BEFORE THE TEXAS BOARD OF NURSING

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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

In the Matter of Vocational Nurse License Number 83236	§	AGREED
issued to SHARON KAY LEE	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Bo considered the matter of SHARON KAY LEE, Vocational Nurse License Number 83236, hereina referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Article 4528c,sec.10(a)(3)&(9), Revised Civil Statutes of Texas, as amended, and Section 301.452(b)(2),(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 3, 2008, 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 representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

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

4. Respondent received a Certificate in Vocational Nursing from Arthur Stilwell Technical Center, Port Arthur, Texas, on August 24, 1979. Respondent was licensed to practice vocational nursing in the State of Texas on October 16, 1979.

5. Respondent's vocational nursing employment history includes:

11/79 - 12/92	Unknown

Respondent's vocational nursing employment history (continued):

01/93 - 09/95	LVN	Ultimate Home Health Nederland, TX
09/95 - 02/97	LVN	Excel Home Health Nederland, TX
02/97 - 06/01	LVN	Advanta Care Home Health Nederland, TX
06/01 - 08/05	LVN	Coastal Home Health Beaumont, TX
09/05 - 05/06	Unknown	
06/06 - 10/06	LVN	Memorial Herman Baptist-Beaumont Hospital Beaumont, TX
11/06 - 01/07	Unknown	
02/07 - Present	LVN	Village Choice Healthcare Beaumont, TX

6. At the time of the incident referenced in Finding of Fact Number Nine (9), Respondent was employed as a Licensed Vocational Nurse with Coastal Home Health, Beaumont, Texas, and had been in that position for approximately four (4) years and two (2) months.

7. On or about April 23, 1992, Respondent entered a plea to THEFT (a Class B Misdemeanor offense committed on November 5, 1991), filed in the County Court of Law No. 3 for Jefferson County, Beaumont, Texas, under Cause No. 160859. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on probation for a period of six (6) months. Additionally, Respondent was ordered to pay a fine and court costs.

8. On or about July 1, 1993, Respondent entered a plea of Guilty/No Contest or Nolo Contendere and was subsequently Convicted of THEFT (a Class B Misdemeanor offense committed on March 17, 1993), filed in the County Court at Law No. 3 of Jefferson County, Beaumont, Texas, under Cause No. 171049. As a result of the conviction, Respondent was sentenced to confinement in the Jefferson County Jail for a period of thirty (30) days, with the imposition of the sentence to confinement suspended, and Respondent was placed on probation for a period of six (6) months. Additionally, Respondent was ordered to pay a fine and court costs.

9. On or about August 1, 2005, while employed as a Licensed Vocational Nurse at Coastal Home Health, Beaumont, Texas, Respondent forged checks and made unauthorized ATM transactions from the account of Patient M.G. Additionally, Respondent had a key to Patient M.G.'s home. Respondent's conduct financially exploited the patient and was a violation of nurse/client boundaries.

10. On or about September 28, 2006, through October 10, 2006, while employed as a Licensed Vocational Nurse at Memorial Herman Baptist Hospital, Beaumont, Texas, Respondent violated the Return to Work Agreement, signed by Respondent on June 28, 2006, with the Texas Peer Assistance Program for Nurses, Austin, Texas, in that Respondent withdrew narcotics including, but not limited to, the following:

Date	Patient Medical Record No.	Medication Dispensing System (Pyxis)
09/28/06	489426	(1) Hydrocodone/APAP 7.5mg Tablet @ 14:35
10/03/06	496245	(2) Propoxyphene N/APAP 100mg Tablet @ 13:37
10/03/06	497403	(1) Diazepam Tab 5mg Tablet @ 18:22
10/05/06	497675	(2) Propoxyphene N/APAP 100mg Tablet @ 08:36
10/05/06	498448	(1) Tussionex Susp 5ml Susp @ 09:42
10/09/06	497508	(1) Diazepam Tab 5mg Tablet @ 09:38
10/09/06	499500	(1)Alprazolam 0.25mg Tablet @ 10:36
10/10/06	500204	(1) Hydrocodone/APAP 5mg Tablet @ 08:15
10/10/06	499729	(1) Hydrocodone/APAP 5mg Tablet @ 12:11
10/10/06	499702	(2) Hydrocodone/APAP 5mg Tablet @ 12:21
10/10/06	500204	(1) Hydrocodone/APAP 5mg Tablet @ 15:05

Terms and Conditions of Employment Number (4) of the Return to Work Agreement, dated June28, 2006, states:

> "Nurse will not have access to mood altering medications during first six (6) months of work. Access includes counting or administering controlled drugs, witnessing wastage, pharmacy receipt of controlled drugs, or ability to access storage areas for controlled drugs. Access to mood altering medications after the first six (6) months will occur only as mutually agreed upon by TPAPN and Employer. This restriction does not apply if nurse is experiencing mental health problems only."

