) **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; and

- B. **Pays a monetary fine in the amount of one thousand dollars (\$1,000.00).** 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, upon verification of successful completion of the above requirement(s), the Suspension will be **STAYED**, and RESPONDENT will be placed on **PROBATION**, until such a time as Respondent completes the remaining requirements of the Order of the Board issued to Respondent on July 23, 2015. The July 23, 2015, Order is still in effect in its entirety.

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.

- A. RESPONDENT SHALL pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.
- B. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- C. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- D. 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.

III. FURTHER COMPLAINTS

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

IV. 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

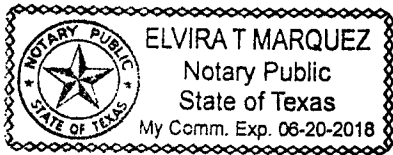
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said 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 9 day of August, 2016.
Maria Esther Tolbert
MARIA ESTHER TOLBERT, Respondent

Sworn to and subscribed before me this 9 day of August, 2016.

SEAL

Elvira I. Marquez
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 9th day of August, 2016, by MARIA ESTHER TOLBERT, Vocational Nurse License Number 232294, and said Order is final.

Effective this 13th day of September, 2016.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas". The signature is written in a cursive style.

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



is on file or is of record in the offices of the
Texas Board of Nursing.
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Vocational Nurse License Number 232294 §
issued to MARIA ESTHER TOLBERT § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MARIA ESTHER TOLBERT, Vocational Nurse License Number 232294, 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), 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 April 27, 2015.

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 Kaplan College, San Antonio, Texas on April 1, 2009. Respondent was licensed to practice vocational nursing in the State of Texas on December 21, 2010.
5. Respondent's vocational nursing employment history includes:

01/11 - 10/11	Staff Nurse	D&S Community Services San Antonio, Texas
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Respondent's vocational nursing employment history continued:

11/11 - Present

Unknown

6. On or about November 14, 2013, Respondent was issued the sanction of REMEDIAL EDUCATION DEFERRED by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated November 14, 2013 is attached and incorporated, by reference, as part of this Order.
7. On or about November 15, 2014, Respondent failed to comply with the Agreed Order issued to her on November 14, 2013, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Stipulation Number One (1) of the Agreed Order which states, in pertinent part:
 - (1) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics...
8. On or about November 15, 2014, Respondent failed to comply with the Agreed Order issued to her on November 14, 2013, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Stipulation Number Two (2) of the Agreed Order which states, in pertinent part:
 - (2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in medication administration; The didactic portion of this course that be a minimum of six (6) hours in length. The course shall contain a minimum of twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course.
9. On or about November 15, 2014, Respondent failed to comply with the Agreed Order issued to her on November 14, 2013, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Stipulation Number Three (3) of the Agreed Order which states, in pertinent part:
 - (3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills"...
10. In response to Findings of Fact Numbers Seven (7) through (9), Respondent states she has had extreme financial difficulties after her husband left her and their two (2) children. It has been a stressful situation emotionally and financially and she is asking for an opportunity to complete the courses.

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(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1)&(10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 232294, heretofore issued to MARIA ESTHER TOLBERT.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **WARNING WITH STIPULATIONS AND A FINE** 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. MONETARY FINE

RESPONDENT SHALL pay a monetary fine in the amount of one thousand dollars (\$1,000.00) 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.

IV. COMPLIANCE WITH PRIOR ORDER

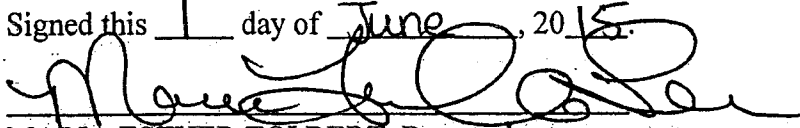
The Order of the Board issued to RESPONDENT on November 14, 2013 is still in effect in its entirety and RESPONDENT SHALL be responsible for completing the terms of that Order within six (6) months from the date of this Order.

V. RESTORATION OF UNENCUMBERED LICENSE(S)

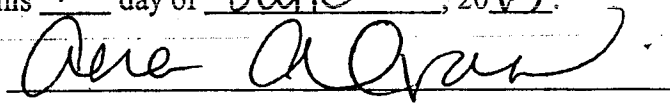
Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

RESPONDENT'S CERTIFICATION

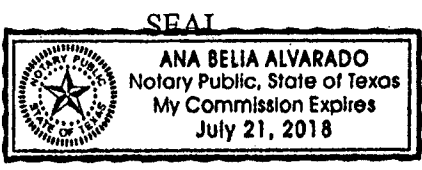
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said 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 1 day of June, 2015.


