

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 642604
ISSUED TO
ANN MARTIN

§
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§
§
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§
§

BEFORE THE ELIGIBILITY
AND DISCIPLINARY
COMMITTEE
OF THE 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.
Patricia R. Thomas
Executive Director of the Board

ORDER OF THE BOARD

TO: Ann Martin
3529 Harrison Avenue
El Paso, Texas 79930

During open meeting held in Austin, Texas, on Tuesday, November 9, 2010, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case. This case was heard, and based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee of the Texas Board of Nursing finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, chapter 301 of the Texas Occupations Code, for retention of Respondent's license to practice professional nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Eligibility and Disciplinary Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing (22 TEX. ADMIN.CODE § 213.2(j)). All parties have a right to judicial review of this Order.

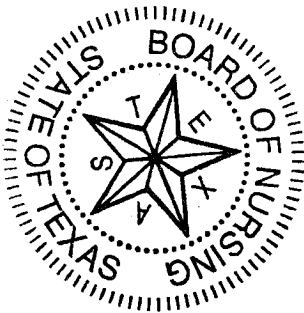
All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 642604, previously issued to ANN MARTIN, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 642604, previously issued to ANN MARTIN, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privilege, if any, to practice professional nursing in the State of Texas.

Entered this 9th day of November, 2010.



TEXAS BOARD OF NURSING

BY:

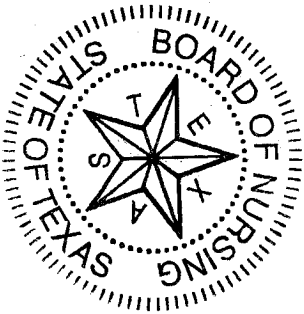
A handwritten signature in black ink, appearing to read 'Katherine A. Thomas', is written over a horizontal line.

KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of November, 20 10, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

Ann Martin
3529 Harrison Avenue
El Paso, Texas 79930



BY:

Katherine A. Thomas

KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of Permanent License § BEFORE THE TEXAS
Number 642604, Issued to §
ANN MARTIN, Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, ANN MARTIN, is a Registered Nurse holding license number 642604, which is in delinquent status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about January 11, 2006, Respondent's license to practice professional nursing in the State of Washington was placed on Probation by the State of Washington, Department of Health, Nursing Care Quality Assurance Commission, Olympia, Washington. A copy of the Stipulated Findings of Fact, Conclusions of Law and Agreed Order issued by the State of Washington, Department of Health, Nursing Care Quality Assurance Commission, Olympia, Washington on January 11, 2006 is attached and incorporated, by reference, as a part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8), Texas Occupations Code.

CHARGE II.

On or about February 15, 2006, Respondent was denied a license to practice professional nursing in the State of Mississippi by the Mississippi Board of Nursing, Jackson, Mississippi. A copy of the Denial Letter from the Mississippi Board of Nursing, Jackson, Mississippi, dated February 15, 2006 is attached and incorporated, by reference, as a part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8), Texas Occupations Code.

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CHARGE III.

On or about March 7, 2007, Respondent's license to practice professional nursing in the State of Washington was Suspended by the State of Washington, Department of Health, Nursing Care Quality Assurance Commission, Olympia, Washington. A copy of the Findings of Fact, Conclusions of Law and Order of Non-Compliance issued by the State of Washington, Department of Health, Nursing Care Quality Assurance Commission, Olympia, Washington on March 7, 2007 is attached and incorporated, by reference, as a part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8), Texas Occupations Code.

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to § 301.461, TEX. OCC. CODE ANN. The cost of proceedings shall include, but is not limited to, the cost paid by the board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, which can be found at the Board's website, www.bon.state.tx.us.

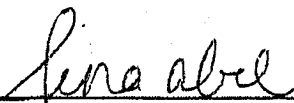
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NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Orders which are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order issued by the State of Washington, Department of Health, Nursing Care Quality Assurance Commission, dated January 11, 2006; Denial Letter from the Mississippi Board of Nursing, dated February 15, 2006; and Order of Non-Compliance issued by the State of Washington, Department of Health, Nursing Care Quality Assurance Commission, dated March 7, 2007.

