BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Licensed Vocational Nurse	§	AGREED
License Number 192559	§	
issued to TAMI DENISE ELVINGTON	§	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 Boai considered the matter of TAMI DENISE ELVINGTON, Vocational License Number 19255 , hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 302.402(a)(3) & (10) and Section 301.452(b)(2), (3), (9), (10), Texas Occupations Code. Respondent waived informalproceedings, notice and hearing, and agreed to the entry of this Order offered on June 12, 2009, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.

2. Respondent waived 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 North Central Texas College Vocational Nursing Program, Gainesville, Texas, on December 11, 2003. Respondent was licensed to practice vocational nursing in the State of Texas on February 13, 2004.

5. Respondent's vocational nursing employment history includes:

4/04 - 5/05	Staff LVN	Correctional Medical Services McKinney, Texas

Respondent vocational nursing employment history continued:

6/05 - 9/05	Unknown	
10/05 - 5/06	Staff LVN	Community Speciality Hospital Sherman, Texas
6/06 - 7/06	Unknown	
8/06 - 11/06	Staff LVN	Wilson N. Jones Medical Center Sherman, Texas
12/06 - present	Unknown	

6. On or about February 18, 2000, Respondent plead guilty and was convicted of THEFT PROPERTY > $20 < $500, (a class B misdemeanor offense committed on September 19, 1999), Cause No. 99-44191 in the County Court of Cooke County, Texas. As a result of the guilty plea, Respondent was placed on community supervision for one hundred and eighty (180) days.

7. On or about September 1, 2000, Respondent plead no contest and was convicted of THEFT >=$20<$500 BY CHECK, (a class b misdemeanor offense committed on May 15, 1999), CR-20000-01499-Z, in the County Criminal Court No. 4, by the Denton County, Texas. As a result of the nolo contendere plea, Respondent was placed on community supervision for one hundred eighty (180) days.

8. On or about December 21, 2000, Respondent plead guilty and was convicted of ISSUANCE OF BAD CHECK (a class C misdemeanor offense committed on July 5, 1999), Cause No. 2001-1-772 in the Grayson County Court at Law #1, Texas. As a result of the guilty plea, Respondent was ordered to pay a fine and court costs.

9. On or about October 4, 2001, Respondent plead guilty to THEFT PROPERTY > $1500 < $20,000, (a State Jail Felony Offense committed on April 5, 2000), Cause No.047068-59, in the 59th District Court of Grayson County, Texas. As a result of the guilty plea, the findings of guilt were deferred and Respondent was placed on probation for five (5) years.

10. On or about October 15, 2003, Respondent provided false and deceptive information on the Board of Vocational Nurse Examiners Application for Licensure by Examination in that she answered "no" to the following question: "***Have you ever been convicted of a misdemeanor other than a minor traffic violation?...***"

    On or about February 18, 2000, Respondent plead guilty and was convicted of THEFT PROPERTY > $20 < $500, (a class B misdemeanor offense committed on September 19, 1999), Cause No. 99-44191, in the County Court of Cooke County, Texas. As a result of the guilty plea, Respondent was placed on community supervision for one hundred and eight (180) days.

    On or about September 1, 2000, Respondent plead no contest and was convicted of THEFT >=$20<$500 BY CHECK, (a class b misdemeanor offense committed on May 15, 1999), CR-20000-01499-Z, in the County Criminal Court No. 4, by the Denton County, Texas. As a result of the nolo contendere plea, Respondent was placed on community supervision for one hundred eighty (180) days.

On or about December 21, 2000, Respondent plead guilty and was convicted of ISSUANCE OF BAD CHECK (a class C misdemeanor offense committed on July 5, 1999), Cause No. 2001-1-772 in the Grayson County Court at Law #1, Texas. As a result of the guilty plea, Respondent was ordered to pay a fine and court costs.

On or about October 4, 2001, Respondent plead guilty to THEFT PROPERTY > $1500 < $20,000, (a State Jail Felony Offense committed on April 5, 2000), Cause No.047068-59, in the 59th District Court of Grayson County, Texas. As a result of the guilty plea, the findings of guilt were deferred and Respondent was placed on probation for five (5) years.

Respondent's conduct was deceiving and may have affected the Board's decision to relicense Respondent.

The above action constitutes grounds for disciplinary action in accordance with Section 301.402(a)(2) & (10), Texas Occupations Code, and is a violation of and 22 TEX. ADMIN. CODE §217.12(8), (effective through September 28, 2004).

11. On or about February 3, 2006, Respondent plead guilty to ISSUANCE OF BAD CHECK (a class B misdemeanor offense committed on March 5, 2004), Cause No. Y04-48908, in the County Court at Law, Cooke County, Texas. As result of the guilty plea, Respondent was ordered to pay a fine and court costs.

12. On or about September 27, 2006, Respondent provided false and deceptive information on the Board of Nurse Examiners Texas Online Renewal Document Licensed Vocational Nurse in that she answered "no" to the following question: "Have you ever been arrested, convicted, placed on community supervision whether or not adjudicated guilty, sentenced to serve jail or prison time or granted pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country or received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests whether or not on appeal (excluding minor Class C traffic violations)? This includes expunged offenses and deferred adjudications with or without a finding of guilty...?"

On or about February 18, 2000, Respondent plead guilty and was convicted of THEFT PROPERTY > $20 < $500, (a class B misdemeanor offense committed on September 19, 1999), Cause No. 99-44191 by the County Court of Cooke County, Texas. As a result of the guilty plea, Respondent was placed on community supervision for one hundred and eight (180) days.

