IN THE MATTER OF	§	BEFORE THE TEXAS
PERMANENT CERTIFICATE	§	
NUMBER 133278	§	
ISSUED TO	§	
PAULA ANN FACKLAM	§	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

NUNC PRO TUNC ORDER OF THE BOARD

TO: Paula Ann Facklam
5210 Lethaby Drive
Corpus Christi, TX 78413

During open meeting held in Austin, Texas, the Texas Board of Nursing (Board) finds that an Order of the Board was mistakenly entered for Paula Ann Facklam. The Order contained the incorrect effective date of March, 12, 2011. Upon notice and hearing, administrative agencies, like the Courts, have the power to enter nunc pro tunc orders where it can be seen by reference to a record that what was intended to be entered, but was omitted by inadvertence or mistake, can be corrected upon satisfactory proof of its rendition provided that no intervening rights will be prejudiced. *Railroad Comm'n v. McClain*, 356 S.W.2d 330, 334 (Tex. App.--Austin 1962, no writ) (citing *Frankfort Ky. Nat. Gas Co. v. City of Frankfort*, 276 Ky. 199, 123 S.W.2d 270, 272).

The Executive Director, as agent of the Texas Board of Nursing, after review and due consideration of the record and the facts therein, invalidates the Order of the Board for Paula Ann Facklam that is dated March 12, 2011, and submits and enters the corrected Order of the Board, which correctly states the effective date of April 12, 2011. No other changes to the Order have been made. Ms. Facklam received due process regarding her license; therefore, her rights have not been prejudiced.

NOW, THEREFORE, IT IS ORDERED that the corrected Order of the Board is hereby approved and entered on the dates set forth below.

Order effective April 12, 2011.

Entered this 22nd day of June, 2011.

TEXAS BOARD OF NURSING

BY: _____
KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR, ON BEHALF OF THE BOARD

BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Vocational Nurse	§
License Number 133278	§
issued to PAULA ANN FACKLAM	§

ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 133278, issued to PAULA ANN FACKLAM, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent is currently licensed to practice vocational nursing in the State of Texas.

2. Respondent waived representation by counsel, informal proceedings, notice and hearing.

3. Respondent received a Certificate in Vocational Nursing from Flint Hills Area Vocational/Technical School, Emporia, Kansas on December 6, 1990. Respondent was licensed to practice vocational nursing in the State of Texas on September 24, 1991.

4. Respondent's complete vocational nursing employment history is unknown.

5. On or about May 13, 2010, Respondent was issued an Agreed Order by the Texas Board of Nursing requiring her to participate in the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Findings of Fact, Conclusions of Law and Agreed Order dated May 13, 2010 is attached and incorporated herein, by reference, as part of this Order.

6. On February 10, 2011, Respondent was provided notice by the Texas Board of Nursing for the following:

- On or about July 24, 2010, while holding a license as a Licensed Vocational Nurse in the State of Texas, Respondent was arrested by the Aransas County Sheriff's Office and charged with Possession of a Controlled Substance by Fraud, Schedule III/IV, a third degree Felony.
- On October 14, 2010 Respondent pled guilty to two (2) counts of Controlled Substance Fraud, 3rd Degree Felonies, in 36th District Court, Sinton, Texas. Respondent received a sentence of Deferred Adjudication, five (5) years court probation with fine and court cost.

7. On March 18, 2011, the Board received a notarized statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's notarized statement, dated March 15, 2011, is attached and incorporated herein by reference as part of this Order.

8. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.

9. 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)(3)&(10), Texas Occupations Code and 22 TEX. ADMIN. CODE §217.12(13).

4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.

5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.

6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC§§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 133278, heretofore issued to PAULA ANN FACKLAM, to practice vocational nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice vocational nursing, use the title of licensed vocational nurse or the abbreviation LVN or wear any insignia identifying herself as a licensed vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a licensed vocational nurse during the period in which the license is surrendered.

