BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse	§	AGREED
License Number 733380	§	
issued to STEVEN TODD LUBKING	§	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 STEVEN TODD LUBKING, Registered Nurse License Number 733380, 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 December 10, 2009, 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 in Nursing from Northwestern State University, Shreveport, Louisiana, on December 1, 1994. Respondent was licensed to practice professional nursing in the State of Texas on September 1, 2006.

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

6. On August 18, 2006, Respondent was issued an Eligibility Agreed Order by the Board of Nurse Examiners for the State of Texas. A copy of the August 18, 2006, Agreed Order, Findings of Fact and Conclusions of Law, is attached and incorporated, by reference, as part of this Order.

7. On or about September 25, 2009, while employed as a Registered Nurse with McAllen Medical Center, McAllen, Texas, and participating in the Texas Peer Assistance Program for Nurses (TPAPN),Respondent engaged in the intemperate use of Propoxyphene, in that she submitted a specimen for a drug screen that produced a positive result for Propoxyphene. Possession of Propoxyphene is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Propoxyphene 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.

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

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.

10. Respondent's conduct described in Finding of Fact Number Seven (7) resulted from was significantly influenced by Respondent's dependency on chemicals.

11. 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(1)(A)&(B),(5),(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 Registered Nurse License Number 733380, heretofore issued to STEVEN TODD LUBKING, 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 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.

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

Signed this 6th day of January, 2010.

RN

STEVEN TODD LUBKING, Respondent

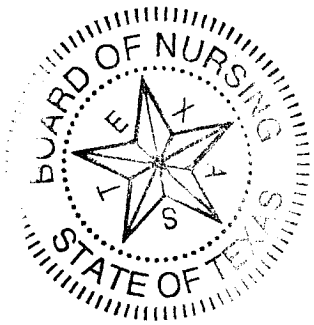
Sworn to and subscribed before me this 6th day of January, 2010.

SEAL

Notary Public in and for the State of Texas

JUDITH CASTILLO
Notary Public, State of Texas
My Commission Expires
September 26, 2010

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 6th day of January, 2010, by STEVEN TODD LUBKING, Registered Nurse License Number 733380, and said Order is final.



Entered and effective this 11th day of January, 2010.

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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS
****

In the Matter of	§	ELIGIBILITY
STEVEN TODD LUBKING	§	
APPLICANT for Eligibility for Licensure	§	AGREED ORDER

On the date entered below, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the Temporary License/Endorsement Application and supporting documents filed by STEVEN TODD LUBKING, hereinafter referred to as APPLICANT, together with any documents and information gathered by staff and APPLICANT's Certificate contained herein. Information received by the Board produced evidence that APPLICANT may have violated Section 301.452(8) *et seq.*, Texas Occupations Code.

APPLICANT waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on July 10, 2006, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about March 21, 2006, Applicant submitted a Temporary License/Endorsement Application as a professional nurse in the State of Texas in compliance with Section 301.260 *et seq.*, of the Texas Occupations Code.

2. Applicant waived representation, notice, administrative hearing, and judicial review.

3. Applicant received an Associate Degree in Nursing from Northwestern State University, Shreveport, Louisiana, in December 1994.

4. Applicant completed the application for licensure by endorsement and answered "yes" to Question Number Thirteen (13), which reads in part as follows: *"Have you been convicted, adjudged guilty by a court, pled guilty no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrest?"*

5. Applicant disclosed the following criminal history, to wit:

   A. On December 20, 1984, Applicant was charged with the felony offense of Involuntary Manslaughter in the Municipal Court of Lancaster County, Virginia. Applicant entered a plea of guilty placed on probation and has his driving privileges suspended.

   B. On September 24, 1987, Applicant was charged with the offense of Habitual Traffic Offender in the Circuit Court of the City of Virginia Beach, Virginia. Applicant entered a plea of guilty and was sentenced to two (2) years confinement, of which he served five (5) months on a work release program.

6. There is no evidence of any subsequent criminal conduct.

7. Applicant completed the application for licensure by endorsement and answered "nos" to Question Number Fifteen (15), which reads as follows: *"Has any licensing authority refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, suspended, placed on probation, refused to renew a professional license or certificate held by you now or previously, or ever fined, censured, reprimanded or otherwise disciplined you?."*

8. On March 20, 1995, Applicant was issued a Final Order by the Louisiana State Board of Nursing. A copy of the March 20, 1995, Louisiana Final Order is attached and incorporated by reference as part of this Order.

9. On or about April 20, 1995, Applicant satisfied all terms and conditions as set forth in the Final Order issued on March 20, 1995, by the Louisiana State Board of Nursing.

10. Applicant has sworn that with the exception of matters disclosed in connection with the Temporary License/Endorsement Application, his past behavior conforms to the Board's professional character requirements.