11. On or about October 26, 2006, while employed as a Licensed Vocational Nurse at Memorial Herman Baptist Hospital, Beaumont, Texas, Respondent engaged in the intemperate use of Hydrocodone, Hydromorphone, Amphetamine, Methamphetamine, and Propoxyphene in that she submitted a specimen for a for cause drug screen which resulted positive for Hydrocodone, Hydromorphone, Amphetamine, Methamphetamine, and Propoxyphene. Possession of Hydrocodone, Hydromorphone, Amphetamine, Methamphetamine and Propoxyphene, without a lawful prescription is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substance Act). The use of Hydrocodone, Hydromorphone, Amphetamine, Methamphetamine, and Propoxyphene by a Licensed Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.

12. In Response to Finding of Fact Numbers Ten (10) and Eleven (11), Respondent states that in August of 2005, she was admitted to the Jolimar Recovery Center in Summit, Mississippi, for a twenty-eight (28) day program. Respondent states that she decided to stay an additional twenty-eight (28) days. Additionally, Respondent states that she did not work in the nursing field for approximately one (1) year after receiving treatment. Respondent states the diagnosis of breast cancer of her daughter in October of 2006 contributed to her relapse.

13. On or about August 1, 2008, while employed as a Licensed Vocational Nurse at Village Choice Healthcare, Inc., Beaumont, Texas, Respondent engaged in the intemperate use of Methamphetamine and Amphetamine in that she submitted a specimen for a random drug screen which resulted positive for Methamphetamine and Amphetamine. Possession of Methamphetamine and Amphetamine, without a lawful prescription is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substance Act). The use of Methamphetamine and Amphetamine by a Licensed Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.

14. On or about August 8, 2008, while employed as a Licensed Vocational Nurse at Village Choice Healthcare, Inc., Beaumont, Texas, Respondent engaged in the intemperate use of Amphetamine in that she submitted a specimen for a random drug screen which resulted positive for Amphetamine. Possession of Amphetamine, without a lawful prescription is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substance Act). The use of Amphetamine by a Licensed Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.

15. On or about June 2, 2008, Respondent was charged with THEFT (a Class B Misdemeanor offense committed on February 6, 2008), filed in the County Court of Law for Jefferson County, Beaumont, Texas, under Cause No. 269481.

16. On or about November 4, 2008, Respondent submitted an Online Renewal Document for Licensed Vocational Nurses (Late Renewal) to the Texas Board of Nursing, in which she provided false, deceptive, and/or deceptive information in that she answered "No" to the questions:

> Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:
>
> H. Been arrested or have any pending criminal charges?
>
> In th past 5 years, have you been addicted or treated for the use of alcohol or any other drug? (You may anser "no" if you have completed and/or are in compliance with TPAPN for mental illness).

On or about June 2, 2008, Respondent was charged with THEFT (a Class B Misdemeanor offense committed on February 6, 2008), filed in the County Court of Law for Jefferson County, Beaumont, Texas, under Cause No. 269481.

On or about August 13, 2008, Respondent was admitted to West Oaks Hospital, Houston, Texas, for treatment.

On or about October 1, 2008, Respondent was admitted to Spindletop MHMR Services, Beaumont, Texas, for treatment.

17. Respondent's last known date of sobriety is August 8, 2008, as indicated in Finding of Fact Number Fourteen (14).

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 violation of Article 4528c, sec.10(a)(3)&(9), TEX. REV. CIV. STAT. ANN, as amended, Section 301.452(b)(2),(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(D),(H)&(I),(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 Vocational Nurse License Number 83236, heretofore issued to SHARON KAY LEE, 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 83236, previously issued to SHARON KAY LEE, 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 AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate privilege, if any, to practice vocational 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 be issued a license to practice nursing in the State of Texas.

(3) RESPONDENT SHALL pay a monetary fine in the amount of five hundred ($500) dollars. RESPONDENT SHALL pay this fine within forty-five (45) 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.

(4) 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 <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, 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.*

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 LICENSED VOCATIONAL NURSE (LVN) 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 Registered Nurse or 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.

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 shall be for substance abuse; and 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, RESPONDENT SHALL be issued an unencumbered 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. 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 09 day of Feb, 2009.

Sharon Kay Lee

SHARON KAY LEE, Respondent

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

SEAL

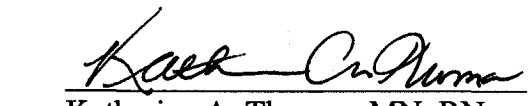
Sandy Savoie

Notary Public in and for the State of Texas

SANDY SAVOIE
Notary Public, State of Texas
My Com Exp 01-31-2013

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 9th day of February, 2009, by SHARON KAY LEE, Vocational Nurse License Number 83236, and said Order is final.

Effective this 10th day of March, 2009.



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