BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse	§	AGREED
License Number 710953	§	
issued to JAY LOREN FAULKNER	§	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 JAY LOREN FAULKNER, Registered Nurse License Number 710953, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9), (10) & (12), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on May 23, 2008, 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 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 Carl Albert State College, Poteau, Oklahoma, on May 1, 2003. Respondent was licensed to practice professional nursing in the State of Texas on November 1, 2004.

5. Respondent's professional nursing employment history includes:

November 2004 - December 2005	Staff RN Lewisville Medical Center Lewisville, Texas

Respondent's professional nursing employment history continued:

January 2006 - May 2006	Unknown
June 2006 - October 2006	Staff RN University Behavioral Health Denton, Texas
November 2006 - June 2007	Unknown
July 2007 - December 2007	Staff RN Kindred Hospital - Walnut Hill Dallas, Texas
January 2008 - February 2008	Unknown
March 2008 - April 2008	Staff RN Continuum Medical Staffing Dallas, Texas
May 2008 - Present	Unknown

6. On or about August 25, 2005, while employed with Medical Center of Lewisville, Lewisville, Texas, Respondent misappropriated Morphine belonging to the facility and its patients thereof, in that he admitted to such misappropriation for his own personal use. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

7. On or about August 25, 2005, while employed with Medical Center of Lewisville, Lewisville, Texas, Respondent engaged in the intemperate use of Morphine in that he submitted a specimen for a drug screen which resulted positive for Morphine. Possession of Morphine without a valid prescription is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Morphine 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. On or about November 2005, through December 2005, while employed with Medical Center of Lewisville, Lewisville, Texas, Respondent misappropriated Morphine and Hydromorphone belonging to the facility and its patients thereof, in that he admitted to removing Morphine and Hydromorphone from the Medication Dispensing System without authorization and for his own personal use. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

9. On or about October 11, 2006, while employed with University Behavioral Health, Denton, Texas, Respondent engaged in the intemperate use of Cocaine in that he submitted a specimen for a drug screen which resulted positive for Cocaine. Possession of Cocaine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Cocaine 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.

10. On or about November 21, 2007, through December 5, 2007, while employed with Kindred Hospital-Walnut Hill, Dallas, Texas, Respondent misappropriated Hydromorphone and Morphine belonging to the facility and patients thereof, in that he admitted to such misappropriation for his own personal use. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

11. On or about November 26, 2007, while employed with Kindred Hospital-Walnut Hill, Dallas, Texas, Respondent lacked fitness to practice professional nursing in that he was observed falling asleep while on duty. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

12. On or about April 2, 2008, through April 24, 2008, while employed with Continuum Medical Staffing, Dallas, Texas, and on assignment at Centennial Medical Center, Frisco, Texas, Respondent misappropriated Hydromorphone belonging to the facility and patients thereof, in that he admitted to such misappropriation for his own personal use. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

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

14. 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.

15. Respondent stated to the Board that he went through inpatient treatment for chemical dependency at Green Oaks, Dallas, Texas, from May 6, 2008, through May 10, 2008. Respondent is moving to Oklahoma where his family lives, and he has no plans to return to Texas.

16. Respondent's conduct described in Findings of Fact Numbers Six (6) through Twelve (12) resulted from Respondent's impairment by dependency on chemicals.

17. 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 violations of Section 301.452(b)(9), (10) & (12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5), (6)(G), (8), (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 710953, heretofore issued to JAY LOREN FAULKNER, including revocation of Respondent's license to practice professional 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 an alternative peer assistance program approved by the Board and acceptable under the criteria established by Chapter 467, Health and Safety Code.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§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.

Oklahoma Alternative to Texas Peer Assistance Program for Nurses (TPAPN)

IT IS FURTHER AGREED and ORDERED that this Order constitutes written permission for Respondent to participate in the Oklahoma Peer Assistance Program (OPAP) for chemical dependency in lieu of participation in the Texas Peer Assistance Program for Nurses (TPAPN) provided RESPONDENT remains enrolled in the OPAP for a minimum of two (2) years or successfully completes the Oklahoma program, whichever is longer in duration. RESPONDENT SHALL NOT practice in any other state during the term of the alternative program without prior written authorization from the Texas Board of Nursing.

IT IS FURTHER AGREED and ORDERED that SHOULD RESPONDENT desire to practice professional nursing in the State of Texas, prior to completing his contract with the OPAP, RESPONDENT SHALL petition the Board for such approval. RESPONDENT SHALL not work in the State of Texas on his Texas license or multistate privilege prior to receiving such approval.

Multistate Licensure

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 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.

Remedy for Further Violation

IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the Oklahoma Peer Assistance Program, such

noncompliance will result in further disciplinary action including revocation of Respondent's license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

IT IS FURTHER AGREED that, upon full compliance with the terms of this Order, RESPONDENT may be issued an unencumbered license and multistate licensure privilege, if any, to practice professional 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 Oklahoma Peer Assistance Program. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and 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 20 day of June, 2008.

JAY LOREN FAULKNER, Respondent

Sworn to and subscribed before me this 20th day of June, 2008.

SEAL

PAMELA S. MILVO NOTARY PUBLIC # 08005303 Exp. 5-20-12 IN AND FOR STATE OF OKLAHOMA CHEROKEE COUNTY

Pamela S. Milvo

Notary Public in and for the State of Oklahoma

My Commission expires 5-20-12

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 20th day of June, 2008, by JAY LOREN FAULKNER, Registered Nurse License Number 710953, and said Order is final.

Entered and effective this 1st day of July, 2008.

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