BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED
Vocational Nurse License Number 173478	§	
issued to KENNETH EUGENE QUALLS	§	ORDER

BOARD OF NURSING TEXAS
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 Board considered the matter of KENNETH EUGENE QUALLS, Vocational Nurse License Number 173478, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(2),(9)&(10), Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on June 15, 2015.

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(s).

2. Respondent waived notice and hearing and agreed to the entry of this Order.

3. Respondent's license to practice as a vocational nurse in the State of Texas is in current status.

4. Respondent received a Certificate in Nursing from Frank Phillips College, Borger, Texas, on May 17, 1999. Respondent was licensed to practice vocational nursing in the State of Texas on September 28, 1999.

5. Respondent's nursing employment history includes:

10/2009 - 2/2013	LVN Staff Nurse	Covenant Health System Plainview, Texas

5/2013 - 09/2013	LVN Staff Nurse	Texas Speciality Hospital Lubbock, Texas

6. On or about June 29, 2007, Respondent was issued the sanction of REMEDIAL EDUCATION WITH A FINE by the Board of Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated June 29, 2007 is attached and incorporated, by reference, as part of this Order.

7. On or about February 13, 2013 while employed as a Licensed Vocational Nurse/Scrub Tech at Covenant Hospital Plainview Center San Antonio, Texas, Respondent engaged in the intemperate use of Dilaudid in that he produced a specimen for a drug screen which resulted positive for Dilaudid. Additionally, he admitted to taking his father's prescription for Dilaudid. Possession of Dilaudid is prohibited by Chapter 481 of the Texas health & Safety code (Controlled Substances Act). The use of Dilaudid 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 patients condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the in potential danger.

8. On or about February 13, 2013 , while employed as a Licensed Vocational Nurse at Covenant Hospital Plainview Center San Antonio, Texas 78259, Respondent engaged in the intemperate use of Morphine in that he produced a specimen for a drug screen which result positive for Morphine. Possession of Morphine is prohibited by Chapter 481 of the Texas health & Safety code (Controlled Substances Act). The use of Morphine 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 patients condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the in potential danger.

9. On or about June 13, 2013, Respondent entered a plea of Guilty to THEFT PROP>=$500<$1500, a Class A misdemeanor offense committed on February 13, 2013, in the County Court at Law of Hale County, Texas, under Cause No. 2012C-156. 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 two (2) years, and ordered to pay a fine and court costs.

10. On or about September 10, 2013 through September 11, 2013, while employed as a Licenced Vocational Nurse with Texas Speciality Hospital, Lubbock, Texas, Respondent removed Morphine Sulfate SDV 5mg and Morphine Sulfate IR 15mg, from the Med-Dispense Unit for patient 4849, but failed to accurately and completely document the administration of Medication in the patients' Medication Administration Records, Nurses' Notes, or both.

Date	Patient	Physician orders	Withdrawn	MAR's	wastage	Documentation
9/10/13	**4849**	**Morphine sulfate SDV 4mg iv prn q4hr**	**Morphine sulfate SDV 5mg at 23:54**	**Morphine sulfate SDV 4mg iv at 1950**	**3mg of Morphine sulfate SDV at 23:24**	
9/10/13	4849	Morphine Sulfate IR tab 15mg po prn q4hr	Nothing withdrawn	Morphine Sulfate IR tab 15mg po at 1950		
9/11/13	**4849**	**Morphine sulfate SDV 4mg iv prn q4hr**	**Morphine sulfate SDV 5mg at 0347**	**Morphine sulfate SDV 4mg iv at 0500**	**3mg of Morphine sulfate SDV at 0347**	

Respondents conduct above was likely to injure the patients in that subsequent care givers would rely on his documentation to further medicate the patient which could result in and overdose.

11. On or about September 10, 2013 through September 11, 2013, while employed as a Licensed Vocational Nurse with Texas Speciality Hospital, Lubbock, Texas, Respondent falsely documented in the patient's Medication Administration Records that he had administered Morphine Sulfate IR 15mg and Morphine Sulfate SDV 4mg to Patient 4849, when there were no medication withdrawals from the Med-Dispense Unit associated with this time or date of administration.

Date	Patient	Physician orders	Withdrawn	MAR's	wastage	Documentation
9/10/13	4849	Morphine Sulfate IR tab 15mg po prn q4hr	Nothing withdrawn	Morphine Sulfate IR tab 15mg po at 1950		
9/11/13	4849	Morphine sulfate SDV 4mg iv prn q4hr	nothing withdrawn	Morphine sulfate SDV 4mg iv at 0111		
9/11/13	4849	Morphine Sulfate IR tab 15mg po prn q4hr	Nothing withdrawn	Morphine Sulfate IR tab 15mg po at 0111		

Respondent's conduct created and inaccurate medical record and failure to administer medications as ordered by the physician could have resulted in non-efficacious treatment.

12. On or about September 10, 2013 through September 11, 2013, while employed as a Licenced Vocational Nurse with Texas Speciality Hospital, Lubbock, Texas, Respondent removed Morphine Sulfate SDV 5mg and Morphine Sulfate IR 15mg from the Med-Dispense Unit for patient 4849, but failed to follow proper policy and procedure in place for wastage of medications as follows:

Date	Patient	Physician orders	Withdrawn	MAR's	wastage	Documentation
9/10/13	**4849**	**Morphine sulfate SDV 4mg iv prn q4hr**	**Morphine sulfate SDV 5mg at 23:54**	**Morphine sulfate SDV 4mg iv at 1950**	**3mg of Morphine sulfate SDV at 23:24**	
9/11/13	**4849**	**Morphine sulfate SDV 4mg iv prn q4hr**	**Morphine sulfate SDV 5mg at 0347**	**Morphine sulfate SDV 4mg iv at 0500**	**3mg of Morphine sulfate SDV at 0347**	

Respondents conduct was likely to deceive hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety code (Controlled Substance Act).