On or about September 1, 2000, Respondent plead no contest and was convicted of THEFT >=$20<$500 BY CHECK, (a class B misdemeanor offense committed on May 15, 1999), CR-20000-01499-Z, by the County Criminal Court No. 4, in the Denton County, Texas. As a result of the nolo contendere plea, Respondent was placed on community supervision for one hundred eighty (180) days.

On or about December 21, 2000, Respondent plead guilty and was convicted of ISSUANCE OF BAD CHECK (a class C misdemeanor offense committed on July 5, 1999), Cause No. 2001-1-772 in the Grayson County Court at Law #1, Texas. As a result of the guilty plea, Respondent was ordered to pay a fine and court costs.

On or about October 4, 2001, Respondent plead guilty to THEFT PROPERTY > $1500 < $20,000, (a State Jail Felony Offense committed on April 5, 2000), Cause No.047068-59, in the 59th District Court of Grayson County, Texas. As a result of the guilty plea, the findings of guilt were deferred and Respondent was placed on probation for five (5) years.

Respondent's conduct was deceiving and may have affected the Board's decision to re-license Respondent.

12. At the time of the incident in Finding of Fact Number Thirteen (13), Respondent was employed as a Staff LVN at Wilson N. Jones Medical Center, Sherman, Texas, and had been in this position for

13. On or about November 15, 2006, while employed with Wilson N. Jones Medical Center, Sherman, Texas, Respondent engaged in the intemperate use of Hydrocodone in that she produced a specimen which indicated positive results of high levels (19,649 ng/ml) of Hydrocodone. 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.

14. On September 25, 2008, Respondent plead guilty to ISSUANCE OF BAD CHECK (a misdemeanor C offense) ,Cause No. 006-85967-08, in the County Court at Law No. 6, Collin County, Texas. As a result of the guilty plea, the findings of guilty were deferred and Respondent was ordered to pay a fine and court costs.

15. Respondent's last known date of sobriety is November 15, 2006 as indicated in Finding of Fact Number Thirteen (13).

16. 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.

17. Charges were filed and mailed to Respondent on April 16, 2009.

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 a violationof Sections 302.402(a) (3) & (10) and 301.452(b)(2), (3), (9) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§ 239.11(29)(effective through September 28, 2004) and 217.12(6)(H)(I), (10)(A), (5) & (13) (effective September 28, 2004 to the present).

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 192559, heretofore issued to TAMI DENISE ELVINGTON, including revocation of Respondent's license to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Vocational Nurse License Number 192559, previously issued to TAMI DENISE ELVINGTON, to practice nursing in Texas is hereby SUSPENDED and said suspension is enforced until Respondent completes a treatment program approved by the Board, provides

documentation of successful completion, and has obtained twelve (12) consecutive months of sobriety. Any relapse prior to the completion of the twelve (12) consecutive months of sobriety will result in an extension of the enforced suspension until such twelve (12) consecutive months of sobriety and additional treatment have been attained.

IT IS FURTHER ORDERED that Permanent Certificate Number 192559 previously issued to TAMI DENISE ELVINGTON, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate privilege, if any, to practice nursing in compact states.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this order the 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, upon verification of successful completion of the approved treatment and twelve (12) consecutive months of sobriety as set out in this Order, the Suspension will be stayed, and RESPONDENT will be placed on probation for three (3) years with the following agreed terms of probation:

(1) RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

(2) RESPONDENT SHALL pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.

(3) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL

obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: http://www.bon.state.tx.us/about/stipscourses.html.*

(4) RESPONDENT SHALL pay a monetary fine in the amount of one thousand dollars ($1000.00). RESPONDENT SHALL pay this fine within ninety (90) days of the suspension being stayed. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY

PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(5) RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the probation conditions on RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(6) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(7) For the first year of employment as a nurse under this Order, RESPONDENT SHALL be directly supervised by a Licensed Vocational Nurse. Direct supervision requires another nurse to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). The RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(8) For the remainder of the probation period, RESPONDENT SHALL be supervised by a Registered Nurse or by a Licensed Vocational Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising

nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(9) RESPONDENT SHALL NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Respondent is regularly assigned for one (1) year of employment as a nurse.

(10) RESPONDENT SHALL NOT practice as a nurse in any critical care area for one (1) year of employment as a nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(11) RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a nurse.

(12) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT's capability to practice nursing. These reports shall be completed by the nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) months for three (3) years of employment as a nurse.

(13) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except

as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.**

(14) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the probation period, random screens shall be performed at least once every three (3) months. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis is the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the RESPONDENT's place of employment at any time during the probation period and require RESPONDENT to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the probation period.

Any positive result for which the nurse does not have a valid prescription will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board. Failure to report for a drug screen may be considered the same as a positive result and may result in further disciplinary action by this Board.

(15) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. RESPONDENT SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by RESPONDENT. RESPONDENT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) months. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license, the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT's license and RESPONDENT shall be eligible for 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 have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 9 day of July, 2009.

TAMI DENISE ELVINGTON, Respondent

Sworn to and subscribed before me this 9 day of July, 2009.

SEAL

Notary Public in and for the State of Texas

LEA FEAZELL NOTARY PUBLIC STATE OF TEXAS EXPIRES 4-13-2011

Approved as to form and substance.

Gary Corley, Attorney for Respondent

Signed this 9 day of July, 2009.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 9th day of July, 2009, by TAMI DENISE ELVINGTON, Vocational Nurse License Number 192559, and said Order is final.

Effective this 18th day of August, 2009.

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