2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.

3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice vocational nursing in the State of Texas.

Effective this 12th day of April, 2011.

TEXAS BOARD OF NURSING

By: Katherine A. Thomas

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

To Whom It May Concern,

I am seeking a voluntary surrender of my nursing lis. # 133278 to practice vocational nursing in the state of Texas. I have a TPAPN order from the Board of Nursing dated 5/13/2010. I do not intend to continue TPAPN at this time and choose to surrender my lis. at this time. I do not wish to be penalized a second time by the Board of Nursing for the same offence, I am currently on TPAPN for. I understand that I may petition the board for reinstatement with stipulations after 1year.

State of Texas County of Nueces
Subscribed and sworn before me on 3/15/2011 (Date)

(Notary Signature)

Paula Jacklam

JAMES PAUL STONE
MY COMMISSION EXPIRES
March 16, 2011

BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Vocational Nurse	§	AGREED
License Number 133278	§	
issued to PAULA ANN FACKLAM	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of PAULA ANN FACKLAM, Vocational Nurse License Number 133278, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9),(10)&(12), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on April 8, 2010, by Katherine A. Thomas, MN, RN, Executive Director.

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.

2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

3. Respondent is currently licensed to practice vocational nursing in the State of Texas.

4. Respondent received a Certificate in Vocational Nursing from Flint Hills Area Vocational/Technical School, Emporia, Kansas on December 6, 1990. Respondent was licensed to practice vocational nursing in the State of Texas on September 24, 1991.

5. Respondent's complete vocational nursing employment history is unknown.

6. At the time of the incident described in Findings of Fact Numbers Seven (7), Eight (8), Nine (9)and Ten (10), Respondent was employed as a Staff LVN with Gulf Pointe Plaza, Rockport, Texas, and had been in this position for two (2) months.

7. On or about December 15, 2009, while employed as a Licensed Vocational Nurse with Gulf Pointe Plaza, Rockport, Texas, Respondent misappropriated Alprazolam, Ambien and Temazepan from patients' M.R. and G.G. and from the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

8. On or about December 15, 2009, while employed as a Licensed Vocational Nurse with Gulf Pointe Plaza, Rockport, Texas, Respondent lacked fitness to practice professional nursing, in that she was observed staggering, slightly swaying, had a blank stare and had slurred speech. Furthermore, Respondent lost consciousness several times and eventually stopped breathing, requiring intervention by EMS to resuscitate her and administer Narcan. Once resuscitated, Respondent became combative and angry and refused transport to the emergency room. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

9. On or about December 15, 2009, while employed as a Licensed Vocational Nurse with Gulf Pointe Plaza, Rockport, Texas, Texas, Respondent engaged in the intemperate use of Alprazolam, Ambien and Temazepan in that Respondent produced a specimen for a drug screen which resulted positive for Alprazolam, Ambien and Temazepan and was unable to produce a verified prescription. Possession of Alprazolam, Ambien and Temazepan is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Alprazolam, Ambien and Temazepan by a Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

10. On or about December 15, 2009, while employed as a Licensed Vocational Nurse with Gulf Pointe Plaza, Rockport, Texas, Texas, Respondent admitted that she misappropriated Alprazolam, Ambien and Temazepan for her own personal use from the facility and the patients thereof. Respondent's conduct defrauded the patients and the facility of the cost of the medications.

11. In response to Findings of Fact Numbers Seven (7) through Ten (10), Respondent states they are all true and request assistance from the TPAPN program.

12. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.

13. 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.

14. Respondent's conduct described in Findings of Fact Numbers Seven (7) through Ten (10), resulted from Respondent's impairment by dependency on chemicals.

15. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.

2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violations of Section 301.452(b)(9),(10)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5),(8),(10)(A),(D)&(11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 133278, heretofore issued to PAULA ANN FACKLAM, including revocation of Respondent's license to practice nursing in the State of Texas.