Filed this 17th day of August, 2009.

TEXAS BOARD OF NURSING


James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Renee Koslan Abel, Assistant General Counsel
State Bar No. 24036103

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

John F. Legris, Assistant General Counsel
State Bar No. 00785533

TEXAS BOARD OF NURSING
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6824
F: (512) 305-8101 or (512)305-7401

Attachments: Agreed Order issued by the State of Washington, Department of Health, Nursing Care Quality Assurance Commission, dated January 11, 2006;
Denial Letter from the Mississippi Board of Nursing, dated February 15, 2006; and
Order of Non-Compliance issued by the State of Washington, Department of Health, Nursing Care Quality Assurance Commission, dated March 7, 2007.

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STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE COMMISSION

| | | |
|---|---|------------------------------|
| In the Matter of the License to Practice as a Registered Nurse of: |) | Docket No. 05-10-A-1013RN |
| |) | |
| ANN MARTIN, RN, |) | STIPULATED FINDINGS OF FACT, |
| Credential No. RN00154468 |) | CONCLUSIONS OF LAW AND |
| |) | AGREED ORDER |
| <u>Respondent.</u> |) | |

The Nursing Care Quality Assurance Commission (Commission), by and through Trent Kelly, Department of Health Staff Attorney and Ann Martin, RN, represented by counsel, if any, stipulate and agree to the following:

Section 1: PROCEDURAL STIPULATIONS

- 1.1 Ann Martin, RN Respondent, was issued a license to practice as a registered nurse by the state of Washington in May 2004. Respondent's license will expire on May 23, 2006, unless renewed.
- 1.2 On December 19, 2005, the Commission issued a Statement of Charges against Respondent.
- 1.3 The Statement of Charges alleges that Respondent violated RCW 18.130.180(1), (4), (6), (7) & (23(b) and/or WAC 246-840-710(5)(a)(b).
- 1.4 Respondent understands that the State is prepared to proceed to a hearing on the allegations in the Statement of Charges.
- 1.5 Respondent understands that she has the right to defend herself against the allegations in the Statement of Charges by presenting evidence at a hearing.
- 1.6 Respondent understands that, should the State prove at a hearing the allegations in the Statement of Charges, the Commission has the power and authority to impose sanctions pursuant to RCW 18.130.160.
- 1.7 Respondent and the Commission agree to expedite the resolution of this matter by means of this Stipulated Finding of Fact, Conclusions of Law, and Agreed Order (Agreed Order).

1.8 Respondent waives the opportunity for a hearing on the Statement of Charges contingent upon signature and acceptance of this Agreed Order by the Commission.

1.9 This Agreed Order is not binding unless and until it is signed and accepted by the Commission.

1.10 Should this Agreed Order be signed and accepted it will be subject to the reporting requirements of RCW 18.130.110, Section 1128E of the Social Security Act and 45 CFR Part 61, and any other applicable interstate / national reporting requirements.

1.11 Should this Agreed Order be rejected, Respondent waives any objection to the participation at hearing of all or some of the Commission members who heard the Agreed Order presentation.

Section 2: STIPULATED FACTS

The State and Respondent stipulate to the following facts:

2.1 Ann Martin, RN Respondent, was issued a license to practice as a registered nurse by the state of Washington in May 2004. Respondent's license will expire on May 23, 2006, unless renewed.

2.2 In or about February 2005, while employed as an agency nurse at Swedish Medical Center – Providence Campus (facility) at Seattle, Washington, Respondent diverted controlled substances to include Dilaudid, Morphine, and Demerol, from facility supply for her own non-therapeutic use. Respondent did so by diverting these narcotics from a Pyxis drug dispensing system and tampering with the medications by substituting active drug with water.

