BEFORE THE TEXAS BOARD OF NURSING

****

TEXAS BOARD OF NURSING

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.

Executive Director of the Board

In the Matter of Registered Nurse	§	AGREED
License Number 661547	§	
And Nurse Licensure Compact Privilege	§	
Associated with Arkansas License	§	
Number R65339	§	
issued to JAY NEAL ROWTON	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JAY NEAL ROWTON, Registered Nurse License Number 661547, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(8)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on May 10, 2011, by Katherine A. Thomas, MN, RN, Executive Director, 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 holds a license to practice professional nursing in the State of Texas, which is in MSR-Invalid status at this time.

4. Respondent received an Associate Degree in Nursing from Texarkana Community College, Texarkana, Texas, on May 1, 1999. Respondent was licensed to practice professional nursing in the State of Texas on July 1, 1999.

5. Respondent's nursing employment history is unknown.

6. On or about September 8, 2010, while holding a license as a Registered Nurse in the State of Texas, and Arkansas License Number R65339, Respondent's license to practice professional nursing in the State of Arkansas was placed on PROBATION WITH STIPULATIONS for a period of three (3) years, by the Arkansas State Board of Nursing, based on Respondent's refusal to submit to drug testing for cause, and for removing multiple Meperidine injections for patients without documentation of administration. A copy of the Findings of Fact, Conclusions of Law, and Consent Agreement dated September 8, 2010, is attached and incorporated herein, by reference, as part of this Order.

7. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

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 of Section 301.452(b)(8)&(10), Texas Occupations Code.

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 661547, heretofore issued to JAY NEAL ROWTON, 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 a WARNING WITH STIPULATIONS, 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.state.tx.us/disciplinaryaction/stipscourses.html.*

(2) RESPONDENT SHALL fully comply with all the terms and conditions of the Order of the Board issued to JAY NEAL ROWTON on September 8, 2010, by the Arkansas State Board of Nursing. RESPONDENT SHALL CAUSE the Arkansas State Board of Nursing to submit quarterly reports, on forms provided by the Texas Board of Nursing, that JAY NEAL ROWTON is in compliance with the Order of the Arkansas State Board of Nursing, and RESPONDENT SHALL cause the Arkansas State Board of Nursing to submit written verification of Respondent's successful completion of that Order to the Texas Board of Nursing. Evidence of compliance/completion with the terms of the Order of the Arkansas State Board of Nursing will be accepted as evidence of compliance/completion of the terms of this Order issued by the Texas Board of Nursing. Non-compliance with the terms of the Order of the Arkansas State Board of Nursing shall constitute non-compliance with the terms of this Order issued by the Texas Board of Nursing.

(3) Any positive result on a drug screen required under the order issued by the Arkansas Board of Nursing for which the nurse does not have a valid prescription, or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the Respondent to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations

Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from Respondent's license and RESPONDENT shall 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 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 26th day of May, 2011.

Jay Neal Rowton

JAY NEAL ROWTON, Respondent

Sworn to and subscribed before me this 26 day of May, 2011.

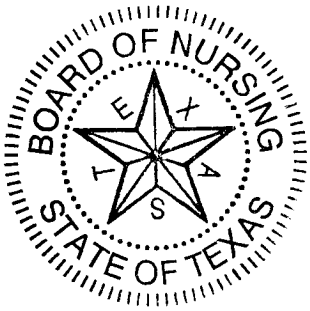
SEAL

SONYA D. COVERT
Notary Public
STATE OF TEXAS
My Comm. Exp. 05/26/2012

Sonya D. Covert

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 26th day of May, 2011, by JAY NEAL ROWTON, Registered Nurse License Number 661547, and said Order is final.



Effective this 14th day of June, 2011.

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

ARKANSAS STATE BOARD OF NURSING
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Searcy

Richard Spivey, LPN
Greenbrier

September 17, 2010

Jay Neal Rowton
333 Links Drive
Texarkana, AR 71854

RE: RN License No. R65339

Dear Mr. Rowton:

The Arkansas State Board of Nursing met on September 8, 2010 and approved the Consent Agreement placing your license and privilege to practice nursing on probation. I am writing to assist you in meeting the terms of the discipline.

If the terms are met in full, you will need to send a letter to the Board requesting your license be taken off probationary status. The projected end of your probation is September 2013.