MARIA ESTHER TOLBERT, Respondent

Sworn to and subscribed before me this 1st day of June, 2015.


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 1st day of June, 2015, by MARIA ESTHER TOLBERT, Vocational Nurse License Number 232294, and said Order is final.

Effective this 23rd day of July, 2015.



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

Respondent's nursing employment history continued:

11/2011- Present

Unknown

6. At the time of the initial incident, Respondent was employed as a Staff Nurse with D & S Community Services, San Antonio, Texas, and had been in this position for six (6) months.
7. On or about July 26, 2011, while employed as a Staff Nurse with D&S Community Services, San Antonio, Texas, Respondent failed to ensure that hospital discharge medication orders for Client SH were communicated to the pharmacy and implemented. The client did not receive prescribed lisinopril, Vistaril, Depakote and Cymbalta, as ordered. Respondent's conduct exposed the client to a risk of harm from non-efficacious treatment of the client's high blood pressure and mental health conditions.
8. On or about August 3, 2011, through August 31, 2011, while employed as a Staff Nurse with D&S Community Services, San Antonio, Texas, Respondent failed to ensure that medication orders for Client RG were communicated to the pharmacy and implemented. The client did not receive prescribed Septra, Deconex, Veramyst, Seroquel, and Augmentin, as ordered. Respondent's conduct exposed the client to a risk of harm from non-efficacious treatment of the client's bronchitis, allergies and mental health conditions.
9. On or about August 16, 2011, through September 1, 2011, while employed as a Staff Nurse with D&S Community Services, San Antonio, Texas, Respondent failed to notify the RN or physician of Client LG that the prescription for Detrol LA needed to be refilled and made available to the client. Respondent's conduct exposed the client to a risk of harm from non-efficacious treatment of the client's urinary incontinence.
10. In response to Findings of Fact Numbers Seven (7) through Nine (9), Respondent states that she communicated with the client's pharmacy, physician and reported to the RN assigned to Client LG regarding the Detrol prescription.

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)(M)&(1)(P) and 22 TEX. ADMIN. CODE §217.12(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 232294, heretofore issued to MARIA ESTHER TOLBERT, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of REMEDIAL EDUCATION, DEFERRED, 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 and ORDERED that RESPONDENT SHALL not commit any violation of 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.* for a period of five (5) years from the date of this Order.

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 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.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>.

IT IS FURTHER AGREED, that upon successful completion of Stipulations Numbers One (1) through Three (3) 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.

IT IS FURTHER AGREED, that upon the successful completion of the required period of deferral, the complaint or complaints which formed the basis for this action will be dismissed and this Order will be made confidential to the same extent as a complaint filed under Section 301.466, Texas Occupations Code.

IT IS FURTHER AGREED that until such time that this Order is made confidential, this Order is subject to disclosure in accordance with applicable law.

IT IS FURTHER AGREED and ORDERED that should an additional allegation, complaint, accusation, or petition be reported or filed against Respondent prior to the time this Order is made confidential, the deferral period shall be extended until the allegation, accusation, or petition has been finally acted upon by the Board.

IT IS FURTHER AGREED that should RESPONDENT commit a subsequent violation of the Nursing Practice Act or Board Rules, this Order shall be treated as prior disciplinary action.

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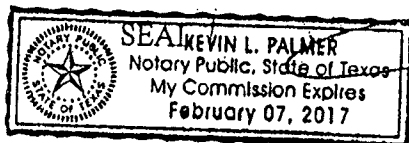
RESPONDENT'S CERTIFICATION

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 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, the Board may stay the dismissal of the complaint filed against me, and that I will be subject to investigation and possible disciplinary sanction, including revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 7th day of November, 2013.

Maria Esther Tolbert
MARIA ESTHER TOLBERT, Respondent

Sworn to and subscribed before me this 07 day of November, 2013.



[Signature]
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby ratify and adopt the Agreed Order for Deferred Discipline that was signed on the 7th day of November, 2013, by MARIA ESTHER TOLBERT, Vocational Nurse License Number 232294, and said Order is final.

Effective this 14th day of November, 2013.



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