BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS
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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

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| In the Matter of Registered Nurse | § | AGREED |
| License Number 231264 | § | |
| issued to DEBORAH S. FISCHER (HILZ) | § | ORDER |

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referr to as the Board, considered the matter of DEBORAH S. FISCHER (HILZ), Registered Nu License Number 231264, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Sections 4525(b)(9) and 301.452(b)(2)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on June 25, 2007, 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 conference, 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 Grayson County College, Denison, Texas, on May 17, 1974. Respondent was licensed to practice professional nursing in the State of Texas on September 16, 1974.

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

6. On December 14, 1998, Respondent plead "Nolo Contendere" and was convicted of the offense, "Driving While Intoxicated," a Class B Misdemeanor, in the Denton County, Texas, Court at Law No. 3, Cause Number 98-5168-C. Respondent was assessed a punishment of a fine in the amount of nine hundred dollars ($900.00), and one hundred eighty (180) days confinement in the Denton County Jail. Respondent's confinement sentence was suspended and she was placed on community supervision for a period of two (2) years.

7. On July 28, 2003, Respondent plead "GUILTY" and was convicted of the offense, "Driving While Intoxicated-2nd," in the Collin County, Texas, Court at Law No. 3, Cause Number 003-80700-02. Respondent was assessed a punishment of a fine in the amount of eight hundred dollars ($800.00), and one (1) year confinement in the Collin County Jail. Respondent's confinement sentence was suspended and she was placed on community supervision for a period of two (2) years.

8. On July 28, 2003, Respondent plead "GUILTY" and was convicted of the offense, "Possession of Marijuana," in the Collin County, Texas, Court at Law No. 3, Cause Number 003-80701-02. Respondent was assessed a punishment of a fine in the amount of three hundred dollars ($300.00), and sixty (60) days confinement in the Collin County Jail. Respondent's confinement sentence was suspended and she was placed on community supervision for a period of one (1) year.

9. On or about October 21, 2003, Respondent submitted a RN License Renewal Form to the Board of Nurse Examiners for the State of Texas in which she provided false, deceptive and/or misleading information in that Respondent answered "no" to the following questions:

   "Since issuance or last renewal, have you plead guilty (including no contest plea), been found guilty or convicted of any felony or misdemeanor other than a minor traffic violation?"

   On July 28, 2003, Respondent plead "GUILTY" and was convicted of the offense, "Driving While Intoxicated-2nd," in the Collin County, Texas, Court at Law No. 3, Cause Number 003-80700-02.

   On July 28, 2003, Respondent plead "GUILTY" and was convicted of the offense, "Possession of Marijuana," in the Collin County, Texas, Court at Law No. 3, Cause Number 003-80701-02.

10. On or about April 16, 2007, Respondent underwent a forensic psychological evaluation performed by John Lehman, Ph. D., who states, "With her whole life as the time frame, she does not classify as chemically dependent, although the scores are clearly in the borderline range. It is clear from her admission that she drinks to alleviate stress. It is believed that to stop drinking and improve coping skills would be useful. I believe that she has a history of chemical abuse but it does not reach the level of chemical dependency. Because of her tendencies to cope with stress through alcohol, I believe that she should quit drinking

completely and enter a recovery program such as AA to learn new coping skills to prevent further substance abuse. She has agreed with that and will quit drinking and seek AA. She will have those meetings logged. To be sure that she does not return, I suggest to the Texas Board of Nurse Examiners (TBNE) to monitor her for 1-2 years to be sure that she is compliant. This should sufficient to manage her issues."

11. 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.

## 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 violations of Sections 4525(b)(9) and 301.452(b)(2)&(10)(effective September 1, 1999), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.13(1) and 217.12(1),(22)&(23)(effective September 1, 1999).

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 231264, heretofore issued to DEBORAH S. FISCHER (HILZ), including revocation of Respondent's license to practice professional nursing in the State of Texas.

## ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and RESPONDENT 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 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 Respondent's multistate licensure privilege, if any, to practice professional nursing in compact states.

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 State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to DEBORAH S. FISCHER (HILZ), to the office of the Board of Nurse Examiners within ten (10) days from the date of ratification of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, 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) 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 Chemical Dependency, 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.bne.state.tx.us/about/stipscourses.html.*

(3) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty ($250) dollars. RESPONDENT SHALL pay this fine within forty-five (45)days of entry of this Order. Payment is to be made directly to the Board of Nurse Examiners 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 REGISTERED 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 STIPULATIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) 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 STIPULATION PERIOD:**

(4) RESPONDENT SHALL notify each present employer in professional nursing of this Order of the Board and the stipulations 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 present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in professional nursing of this Order of

the Board and the stipulations 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.

(5) RESPONDENT SHALL CAUSE each present employer in professional 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 professional nurse.

(6) For the duration of the stipulation period, RESPONDENT SHALL be supervised by a Registered 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.

(7) 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 professional nursing. These reports shall be completed by the Registered 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) month period for two (2) years of employment as a professional nurse.

(8) 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.**

(9) 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 second three (3) month period, random screens shall be performed at least once per month. For the remainder of the stipulation period, random screens shall be performed at least once every three (3) months.

Specimens shall be screened for at least the following substances:

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| 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 stipulation 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 stipulation 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.

(10) 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, 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 professional nursing in the State of Texas.

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

Signed this 9 day of July, 2007.

Deborah S. Fischer

DEBORAH S. FISCHER (HILZ), Respondent

Sworn to and subscribed before me this 9 day of July, 2007.

SEAL

S D HESTAND
NOTARY PUBLIC
STATE OF TEXAS
My Comm. Exp. 01-31-2008

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Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 9th day of July, 2007, by DEBORAH S. FISCHER (HILZ), Registered Nurse License Number 231264, and said Order is final.

Effective this 14th day of August, 2007.

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