2.3 On or about February 12-13, 2005, while working the night shift at the above facility, Respondent was away from the facility on break for over an hour and upon her return was observed by staff to be impaired. Respondent appeared disoriented and confused, was unable to perform simple nursing tasks and fell asleep at one point while typing patient discharge instructions. Respondent was asked by facility staff to submit to a "for cause" drug screen test and tested positive for Meperidine, Morphine, and Hydromorphone.

2.4 Respondent refused a cab ride home offered by the facility after testing positive on the above date and fled in her car. Respondent subsequently drove recklessly and under the influence.

2.5 On or about April 30, 2005, while employed as an agency nurse at Regency of Tacoma (facility) at Tacoma, Washington, Respondent diverted controlled substances to include Ativan, from facility supply for her own non-therapeutic use. Respondent did so by removing at least two 2mg/ml vials from the facility medication refrigerator and tampering with the medications by substituting active drug with water.

2.6 During her April 30, 2005, shift Respondent was observed by facility staff and the relatives of a patient to be impaired. Respondent was unable to speak in complete sentences, make eye contact or stand still and she asked inappropriate questions regarding simple nursing techniques. Facility staff also observed Respondent's unexplained absences during this shift and several patients complained of not receiving their medications. When confronted by staff regarding the missing Ativan vials, Respondent produced several empty vials and was unable to explain her possession of these empty vials.

2.7 Driving home from her April 30, 2005, shift at Regency of Tacoma, Respondent drove under the influence and was involved in a traffic collision.

Section 3: CONCLUSIONS OF LAW

The State and Respondent agree to the entry of the following Conclusions of Law:

3.1 The Commission has jurisdiction over Respondent and over the subject matter of this proceeding.

3.2 The above facts constitute unprofessional conduct in violation of RCW 18.130.180(1), (4), (6), (7) & (23(b) and/or WAC 246-840-710(5)(a)(b).

3.3 The above violations are grounds for the imposition of sanctions under RCW 18.130.160.

Section 4: AGREED ORDER

Based on the preceding Stipulated Facts and Conclusions of Law, Respondent agrees to entry of the following Agreed Order:

4.1 Respondent's license to practice as a registered nurse in the state of Washington shall be placed on PROBATION commencing on the date of entry of this Agreed Order. During the course of probation, Respondent shall follow all of the following terms and conditions.

4.2 Within ten (10) days from the date of entry of this Agreed Order. Respondent shall enter the Washington Health Professional Services (WHPS) program. Respondent shall sign a release that allows the WHPS program to provide the Commission monitoring records and/or reports pertaining to her participation in and compliance with the program. Failure to comply with any aspect of the WHPS monitoring program shall be a violation of this Agreed Order and may result in the Commission taking further disciplinary action against Respondent's license.

4.3 Respondent shall present both portions of her license to the Commission to be stamped "probation" within ten (10) days of receipt of this Agreed Order. Respondent shall also ensure that all subsequent licenses received during the term of this Agreed Order are stamped "probation" and shall immediately return any license to the Commission that is not stamped "probation".

4.4 Respondent may submit a written request for reinstatement of her license upon successful completion of the WHPS program. Respondent must at that time be prepared to provide proof of satisfactory compliance with the terms and conditions imposed in this Agreed Order. Respondent must personally appear before the Commission at any such hearing, however, at the discretion of a Reviewing Commission Member, Respondent's license may be reinstated without a hearing. Upon notice and an opportunity for Respondent to be heard, the Commission may impose additional conditions after reviewing the documents submitted and reviewing Respondent's compliance with this Agreed Order.

4.5 Respondent shall obey all federal, state and local laws and all administrative rules governing the practice of the profession in Washington.

4.6 Respondent shall assume all costs of complying with this Agreed Order.

4.7 Respondent shall inform the Commission and the Adjudicative Service Unit in writing, of changes in her residential and / or business address within thirty (30) days of such change.