PLEASE PROVIDE YOUR LICENSE TO THE BOARD OFFICE WITHIN THE NEXT FIVE (5) DAYS IN ORDER TO HAVE IT STAMPED "PROBATION."

The requirements of the discipline are fully outlined in the enclosed final Order. Briefly, however, I would like to review some of the requirements with you.

1. All personal reports, employer reports and other information is to be directed to me and must be filed with the Board by the 20th day of the following months:

   2010 – October
   2011 – January, April, July, October
   2012 – January, April, July, October
   2013 – January, April, July

2. COURSES. You are required to take and provide evidence of completion of course(s) in "The Nurse & Professional Behaviors" and "Documentation for Nurses" by April 15, 2011. Information is enclosed to assist you in meeting these requirements. **Board Ordered courses may not be used to meet the requirements for continuing education hours in order to renew or reinstate a nursing license.**

3. EVALUATION. You must provide evidence of evaluation for treatment of addictive behavior within three (3) months of this agreement. Acceptable evidence shall consist of an in-depth psychological/addiction evaluation with appropriate testing by a practitioner who specializes in addiction disorders being sent directly to the Board. You must supply a copy of the Board's Order to the evaluator. The evaluation must contain evidence that the evaluator knows the reason for the referral. The evaluator must specifically advise the Board that the nurse is presently able to engage in the safe practice of nursing or recommend the conditions, if any, under which safe practice could occur.

4. EMPLOYMENT AND EMPLOYER REPORTS. As you plan to be employed during this period of discipline, you must practice under an **Employer-Monitored Nurse Contract** and submit a copy to the Board. I have enclosed an example for your employer. You are also expected to submit employer reports. I have enclosed **Performance Evaluation Report** your employer must complete every three months and send to me. If your employer has any questions regarding the Board's requirements, you can have them contact me. You may not work outside the State of Arkansas in another compact licensure state without written permission from the Arkansas State Board of Nursing and the Board of Nursing in the compact state where you wish to work.

5. NAME, MAILING ADDRESS, TELEPHONE NUMBER, EMPLOYER. You are expected to notify me as soon as possible of any changes.

6. RANDOM DRUG SCREENS: You are required to submit to random screens **which meet the criteria established by the Board.** This information is outlined in Attachment No. 1 to the Order. These drug screens must be submitted directly to the Board by a Board-approved drug screen monitoring program. You cannot submit specimens at your place of employment or practice site. You cannot collect any Board of Nursing ordered program participant drug screen. You must contact the drug screening company **daily.** If selected for testing, you will have **two (2) hours** to report to the drop off site. Compliance must be monitored through a Board-approved monitoring program. **You have five (5) business days upon receipt of the Order to contact a Board-approved drug screen monitoring program.**

7. TREATMENT BY A PRACTITIONER WITH CONTROLLED OR ABUSE POTENTIAL SUBSTANCE: You shall notify all practitioners of your dependency. If you are prescribed a controlled or abuse potential substance, the practitioner must submit that information in writing directly to the Board within ten (10) days of the date of the prescription. I have enclosed a **Medication Report** form for use by the practitioner. Using old prescriptions for various reasons is self-diagnosing and treating and not acceptable. I would rid yourself of all medications in your possession that would be classified controlled substances or abuse potential substances that have not been prescribed since your probation period began.

8. PERSONAL REPORTS. You are expected to submit a personal report, in the form of a typed or handwritten letter, to me during this period of discipline. You should report on those aspects of your life which reflect your personal progress. Your first personal report is due on October 20, 2010.

9. CIVIL PENALTY. You were fined $1,500.00 pursuant to Arkansas Code Ann. §17-87-104(b)(1). The fine is to be paid within fifteen (15) calendar days following the receipt of the Order. If you are interested in a payment agreement, one is enclosed for you to sign, notarize and return along with your first payment in the amount of $125.00 due on October 20, 2010.

The Respondent's responsibility is to insure that all required reports are submitted to the Board on a quarterly basis.

ANY AND ALL CORRESPONDENCE SENT TO THE BOARD MUST INCLUDE YOUR NAME, LICENSE NUMBER AND CURRENT PHONE NUMBER.

You will be considered to be in non-compliance with the Board's Order if your reports are not submitted timely, or you fail to arrange for payment of the fine, if applicable.