11. After considering the action taken by the Louisiana Board of Nursing along with Applicant's conduct since March 20, 1995, the Executive Director is satisfied that Applicant is able to meet the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

12. On July 10, 2006, the Executive Director considered evidence of Applicant's behavior in light of the character factors set out in 22 Texas Administrative Code §213.27 and determined that Applicant currently demonstrates the criteria required for good professional character.

13. Applicant presented sufficient evidence that she would not pose a direct threat to the health and safety of patients and the public.

14. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Applicant's disclosures.

15. Applicant has been advised by the Board that any information found to be incomplete, incorrect or misleading to the Board or a subsequent discovery of a basis of ineligibility will be considered by the Board and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through fraud or deceit.

CONCLUSIONS OF LAW

1. The Board of Nurse Examiners has jurisdiction over this matter pursuant to Section 301.453 *et seq.*, Texas Occupations Code.

2. Applicant has submitted a Temporary License/Endorsement Application in compliance with 301.260 *et seq.*, Texas Occupations Code.

3. The evidence in Findings of Fact Numbers Four (4), and Seven (7), is sufficient cause to take disciplinary action under Section 301.452 *et seq.*, Texas Occupations Code, and, therefore, sufficient cause to deny licensure.

4. The action taken by another jurisdiction is grounds for denial of a license under Section 301.452 *et seq.*, Texas Occupations Code.

5. Applicant shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452 *et seq.*, Texas Occupations Code.

6. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 Texas Administrative Code §213.27, the Board is satisfied that the individual is able to consistently conform his conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

ORDER

IT IS THEREFORE AGREED that the application of STEVEN TODD LUBKING, APPLICANT, is hereby CONDITIONALLY GRANTED and shall be subject to the following conditions:

(1) APPLICANT SHALL obtain and read the Texas Nursing Practice Act, and the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice.

(2) Upon payment of the necessary fees, APPLICANT SHALL be issued a license to practice professional nursing in the State of Texas, which shall bear the appropriate notation.

(3) Upon receiving authorization to practice professional nursing in Texas, APPLICANT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to APPLICANT's multistate licensure privilege, if any, to practice professional nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while APPLICANT's license is encumbered by this Order the APPLICANT may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas and the Board of Nursing in the party state where APPLICANT wishes to work.

(4) APPLICANT SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in Texas nursing jurisprudence. APPLICANT SHALL obtain Board approval of the course prior to enrollment only if the course is <u>not</u> 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) contact hours in length. The course's content shall include the Nursing Practice Act, standards of

practice, and documentation of care. Courses focusing on malpractice issues will not be accepted. APPLICANT 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 APPLICANT'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 on the Board's website, www.bne.state.tx.us (under BNE events).*

(5) APPLICANT SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in nursing ethics. APPLICANT 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. The course shall be a minimum of six (6) contact hours in length. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. APPLICANT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify APPLICANT's successful completion of the course. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Board approved courses may be found on the Board's website, www.bne.state.tx.us (under BNE events).*

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, APPLICANT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

APPLICANT'S CERTIFICATION

I am the Applicant in this matter. I have fully and truthfully disclosed all of my past convictions and I have caused a complete and accurate criminal history to be submitted to the Board of Nurse Examiners from each jurisdiction in which I have been convicted. I certify that my past behavior, except as disclosed in my Temporary License/Endorsement Application has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of conviction such as conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

In connection with my application, I acknowledge that I have read and I understand Sections 301.157, 301.252, 301.253, 301.260, and 301.452(b) of the Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, and Board Rules at 213.27, 213.28, and 213.29, 22 Texas Administrative Code, which are incorporated by reference as a part of this Order. I agree with all terms of this Order and any stipulations. I agree to inform the Board of any other grounds for denial of licensure prior to accepting any permit or license from the Board of Nurse Examiners.

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

I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Executive Director of the Board of Nurse Examiners enter this Order.

Signed this 8th day of August, 2006

STEVEN TODD LUBKING, APPLICANT

Sworn to and subscribed before me this 8th day of August 2006

SEAL

VERONICA DELGADO
Notary Public
STATE OF TEXAS
My Comm. Exp. 04-10-2007

Notary Public in and for the State of TEXAS

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Order of Conditional Eligibility that was signed on the 8th day of August, 2006, by STEVEN TODD LUBKING, APPLICANT, for Temporary License/Endorsement Application, and said Order is final.

Entered this 18th day of August, 2006.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

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

NEW ORLEANS, LOUISIANA

IN THE MATTER OF:		
Steven Todd Lubking	*	
3253 Lancaster Street	*	
Shreveport, LA 71108	*	**FINAL ORDER**
RESPONDENT		

The Louisiana State Board of Nursing, having set a hearing to determine whether cause exists under L.R.S. 37:911 et seq., to deny licensure to **Steven Todd Lubking** held said hearing on February 14, 1995 pursuant to applicable Louisiana laws and regulations.