Section 5: FAILURE TO COMPLY

Protection of the public requires practice under the terms and conditions imposed in this order. Failure to comply with the terms and conditions of this order may result in suspension of the credential after a show cause hearing. If Respondent fails to comply with the terms and conditions of this order, the Commission may hold a hearing to require Respondent to show cause why the credential should not be suspended. Alternatively, the Commission may bring additional charges of unprofessional conduct under RCW 18.130.180(9). In either case, Respondent will be afforded notice and an opportunity for a hearing on the issue of non-compliance.

Section 6 ACKNOWLEDGMENT

I, Ann Martin, RN, Respondent, certify that I have read this Stipulated Findings of Fact, Conclusions of Law and Agreed Order in its entirety; that my counsel of record, if any, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Commission without my appearance. If the Commission accepts the Stipulated Findings of Fact, Conclusions of Law and Agreed Order, I understand that I will receive a signed copy.

Ann Martin
Ann Martin, RN
Respondent

1/5/06
Date

—
Attorney for Respondent, WSBA#

~
Date

Section 7: ORDER

The Commission accepts and enters this Stipulated Findings of Fact, Conclusions of Law and Agreed Order.

DATED this 11 day of January, 2006.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE
QUALITY ASSURANCE COMMISSION

Marianne Williams
Panel Chair

Presented by:

[Signature]
Trent Kelly, WSBA #16123
Department of Health Staff Attorney

12 JAN 06
Date

INTERNAL TRACKING NUMBERS:

Program No. 2005-03-0007RN and 2005-06-0056RN

MISSISSIPPI BOARD OF NURSING

1935 Lakeland Drive, Suite B
Jackson, MS 39216-5014
Telephone: (601) 987-4188
Fax: (601) 364-2352



February 15, 2006

Ann Martin
5332 Pierce Avenue
Fort Lewis, WA 98433

RE: Application for Registered Nurse Endorsement

Dear Ms. Martin:

Following careful review of your application for endorsement as a registered nurse in Mississippi, and of other documentation including but not limited to information from the Washington Department of Health Nursing Care Quality Assurance Commission, it has been determined that your application will be **ADMINISTRATIVELY DENIED** at this time.

This Administrative Denial is based on Mississippi Code Ann. Section 73-15-29 (1) which grants the board authority to deny an application for a license if the individual:

- (c) Has negligently or willfully acted in a manner inconsistent with the health or safety of the persons under the licensee's care;
- (d) Has had a license or privilege to practice as a registered nurse or a licensed practical nurse suspended or revoked in any jurisdiction, has voluntarily surrendered such license or privilege to practice in any jurisdiction, has been placed on probation as a registered nurse or licensed practical nurse in any jurisdiction or has been placed under a disciplinary order(s) in any manner as a registered nurse or licensed practical nurse in any jurisdiction, (a certified copy of the order of suspension, revocation, probation or disciplinary action shall be prima facie evidence of such action);
- (h) Is addicted to or dependent on alcohol or other habit-forming drugs or is a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effect, or has misappropriated any medication;
- (l) Engages in any unprofessional conduct as identified by the board in its rules.

Specifically, on January 5, 2006, you signed an Agreed Order with the Washington Department of Health Nursing Care Quality Assurance Commission which placed you on probation with the State of Washington until you successfully complete the Washington Health Professional

Services Program. You signed the Agreed Order after the Washington Department of Health Nursing Care Quality Assurance Commission filed the following charges against you:

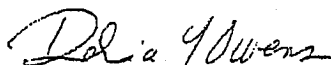
1. In or about February 2005, you diverted controlled substances, including Dilaudid, Morphine, and Demerol, for your own non-therapeutic use while employed as an agency nurse at the Swedish Medical Center in Seattle, Washington.
2. On or about February 12-13, 2005, at the same facility, you were away from the facility on break for over an hour and upon your return were observed by staff to be impaired. You appeared to be disoriented and confused, were unable to perform simple nursing tasks and feel asleep at one point. You submitted to a "for cause" drug screen test and tested positive for Meperidine, Morphine, and Hydromorphone. You refused a cab ride home by the facility, fled in your car, and subsequently, you drove recklessly and under the influence.
3. On or about April 30, 2005, while employed as an agency nurse at Regency of Tacoma, you diverted controlled substances including Ativan for your own non-therapeutic use. You did so by tampering with the medications by substituting the active drug with water.
4. During this same shift, you were observed by facility staff and the relatives of patients to be impaired. You were unable to speak in complete sentences, make eye contact or stand still and you asked inappropriate questions regarding simple nursing techniques. Facility staff also observed your unexplained absences during this shift and several patients complained of not receiving their medication. When confronted by staff regarding the missing Ativan vials, you produced several empty vials and were unable to explain your possession of these.
5. While driving home from Regency of Tacoma on April 30, 2005, you drove under the influence and were involved in a traffic collision.