BEFORE THE ARKANSAS STATE BOARD OF NURSING

IN THE MATTER OF:

JAY NEAL ROWTON **RN LICENSE NO. R65339**

CONSENT AGREEMENT

A complaint charging Jay Neal Rowton (hereinafter referred to as "Respondent") with violations of the Arkansas Nurse Practice Act has been received by the Arkansas State Board of Nursing (hereinafter referred to as "the Board"). In the interest of a prompt and speedy settlement of the above-captioned matter consistent with the public interest, statutory requirements and the responsibilities of the Board, the undersigned parties enter into this Consent Agreement as a final disposition of this matter.

Based on the evidence before it, the Board makes the following Findings of Fact, Conclusions of Law and Order:

I. Findings of Fact

1. The Respondent is the holder of Arkansas RN License No. R65339.

2. The Respondent was terminated on or about February 17, 2010 from Wadley Regional Medical Center, Texarkana, Texas for refusing to submit to drug testing for cause as required by hospital policy.

3. The Respondent controlled substance retrieval for Wednesday, February 17, 2010 was reviewed and found that he removed multiple Meperidine injections for patients with no documentation of administration.

4. The Respondent has prior discipline with this Board in 2004 for violation of 17-87-309(a)(6).

II. Conclusions of Law

1. Pursuant to Ark. Code Ann. §17-87-203 and §17-87-309, the Board has subject matter and personal jurisdiction in this matter.

2. The conduct described in the Findings of Fact constitutes a violation of Ark. Code Ann. §17-87-309(a)(6).

3. The conduct described in the Findings of Fact constitutes sufficient cause pursuant to Ark. Code Ann. §17-87-309 to suspend, revoke or otherwise discipline a licensee who possesses a nursing license or the privilege to practice nursing in the State of Arkansas.

III. Order

1. The Respondent admits the Board's Findings of Fact and Conclusions of Law.

2. In lieu of a formal hearing on these issues, Respondent agrees to the issuance of the attached Order and waives all rights to a hearing, appeal or judicial review relating to the Order.

3. The Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

4. The Respondent understands that those admissions are conclusive evidence of a prior violation of the Arkansas Nurse Practice Act and may be used for the purposes of determining sanctions in any future disciplinary matter.

5. The Respondent understands the right to consult legal counsel prior to entering

IN THE MATTER OF:

JAY NEAL ROWTON **RN LICENSE NO. R65339**

into this Consent Agreement and such consultation is waived.

6. The Respondent understands as a result of entering into this Consent Agreement that the terms of this agreement become public record and shall be reported to the National Council of State Boards of Nursing Disciplinary Data Bank and the Healthcare Integrity and Protection Data Bank. JR

7. The Respondent understands that this Consent Agreement is effective upon its acceptance by the Board. JR

I have initialed each numbered and lettered paragraph of the proposed CONSENT AGREEMENT as proof that I have READ IT, UNDERSTAND IT, and do not wish to contact the Arkansas State Board office for further explanation. I accept the proposed CONSENT AGREEMENT as stated.

State of ~~Arkansas~~ Texas)
)ss
County of Bowie)

Jay Rowton
RESPONDENT'S SIGNATURE

8/27/10
DATE

Subscribed and Sworn to before me, a Notary Public, on this 27 day of August, 2010.

Chris Hawkins
Notary Public

My Commission Expires:

2-1-14

CHRIS HAWKINS
Notary Public, State of Texas
My Commission Expires
February 01, 2014

BEFORE THE ARKANSAS STATE BOARD OF NURSING

IN THE MATTER OF:

JAY NEAL ROWTON **RN LICENSE NO. R65339**

ORDER

In view of the above Findings of Fact, Conclusions of Law, and the consent of the Respondent, the Board hereby issues the following Order:

1. The Respondent consents to the terms and conditions of the Order and waiver of a public hearing is accepted.

2. The Respondent's license(s) is (are) placed on probation for three (3) years. Probation is to commence on the effective date of this Order and is subject to the following conditions:

a. Within five (5) days upon receipt of this Order, the Respondent's license must be sent to the Board so that the license can be marked "probation."

b. The Respondent must complete the courses, "The Nurse and Professional Behaviors," and "Documentation for Nurses" by April 15, 2011.

c. The Respondent must provide within three months of this order, evidence of evaluation of addictive behavior. Acceptable evidence shall consist of an in-depth psychological/addiction evaluation with appropriate testing by a practitioner, who specializes in addiction disorders being sent directly to the Board. The Respondent shall supply a copy of the Board's Order to the evaluator. The evaluation must contain evidence that the evaluator knows the reason for the referral. The Respondent shall follow the Evaluator's recommendations regarding treatment and support group meetings. The evaluator must specifically advise the