5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars ($350.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her license to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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 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 is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure 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, SHOULD RESPONDENT fail to comply with this

Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

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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 violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, 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 to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 10 day of May, 2010.

Paula Facklam

PAULA ANN FACKLAM, Respondent

Sworn to and subscribed before me this 10 day of May, 2010.

SEAL
DIANA E. LEAL
Notary Public
STATE OF TEXAS
My Comm. Exp. Oct. 31, 2011

Diana E. Leal

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 accept and enter the Agreed Order that was signed on the 10th day of May, 2010, by PAULA ANN FACKLAM, Vocational Nurse License Number 133278, and said Order is final.

Entered and effective this 13th day of May, 2010.

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

BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Vocational Nurse	§
License Number 133278	§
issued to PAULA ANN FACKLAM	§

ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 133278, issued to PAULA ANN FACKLAM, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent is currently licensed to practice vocational nursing in the State of Texas.

2. Respondent waived representation by counsel, informal proceedings, notice and hearing.

3. Respondent received a Certificate in Vocational Nursing from Flint Hills Area Vocational/Technical School, Emporia, Kansas on December 6, 1990. Respondent was licensed to practice vocational nursing in the State of Texas on September 24, 1991.

4. Respondent's complete vocational nursing employment history is unknown.

5. On or about May 13, 2010, Respondent was issued an Agreed Order by the Texas Board of Nursing requiring her to participate in the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Findings of Fact, Conclusions of Law and Agreed Order dated May 13, 2010 is attached and incorporated herein, by reference, as part of this Order.

6. On February 10, 2011, Respondent was provided notice by the Texas Board of Nursing for the following:

- On or about July 24, 2010, while holding a license as a Licensed Vocational Nurse in the State of Texas, Respondent was arrested by the Aransas County Sheriff's Office and charged with Possession of a Controlled Substance by Fraud, Schedule III/IV, a third degree Felony.
- On October 14, 2010 Respondent pled guilty to two (2) counts of Controlled Substance Fraud, 3rd Degree Felonies, in 36th District Court, Sinton, Texas. Respondent received a sentence of Deferred Adjudication, five (5) years court probation with fine and court cost.

7. On March 18, 2011, the Board received a notarized statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's notarized statement, dated March 15, 2011, is attached and incorporated herein by reference as part of this Order.

8. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.

9. 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)(3)&(10), Texas Occupations Code and 22 TEX. ADMIN. CODE §217.12(13).

4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.

5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.

6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC§§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 133278, heretofore issued to PAULA ANN FACKLAM, to practice vocational nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

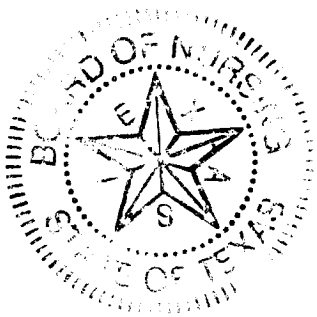
1. RESPONDENT SHALL NOT practice vocational nursing, use the title of licensed vocational nurse or the abbreviation LVN or wear any insignia identifying herself as a licensed vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a licensed vocational nurse during the period in which the license is surrendered.

2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.

3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice vocational nursing in the State of Texas.

Effective this12th day of March, 2011.



TEXAS BOARD OF NURSING

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

To Whom It May Concern,

I am seeking a voluntary surrender of my nursing lis. # 133278 to practice vocational nursing in the state of Texas. I have a TPAPN order from the Board of Nursing dated 5/13/2010. I do not intend to continue TPAPN at this time and choose to surrender my lis. at this time. I do not wish to be penalized a second time by the Board of Nursing for the same offence, I am currently on TPAPN for. I understand that I may petition the board for reinstatement with stipulations after 1year.