Further, a clinical evaluation at the Madigan Army Medical Center, Army Substance Abuse Program, completed on May 17, 2005, assessed you "as being opioid dependent" and recommended that you follow a treatment plan.

This Administrative Denial of Licensure is an official board disciplinary action, is public information, is reportable to all federal entities which require such reporting, and is reportable to anyone requesting such information. If you wish to appeal this action to the Board of Nursing, you must notify the board in writing within 30 days of this date.

Sincerely,

FOR THE MISSISSIPPI BOARD OF NURSING


Delia Y. Owens, JD, RN
Executive Director

DYO:nh

SUMMARY OF PROCEEDING

The following witnesses testified: Ann Martin, the Respondent, was called as a witness for the Department and testified on her own behalf.

The following Department exhibits were admitted:

- Exhibit D-1: Declaration of Adena Nolet for non-compliance and attached documents.
- Exhibit D-2: Declaration of Laurie McVay.
- Exhibit D-3: Declaration of Amanda Capehart.
- Exhibit D-4: Copy of the January 11, 2006 Stipulated Findings of Fact, Conclusions of Law and Agreed Order.

The following Respondent exhibits were admitted:

- Exhibit R-1: Letter from the Respondent to Adena Nolet.
- Exhibit R-2: Letter from Jolee N. Darnell to Jeannette Merod, dated July 7, 2006.
- Exhibit R-3: Letter from Ann Martin to Washington State Board of Nursing, dated February 26, 2007.

Based upon the evidence presented, the Presiding Officer enters the following:

I. FINDINGS OF FACT

1.1 The Respondent was issued a credential to practice as a registered nurse in the state of Washington in May 2004.

1.2 On January 11, 2006, the Commission issued a Stipulated Findings of Fact, Conclusions of Law and Agreed Order (January 11, 2006 Agreed Order) in this matter directing the Respondent to re-enter the Washington Health Professional Services (WHPS) Program and sign a release that allows the WHPS program to provide

the Commission monitoring records and/or reports pertaining to her participation in compliance with the program. The January 11, 2006 Agreed Order included a notice that if the Respondent failed to comply with any aspect of the WHPS monitoring program it would be a violation of the January 11, 2006 Agreed Order and may result in the Commission taking further disciplinary action against the Respondent's license.

1.3 The Respondent's credential is subject to compliance with the conditions identified in the January 11, 2006 Agreed Order.

1.4 The Respondent failed to comply with the terms of the January 11, 2006 Agreed Order by failing to test with the National Confederation of Professional Services on June 28, 2006, and failed to assume all costs of complying with the January 11, 2006 Agreed Order. The Department moved for a hearing on non-compliance requesting the stay be lifted and the suspension be imposed. The Department provided a declaration with attached exhibits from the Department's compliance officer. On February 26, 2007, the Respondent submitted a responsive pleading requesting the denial of the Department's motion.

1.5 The Presiding Officer convened a hearing on motion on February 28, 2007, and considered the testimony and exhibits presented.

1.6 The January 11, 2006 Agreed Order required the Respondent to re-enter the Washington Health Professional Services (WHPS) program, follow all aspects of the WHPS monitoring program, and to assume all costs of complying with the January 11, 2006 Agreed Order designed to protect the public. RCW 18.130.160.

