BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED
Registered Nurse License Number 761191	§	
& Vocational Nurse License Number 168440	§	
issued to JACKIE R KOHLER	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JACKIE R KOHLER, Registered Nurse License Number 761191 and Vocational Nurse License Number 168440, 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 June 14, 2018.

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. Respondent's license to practice as a professional nurse in the State of Texas is in current status.

4. Respondent received a Certificate in Vocational Nursing from St. Phillip's College, San Antonio, Texas on December 12, 1996, and received an Associate Degree from Excelsior College, Albany, New York on May 22, 2008. Respondent was licensed to practice vocational nursing in the State of Texas on September 9, 1998, and was licensed to practice professional nursing in the State of Texas on September 25, 2008.

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5. Respondent's nursing employment history includes:

09/1996 - 01/1997	Unknown	
02/1997 - 09/1998	LPN	Triple Army Medical Center Honolulu, Hawaii
02/1997 - 09/1998	LPN	Shiner's Hospital for Crippled Children Honolulu, Hawaii
10/1998	Unknown	
11/1998 - 01/2000	LVN	McKenna Memorial Hospital New Braunfels, Texas
01/2000 - 12/2008	LVN	Brook Army Medical Center San Antonio, Texas
12/2008 - 03/2012	RN	Brook Army Medical Center San Antonio, Texas
03/2012 - 09/2014	On-Call RN	Season's Hospice & Palliative Care San Antonio, Texas
10/2014 - 03/2015	Unknown	
04/2015 - 03/2018	Case Manager	Season's Hospice & Palliative Care San Antonio, Texas
04/2018 - Present	RN Case Manager	Sterling Medical Joint Base San Antonio (BAMC) Fort Sam Houston, Texas

6. At the time of the incident, Respondent was employed as a Case Manager with Seasons Hospice & Palliative Care, San Antonio, Texas, and had been in that position for two (2) years and ten (10) months.

7. On or about February 21, 2018, while employed as a Case Manager with Seasons Hospice & Palliative Care, San Antonio, Texas, and assigned to provide nursing services for Patient Medical Record Number 274882, Respondent inserted a foley catheter without a physician's order. Additionally, Respondent falsely documented she received a physician's order to insert a foley catheter, on February 21, 2018, but the order was not received until February 22,

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2018. Respondent's conduct created an inaccurate medical record and was likely to injure the patient from adverse effects of catheter placement without the benefit of a physician's expertise.

8.   In response to Finding of Fact Number Seven (7), Respondent states she made a skilled nurse visit to the patient and son in their home. Respondent states she had a foley in her car stock and brought it in with the plan to call the doctor during the visit. Respondent observed that the bed was saturated with urine. Respondent states she got caught up in the moment and placed the Foley catheter. Thursday evening after work Respondent states she realized that she had forgotten to call the doctor and obtain an order for the Foley catheter. Respondent states she called the doctor, discussed the visit and asked for the order. Respondent states to her knowledge she had documented according to the date the visit had taken place and had included the order from the doctor which was received at the time she was documenting in the computer. Respondent states she did not intend to mislead or falsify what had occurred.

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)(P) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C),(4),(6)(A)&(6)(H).

4.   The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 761191 and Vocational Nurse License Number 168440, heretofore issued to JACKIE R. KOHLER.

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 AND A FINE** in accordance with the terms

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

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. UNDERSTANDING BOARD ORDERS

Within thirty (30) days of entry of this Order, RESPONDENT must successfully complete the Board's online course, "Understanding Board Orders," which can be accessed on the Board's website from the "Discipline & Complaints" drop-down menu or directly at: *http://www.bon.texas.gov/UnderstandingBoardOrders/index.asp*. Upon successful completion, RESPONDENT must submit the course verification at the conclusion of the course, which automatically transmits the verification to the Board.

IV. 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.   <u>A Board-approved course in Texas nursing jurisprudence and ethics</u> 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.   The course <u>"Sharpening Critical Thinking Skills,"</u> 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 <u>not</u> being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at <u>www.bon.texas.gov/compliance</u>.*

V.   MONETARY FINE

RESPONDENT SHALL <u>pay a monetary fine in the amount of two hundred fifty dollars ($250.00) within forty-five (45) days of entry of this Order.</u> 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.

VI.   EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse in the State of Texas, providing direct patient care in a clinical healthcare setting, <u>for a minimum of sixty-four (64) hours per month</u> 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. 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 <u>and will not count towards completion of this requirement.</u>

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. **Incident Reporting for Current Position as a Registered Nurse Case Manager with Sterling Medical Joint Base San Antonio (BAMC), Fort Sam Houston, Texas:** <u>for so long as Respondent is employed as a Registered Nurse Case Manager with Sterling Medical Joint Base San Antonio (BAMC), Fort Sam Houston, Texas</u>, RESPONDENT SHALL CAUSE her employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.

D. **Indirect Supervision:** <u>Should Respondent's employment as a Registered Nurse Case Manager with Sterling Medical Joint Base San Antonio (BAMC), Fort Sam Houston, Texas, cease or change while under the terms of this Order,</u> 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** <u>for the remainder of the stipulation period of this Order, if any.</u> 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.

E. **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 individual who supervises the RESPONDENT and these reports shall be submitted by the supervising individual 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.

VII.   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, 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.

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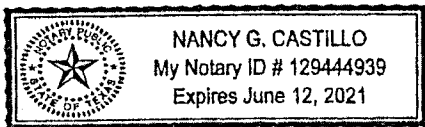CONTINUED ON NEXT PAGE.

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 __31ST__ day of ___OCT___ , 20 _18_ .

_____
JACKIE R KOHLER, Respondent

Sworn to and subscribed before me this _31st_ day of _October_ , 20 _18_

SEAL

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NANCY G. CASTILLO
My Notary ID # 129444939
Expires June 12, 2021
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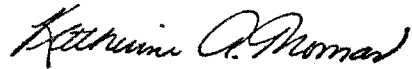
Notary Public in and for the State of ___TEXAS___

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 31st day of October, 2018, by JACKIE R KOHLER, Registered Nurse License Number 761191 and Vocational Nurse License Number 168440, and said Order is final.

Effective this 11th day of December, 2018.

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