State of Texas County of Nueces
Subscribed and sworn before me on 3/15/2011 (Date)
JP Stone
(Notary Signature)

Paula Jacblam

JAMES PAUL STONE
MY COMMISSION EXPIRES
March 16, 2011

BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Vocational Nurse	§	AGREED
License Number 133278	§	
issued to PAULA ANN FACKLAM	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of PAULA ANN FACKLAM, Vocational Nurse License Number 133278, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9),(10)&(12), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on April 8, 2010, by Katherine A. Thomas, MN, RN, Executive Director.

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.

2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

3. Respondent is currently licensed to practice vocational nursing in the State of Texas.

4. Respondent received a Certificate in Vocational Nursing from Flint Hills Area Vocational/Technical School, Emporia, Kansas on December 6, 1990. Respondent was licensed to practice vocational nursing in the State of Texas on September 24, 1991.

5. Respondent's complete vocational nursing employment history is unknown.

6. At the time of the incident described in Findings of Fact Numbers Seven (7), Eight (8), Nine (9)and Ten (10), Respondent was employed as a Staff LVN with Gulf Pointe Plaza, Rockport, Texas, and had been in this position for two (2) months.

7. On or about December 15, 2009, while employed as a Licensed Vocational Nurse with Gulf Pointe Plaza, Rockport, Texas, Respondent misappropriated Alprazolam, Ambien and Temazepan from patients' M.R. and G.G. and from the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

8. On or about December 15, 2009, while employed as a Licensed Vocational Nurse with Gulf Pointe Plaza, Rockport, Texas, Respondent lacked fitness to practice professional nursing, in that she was observed staggering, slightly swaying, had a blank stare and had slurred speech. Furthermore, Respondent lost consciousness several times and eventually stopped breathing, requiring intervention by EMS to resuscitate her and administer Narcan. Once resuscitated, Respondent became combative and angry and refused transport to the emergency room. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

9. On or about December 15, 2009, while employed as a Licensed Vocational Nurse with Gulf Pointe Plaza, Rockport, Texas, Texas, Respondent engaged in the intemperate use of Alprazolam, Ambien and Temazepan in that Respondent produced a specimen for a drug screen which resulted positive for Alprazolam, Ambien and Temazepan and was unable to produce a verified prescription. Possession of Alprazolam, Ambien and Temazepan is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Alprazolam, Ambien and Temazepan by a Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

10. On or about December 15, 2009, while employed as a Licensed Vocational Nurse with Gulf Pointe Plaza, Rockport, Texas, Texas, Respondent admitted that she misappropriated Alprazolam, Ambien and Temazepan for her own personal use from the facility and the patients thereof. Respondent's conduct defrauded the patients and the facility of the cost of the medications.

11. In response to Findings of Fact Numbers Seven (7) through Ten (10), Respondent states they are all true and request assistance from the TPAPN program.

12. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.

13. 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.

14. Respondent's conduct described in Findings of Fact Numbers Seven (7) through Ten (10), resulted from Respondent's impairment by dependency on chemicals.

15. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.

2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violations of Section 301.452(b)(9),(10)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5),(8),(10)(A),(D)&(11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 133278, heretofore issued to PAULA ANN FACKLAM, including revocation of Respondent's license to practice nursing in the State of Texas.

5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars ($350.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her license to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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 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 is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure 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, SHOULD RESPONDENT fail to comply with this

Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

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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 violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, 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 to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 10 day of May, 2010.

Paula Facklam

PAULA ANN FACKLAM, Respondent

Sworn to and subscribed before me this 10 day of May, 2010.

SEAL
DIANA E. LEAL
Notary Public
STATE OF TEXAS
My Comm. Exp. Oct. 31, 2011

Diana E. Leal

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 accept and enter the Agreed Order that was signed on the 10th day of May, 2010, by PAULA ANN FACKLAM, Vocational Nurse License Number 133278, and said Order is final.

Entered and effective this 13th day of May, 2010.

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