Board that the nurse is presently able to engage in the safe practice of nursing or recommend the conditions, if any, under which safe practice could occur. The Respondent shall have the practitioner submit progress report every three (3) months until discharged by the practitioner.

d. The Respondent must notify each present and future employer in professional nursing of this Order of the Board and the probation conditions on Respondent's license and present to every employer in professional nursing a copy of this Consent Agreement and Order.

e. The Respondent, if employed as a nurse, must practice under an employer-monitored nurse contract. A copy of the employer-monitored nurse contract and a quarterly Performance Evaluation Report must be submitted by the employer to the Board. It is the responsibility and duty of the Respondent to insure that the employer submits these documents in a timely fashion.

f. The Respondent must immediately notify the Board in writing of any change, even a temporary one, in name, address, or employer.

g. The Respondent may not work outside the State of Arkansas in another compact licensure state without written permission of the Arkansas State Board of Nursing and the Board of Nursing in the compact licensure state where the Respondent wishes to work.

h. The Respondent must submit to random drug screens. The drug screens must meet the criteria established by the Board and be conducted through a Board-approved drug screen monitoring program and laboratory. Contact must be made with a Board-approved drug screen-monitoring program within five (5) business days of receipt of this Order. The Respondent

cannot submit specimens at the Respondent's place of employment or practice site. The Respondent cannot collect any Board of Nursing ordered program participant drug screen. The Respondent must contact the drug screening company daily. If selected for testing, the Respondent will have **two (2) hours** to report to the drop off site. (See Attachment No. 1)

i. The Respondent must abstain at all times from the use of controlled or abuse potential substances, including alcohol, except as prescribed by a licensed practitioner from whom medical attention is sought. Respondent shall not consume hemp, poppy seeds, or any product or by-product containing the same. Respondent shall inform all licensed practitioners who authorize prescriptions of controlled or abuse potential substances of the Board's Order, and Respondent shall cause all such licensed practitioners to submit a written report identifying the medication, dosage, and the date the medication was prescribed. The prescribing practitioners shall submit the report directly to the Board within ten (10) days of the date of the prescription. It is the responsibility and duty of the Respondent to insure that the prescribing practitioners submit their written reports in a timely fashion.

j. The Respondent is responsible for submitting a personal report to accompany required data to the Board on a quarterly basis.

k. The Respondent's responsibility is to insure that all reports are submitted to the Board on a quarterly basis.

l. The Respondent shall execute any release necessary to give the Board of Nursing access to records, including but not limited to medical, employment and criminal records.

Failure to execute a release shall be grounds for disciplinary action against Respondent's nursing license/privilege.

m. The Respondent shall obey all federal, state, and local laws, and all rules governing the practice of nursing in this state. JN

n. All costs involved in complying with this Order shall be borne by the Respondent. JN

o. Failure to comply with a signed Consent Agreement may result in the suspension of the nurses license to practice nursing in this state. JN

p. Verification of termination of the probationary period may be requested in a registered letter to the Board. JN

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IN THE MATTER OF:

JAY NEAL ROWTON **RN LICENSE NO. R65339**

3. In addition to the probation imposed above, the Respondent shall pay a fine of $1,500.00 pursuant to Ark. Code Ann. §17-87-104(b)(1). Such fine will be payable within fifteen (15) days of receipt of this Order or a payment schedule must be submitted within fifteen (15) days to the Arkansas State Board of Nursing. JR

I have initialed each numbered and lettered paragraph of the proposed CONSENT AGREEMENT as proof that I have READ IT, UNDERSTAND IT, and do not wish to contact the Arkansas State Board office for further explanation. I accept the proposed ORDER as stated.

State of ~~Arkansas~~ Texas)
)ss
County of Bowie)

Jay Rowton
RESPONDENT'S SIGNATURE

8/27/10
DATE

Subscribed and Sworn to before me, a Notary Public, on this 27 day of August, 2010.

Chris Hawkins
Notary Public

My Commission Expires:
2-1-14

CHRIS HAWKINS
Notary Public, State of Texas
My Commission Expires
February 01, 2014

ARKANSAS STATE BOARD OF NURSING

By: Darlene Byrd
Darlene Byrd, MNSc, APN, President

Dated: 9/8/2010