BEFORE THE TEXAS BOARD OF NURSING

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| In the Matter of | § | AGREED ORDER |
| Vocational Nurse License Number 317046 | § | FOR |
| issued to RACHEL ANN BIRD GARCIA | § | KSTAR PROGRAM |
| | § | |

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered

the matter of RACHEL ANN BIRD GARCIA, Vocational Nurse License Number 317046,

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)&(14)*[effective 9/1/2021]*, Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Agreed Order for

KSTAR Program approved by Kristin K. Benton, DNP, RN, Executive Director, on September 8,

2023.

## 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 Agreed Order for KSTAR Program.

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 Universal Health Services School, Fort Worth, Texas, on September 9, 2013. Respondent was licensed to practice vocational nursing in the State of Texas on October 22, 2013.

5. Respondent's nursing employment history includes:

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| 10/2013 – 06/2014 | Licensed Vocational Nurse | Universal Health Services Inpatient Hospice and Palliative Care Fort Worth, Texas |
| 07/2014 – 09/2015 | Unknown | |
| 10/2015 – 09/2021 | Licensed Vocational Nurse | Hurst-Euless-Bedford Independent School District Bedford, Texas |
| 10/2021 – Present | Licensed Vocational Nurse | Eagle Mountain-Saginaw Independent School District Saginaw, Texas |

6. At the time of the incident, Respondent was employed as a Licensed Vocational Nurse with Eagle Mountain-Saginaw Independent School District, Saginaw, Texas, and had been in that position for eleven (11) months.

7. On or about September 20, 2022, while employed as a Licensed Vocational Nurse by Eagle Mountain-Saginaw Independent School District, Saginaw, Texas, Respondent failed to contact her supervisor and/or patient's family for clarification prior to applying Pediatric Patient BB's scoliosis soft brace for which she had no knowledge and/or training to apply. As a result, the patient experienced discomfort from reddened areas on his skin due to the brace being applied inappropriately for approximately three (3) hours. In addition, Respondent failed to document the patient's clinic visit. Respondent's conduct resulted in an incomplete medical record and exposed the patient to a risk of harm in that subsequent care givers would not have complete information on which to base their care decisions, and unnecessarily exposed the patient to risk of harm from a lack of knowledge and/or training on applying the scoliosis brace.

8. In response to the incident in Finding of Fact Seven (7), Respondent states she was substituting for the school clinic that day and had been informed by the school nurse that the patient was able to reapply the brace independently. Respondent states she assisted the patient and attached the straps to the coinciding numbers and believed the brace was applied correctly as the patient had full range of motion and did not appear to be in any distress when he left the clinic. Respondent states the patient did not return to the clinic for assistance and/or state he was experiencing any discomfort for the remainder of the day.

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)(D),(1)(G),(1)(H),(1)(M),(1)(P)&(2)(A) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C)&(4).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(14) *[effective 9/1/2021]*, Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 317046, heretofore issued to RACHEL ANN BIRD GARCIA.

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 that RESPONDENT SHALL receive the sanction of **WARNING 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.  Until successfully completed, RESPONDENT may not practice nursing in the State of Texas except in accordance with the terms of this Order.

   D.  As a result of this Order, RESPONDENT'S license(s) will be designated "single state" as applicable and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state using a Texas compact license.

**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 Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Agreed Order for KSTAR Program.

III. **KNOWLEDGE, SKILLS, TRAINING, ASSESSMENT AND RESEARCH (KSTAR) PROGRAM**

IT IS AGREED and ORDERED that RESPONDENT SHALL, **within one (1) year of the effective date of this Order**, successfully complete the Knowledge, Skills, Training, Assessment and Research (KSTAR) Program and RESPONDENT SHALL:

A. **Within forty-five (45) days** following the effective date of this Order, apply to and enroll in the KSTAR Program, including payment of any fees and costs, unless otherwise agreed in writing;

B. Submit to an individualized assessment designed to evaluate RESPONDENT'S nursing practice competency and to support a targeted remediation plan;

C. Follow all requirements within the remediation plan, if any;

D. Successfully complete a Board-approved course in Texas nursing jurisprudence and ethics as part of the KSTAR Program; and

E. Provide written documentation of successful completion of the KSTAR Program to the attention of Monitoring at the Board's office.

IV. **FURTHER COMPETENCY ISSUES AND VIOLATIONS**

IT IS FURTHER AGREED, SHOULD RESPONDENT'S individualized KSTAR Program assessment identify further competency issues and violations of the Nursing Practice Act, including inability to practice nursing safely, further disciplinary action, up to and including revocation of RESPONDENT'S license(s) to practice nursing in the State of Texas, may be taken based on such results in the assessments.

## V.    RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Agreed Order for KSTAR Program,

all encumbrances will be removed from RESPONDENT'S license(s) and/or privilege(s)

to practice nursing in the State of Texas and, subject to meeting all existing eligibility

requirements in Texas Occupations Code Chapter 304, Article III, 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 Order. 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 this Order is subject to ratification by the Texas Board of Nursing and a copy of this Order will be mailed to me once the Order becomes effective. 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) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this _____ day of _____, 20____.

_Rachel Bird Garcia_                            10/16/2023

RACHEL ANN BIRD GARCIA, RESPONDENT

Sworn to and subscribed before me this _____ day of _____, 20____.

SEAL
                _____

Notary Public in and for the State of _____

Approved as to form and substance.

_Yong J. An_                            10/16/2023
_____

Yong J. An, Attorney for Respondent

Signed this _____ day of _____, 20____.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order for KSTAR Program that was signed on the 16th day of October, 2023, by RACHEL ANN BIRD GARCIA, Vocational Nurse License Number 317046, and said Agreed Order for KSTAR Program is final.

Effective this 14th day of November, 2023.

*Kristin K. Benton, DNP, RN*

Kristin K. Benton, DNP, RN
Executive Director on behalf
of said Board