1.7 Based on the evidence presented, the Respondent failed to re-enter the WHPS program, failed to sign a release allowing WHPS to provide the Commission monitoring records and/or reports pertaining to her participation and compliance with the program, and failed to assume all costs of complying with the Agreed Order as required in order to comply with the terms of Paragraphs 4.2 and 4.6 of the January 11, 2006 Agreed Order..

II. CONCLUSIONS OF LAW

2.1 The Commission (and by designated authority, the Presiding Officer) has continuing jurisdiction over the Respondent to ensure compliance with the terms of the order dated January 11, 2006. The Presiding Officer has jurisdiction over the subject matter of this proceeding, pursuant to chapter 18.130.095(3).

2.2 The Respondent has been credentialed to practice as a registered nurse in the state of Washington at all times material to the proceeding, subject to the terms and conditions of the January 11, 2006 Agreed Order.

2.3 The Washington Supreme Court held that the constitutional standard of proof in a professional disciplinary hearing is clear and convincing evidence.

Ongom v. Dept. of Health, No. 76618-5, slip op. (Wash. Dec. 14, 2006).

2.4 The Findings of Fact demonstrate that the Respondent failed to comply with the terms of the order dated January 11, 2006. The Respondent has not established good cause for that failure. As a result, the stay of suspension should be lifted and the suspension imposed.

III. ORDER

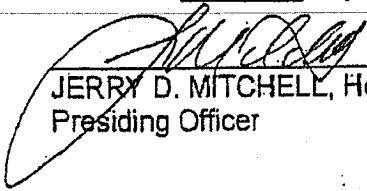
3.1 Based on the foregoing Findings of Fact and Conclusions of Law, the Respondent's credential to practice as a registered nurse is **SUSPENDED**.

3.2 Prior to petitioning for modification and/or reinstatement of her license, the Respondent must provide satisfactory evidence of being clean and sober for at least twenty-four (24) consecutive months immediately preceeding any such petition.

Evidence of being clean and sober shall include but is not limited to *observed* biological fluid testing, completion of chemical dependency treatment, participation in professional peer support groups and NA/AA, and a recent (within 90 days) chemical dependency evaluation by a commission approved evaluator. The evaluation shall include:

- A. The Respondent's condition or diagnosis;
- B. Conclusions and prognosis;
- C. Recommendations regarding the need for ongoing care and treatment;
- D. Professional opinion regarding the Respondent's ability to practice nursing with reasonable skill and safety.

Dated this 7th day of March, 2007.


JERRY D. MITCHELL, Health Law Judge
Presiding Officer

FOR INTERNAL USE ONLY: (Internal tracking numbers)
Program Nos. 2005-03-0007 & 2005-06-0056

NOTICE TO PARTIES

This order is subject to the reporting requirements of RCW 18.130.110, Section 1128E of the Social Security Act, and any other applicable interstate/national reporting requirements. If adverse action is taken, it must be reported to the Healthcare Integrity Protection Data Bank.

Either Party may file a **petition for reconsideration**. RCW 34.05.461(3); 34.05.470. The petition must be filed within 10 days of service of this Order with:

Adjudicative Service Unit
PO Box 47879
Olympia, WA 98504-7879

and a copy must be sent to:

Nursing Care Quality Assurance Commission
PO Box 47864
Olympia, WA 98504-7864

The request must state the specific grounds upon which reconsideration is requested and the relief requested. The petition for reconsideration is considered denied 20 days after the petition is filed if the Adjudicative Service Unit has not responded to the petition or served written notice of the date by which action will be taken on the petition.

A **petition for judicial review** must be filed and served within 30 days after service of this order. RCW 34.05.542. The procedures are identified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, however, the 30-day period will begin to run upon the resolution of that petition. RCW 34.05.470(3).

The order remains in effect even if a petition for reconsideration or petition for review is filed. "Filing" means actual receipt of the document by the Adjudicative Service Unit. RCW 34.05.010(6). This Order was "served" upon you on the day it was deposited in the United States mail. RCW 34.05.010(19).