BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse	§	AGREED
License Number 703439	§	
issued to JUSTIN LYNN SANDERS	§	ORDER

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

On this day the Texas Board of Nursing, hereinafter referred to as the Bo considered the matter of JUSTIN LYNN SANDERS, Registered Nurse License Number 703439, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9)&(10) Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on January 5, 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 professional nursing in the State of Texas.

4. Respondent received an Associate Degree from Amarillo College, Amarillo, Texas, on December 11, 2003. Respondent was licensed to practice professional nursing in the State of Texas on February 24, 2004.

5. Respondent's professional nursing employment history includes:

2001 - 2004	RN Nurse	Amarillo Northwest Texas Hospital Amarillo, Texas

Respondent's professional nursing employment history continued:

2004 - 2005	RN Nurse	Heart Hospital of Northwest Texas Amarillo, Texas
2005	RN Nurse	Nurse Finders Unknown
02/06 - 10/06	RN Nurse	Mi Casita Care Center Unknown
11/06 - 03/08	Unknown	
04/08- Present	RN Nurse	Tyson Foods, Inc. Amarillo, Texas

6. At the time of the conduct described in Findings of Fact Numbers Seven (7) and Eight (8), Respondent was employed as a Registered Nurse with the Heart Hospital of Northwest Texas, Amarillo, Texas, and had been in this position for seven (7) months .

7. On or about September 2004, through January 2005, while employed as a Registered Nurse with The Heart Hospital of Northwest Texas, Amarillo, Texas, Respondent misappropriated Hydrocodone belonging to the facility and patients thereof. Respondent admitted to misappropriating Hydrocodone by using the computer medication dispensing system at the facility. Also, Respondent admitted to being overly dependent on Hydrocodone, and subsequently addicted to Hydrocodone. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications. Possession of Hydrocodone is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act).

8. On or about September 2004, through January 2005, while employed as a Registered Nurse with The Heart Hospital of Northwest Texas, Amarillo, Texas, Respondent engaged in the intemperate use of Hydrocodone in that Respondent admitted to the misappropriation due to being dependent and subsequently addicted to Hydrocodone. Possession of Hydrocodone is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Hydrocodone by a Registered 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.

9. On or about August 12, 2005, Respondent entered a plea of Guilty to a LESSER INCLUDED OFFENSE OF THEFT (a Class A misdemeanor offense), entered in the 181st District Court of Potter County, Texas, under Cause No. 50,505-B. As a result of the Guilty plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay a fine and court costs.

10. On or about August 2, 2005, while participating in the Texas Peer Assistance Program for Nurses (TPAPN) Respondent engaged in the intemperate use of Tramadol in that Respondent produced a specimen for a random drug screen which resulted positive for Tramadol. Possession of Tramadol is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Tramadol by a Registered 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.

11. On or about September 6, 2006, while participating in TPAPN, Respondent engaged in the intemperate use of Alcohol in that Respondent produced a specimen for a random drug screen which resulted positive for Alcohol. The use of Alcohol by a Registered 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.

12. At the time of the incident in Findings of Fact Numbers Thirteen (13) and Fourteen (14), Respondent was employed as a Registered Nurse with Tyson Fresh Meats, Amarillo, Texas, and had been in this position for one (1) year.

13. On or about April 16, 2009, while employed as a Registered Nurse with Tyson Fresh Meats, Amarillo, Texas, Respondent lacked fitness to practice professional nursing in that he smelled of Alcohol while on duty. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

14. On or about April 16, 2009, while employed as a Registered Nurse with Tyson Fresh Meats, Amarillo, Texas, Respondent engaged in the intemperate use of Alcohol in that he provided a sample for a screening which resulted positive for Alcohol and over the legal limit for blood alcohol level. The use of Alcohol by a Registered 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.

15. In response to the conduct described in Finding of Fact Number Seven (7), Respondent admits to misappropriating Hydrocodone due to an addiction to pain medication developed after a knee surgery. He disagrees with Finding of Fact Number Eight (8), in that he was prescribed Hydrocodone by a physician. Respondent does not believe the validity of Findings of Fact Numbers Ten (10) and Eleven (11). He states he was mistakenly given Tramadol by a relative when he asked for an aspirin, and he unknowingly ate a meal cooked in wine sauce. Respondent contends that these mistakes resulted in the two positive tests described in the findings.

16. 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.

17. 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.

18. Formal Charges were filed on July 19, 2009.

19. Formal Charges were mailed to Respondent on July 21, 2009.

20. Respondent's conduct described in Findings of Fact Numbers Seven (7) through Fourteen (14) resulted from impairment and dependency on chemicals.

21. 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 violation of Section 301.452(b)(9)&(10) Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5),(6)(G),(8),(10)(A),(D),(11)(B)&(13).

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 703439, heretofore issued to JUSTIN LYNN SANDERS, 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):

RESPONDENT SHALL deliver the wallet-sized license issued to JUSTIN LYNN SANDERS, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order.

(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 five hundred dollars ($500.00) 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 his 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 multistate licensure 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 multistate licensure privileges, if any, to practice nursing in the State of Texas.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK.

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. 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 nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 22 day of January, 2010.

JUSTIN LYNN SANDERS, Respondent

Sworn to and subscribed before me this 22 day of January 2010.

ROBERTA OLGUIN
MY COMMISSION EXPIRES
June 12, 2012

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 22nd day of January, 2010, by JUSTIN LYNN SANDERS, Nurse License Number 703439, and said Order is final.

Entered and effective this 2nd day of February, 2010.

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