A quorum of the Board was present. Sydney J. Parlongue, attorney, represented the Board. Respondent was present and was not represented by legal counsel.

Testimony and other evidence were received by the Board, and as a result thereof, the Board makes the following findings of fact and conclusion of law.

FINDINGS OF FACT

1. That in December 1994 he graduated from Northwestern State University ADN in Natchitoches, LA. On December 19, 1994, he submitted an Application for Licensure as a Registered Nurse by Examination, he requested a temporary work permit while waiting to take the NCLEX-RN, and he disclosed prior criminal convictions.
2. That on January 30, 1995, a Show Cause Order was issued by the Board and notice of hearing was sent to the individual. On February 3, 1995, a response was received from him admitting the allegations in the Show Cause Order.
3. That on February 14, 1995 at the evidentiary hearing, the Board found from documentary evidence and oral testimony a sufficient showing to substantiate the charges that he was guilty of a felony in Lancaster County, Virginia, dated December 20, 1984, when he pled guilty to Involuntary Manslaughter. On September 24, 1987, in the Circuit Court of the City of Virginia Beach, Virginia, he pled guilty to Driving a Motor Vehicle while an Habitual Offender. Additionally, on January 12, 1989, the Circuit Court of the City of Virginia Beach, Virginia found him guilty of Driving a Motor Vehicle while a Habitual Offender. He has now completed

RESPONDENT

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4. That Applicant testified that he does not drink currently; that he has abstained for approximately five (5) years; however, he did drink two (2) beers this past Christmas. He presently does not

NEW ORLEANS, LOUISIANA

IN THE MATTER OF:		
Steven Todd Lubking	*	
3253 Lancaster Street	*	
Shreveport, LA 71108	*	FINAL ORDER
RESPONDENT		

FINDINGS OF FACT (continued)

5. That his mother and wife appeared as character references in support of his application. Letters of reference were submitted in support of him from faculty members, and his employer.

CONCLUSIONS OF LAW

1. That pursuant to L.R.S. 37:911 et seq., the Louisiana State Board of Nursing has jurisdiction over this matter.

2. That the evidence presented constitutes sufficient cause pursuant to L.R.S. 37:920 to grant with stipulations the license applied for by Steven Todd Lubking to practice as a Registered Nurse in Louisiana.

ORDER

In an open meeting of the Louisiana State Board of Nursing, on February 15, 1995, the following order was rendered:

It is **ORDERED, ADJUDGED** and **DECREED** that this individual be granted approval to take the NCLEX-RN, to be issued a work permit, and to receive licensure upon successful passing of the NCLEX-RN contingent upon adherence to the following stipulations:

1. Within thirty (30) days, submit to comprehensive substance abuse evaluations by an addictionologist whose name has been submitted to the Board and subsequently approved by the Board; Shall authorize and cause a written report of the said evaluations to be submitted to the Board; Shall include the entire evaluation report including diagnosis, course of treatment, prescribed or recommended treatment, prognosis, and professional opinion as to whether student is capable of practicing nursing with reasonable skill and safety to patients.

2. If no unfavorable report, staff are authorized to grant approval for licensure.

A copy of this Final Order shall be served upon the respondent by certified mail, return receipt requested.

Entered this 20th day of March, 1995.

FINDINGS OF FACT (continued)

5. That his mother and wife appeared as character references in support of his application. Letters of reference were submitted in support of him from faculty members, and his employer.

CONCLUSIONS OF LAW

1. That pursuant to L.R.S. 37:911 et seq., the Louisiana State Board of Nursing has jurisdiction over this matter.

2. That the evidence presented constitutes sufficient cause pursuant to L.R.S. 37:920 to grant with stipulations the license applied for by Steven Todd Lubking to practice as a Registered Nurse in Louisiana.

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1. Within thirty (30) days, submit to comprehensive substance abuse evaluations by an addictionologist whose name has been submitted to the Board and subsequently approved by the Board; Shall authorize and cause a written report of the said evaluations to be submitted to the Board; Shall include the entire evaluation report including diagnosis, course of treatment, prescribed or recommended treatment, prognosis, and professional opinion as to whether student is capable of practicing nursing with reasonable skill and safety to patients.

2. If no unfavorable report, staff are authorized to grant approval for licensure.

A copy of this Final Order shall be served upon the respondent by certified mail, return receipt requested.

Entered this 20th day of March, 1995.

LOUISIANA STATE BOARD OF NURSING

Barbara L. Morvant, MN, RN
Executive Director