13. On or about September 11, 2013, while employed as a Licenced Vocational Nurse with Texas Speciality Hospital, Lubbock, Texas, Respondent lacked fitness to practice nursing in that he was observed taking discarded medications from a sharps container with (Morphine and Dilaudid) and injected himself at home to help sleep. Respondent's conduct failed to promote a safe environment in that he exposed himself and others to the infectious pathogens contained in the sharps container.

14. On or about August 13, 2013, while employed as a Licenced Vocational Nurse with Texas Speciality Hospital, Lubbock, Texas, Respondent withdrew two (2) Norco 7.5 tablets from the Med-Dispense Unit for patient BW that was not under his care. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

15. On or about August 20, 2013, while employed as a Licenced Vocational Nurse with Texas Speciality Hospital, Lubbock, Texas, Respondent withdrew Morphine and Lorazepam from the Med-Dispense Unit for patient GG and JC that were not under his care. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

16. On or about September 2, 2013, while employed as a Licenced Vocational Nurse with Texas Speciality Hospital, Lubbock, Texas, Respondent failed to document that he administered Morpine to Patient 4269. Respondents conduct above was likely to injure the patients in that subsequent care givers would rely on his documentation to further medicate the patient which could result in and overdose.

17. On or about September 3, 2013, while employed as a Licenced Vocational Nurse with Texas Speciality Hospital, Lubbock, Texas, Respondent withdrew Norco 10 from the Med-Dispense Unit for patients MP and GG that were not under his care. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

18. On or about September 4, 2013, while employed as a Licenced Vocational Nurse with Texas Speciality Hospital, Lubbock, Texas, Respondent withdrew Morphine and Norco from the Med-Dispense Unit for patients LB and JC that were not under his care. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

19. In response to Findings of Fact Numbers Seven (7) through Fourteen (14), Respondent states he had some issuance of bad checks in which he was placed on two years probation, which will end June 2015. Respondent states while employed at Covenant Hospital Plainview, he did in fact take some Dilaudid and morphine pills that belonged to his dad for some back pain he was having which caused the positive drug screen. He was referred to TPAPN for drug use and felt at the time he did not need to go that route. Respondent states while employed at Texas Speciality Hospital in Lubbock, Texas, he was never assigned a patient on a Profopol drip, and he believes he was only assigned a patient on a versed drip once and increased the drip as he was told by the Nurse Practioner which he documented in the MAR. Since September 11, 2013, he has returned to twelve step program and informed his probation officer of his drug use. He has since been tested for drugs at probation with clean results. He is currently working for Nurse Finders in Lubbock, Texas. He did retrieve wasted medication from the sharps container where he had planned on using it at home. He had taken wasted medication home the previous day and self-medicated. Trips to the bio-hazard room were to deposit full sharps containers or bio-hazard trash from dressing changes. He did not ask other nurses to medicate their patients, he would only give other nurses patient's medication when he was asked to do so or covering for a lunch break and the patient requested medication.

20. Respondent states as date of sobriety September 11, 2013.

21. 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.

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

23. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use.

24. 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 substance use disorder.

25. 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 301.451-301.555 , the Board has jurisdiction over this matter.

2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.11(1)(A),(B),(C)&(D) and 22 TEX. ADMIN. CODE §217.12(1)(A),(B)&(C),(4),(5),(6)(A)(G)(H)&(I),(10)(C)&(11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2),(9),(10)&(13) Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 173478, heretofore issued to KENNETH EUGENE QUALLS, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

6. ~~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.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Vocational Nurse License Number 173478, previously issued to KENNETH EUGENE QUALLS, to practice nursing in Texas is hereby **SUSPENDED** and said suspension is **ENFORCED** until Respondent:

A. **Applies to, is accepted into, and completes enrollment in the Texas Peer Assistance Program for Nurses (TPAPN),** including payment of a non-refundable participation fee in the amount of three hundred fifty dollars ($350.00); and

B. Waives confidentiality and **provides a copy of the fully executed TPAPN participation agreement to the Board.**

IT IS FURTHER AGREED, upon verification of successful completion of the above requirements, the Suspension will be **STAYED**, and RESPONDENT will be placed on

PROBATION for such a time as is required for RESPONDENT to successfully complete the TPAPN **AND** until Respondent fulfills the additional requirements of this Order.

C. 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.

D. RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep all applicable license(s) to practice nursing in the State of Texas current.

E. RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

F. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

G. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

H. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to 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.

III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) **within one (1) year of the suspension being stayed**:

A Board-approved course in Texas nursing jurisprudence and ethics that 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. Home study courses and video programs will not be approved.

In order to receive credit for completion of this/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at www.bon.texas.gov/compliance.*

IV. FURTHER COMPLAINTS

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

V. EFFECT OF NONCOMPLIANCE

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 TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

VI. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Order, all encumbrances will be removed

from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

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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 violation(s) 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 entry of this Order and all conditions of said 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 7 day of August, 2015.

KENNETH EUGENE QUALLS, Respondent

Sworn to and subscribed before me this 7 day of August, 2015.

SEAL

Notary Public in and for the State of Texas

ELIZABETH GONZALEZ
Notary Public, State of Texas
My Commission Expires
December 12, 2017

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby ratify and adopt the Agreed Order that was signed on the 7th day of August, 2015, by KENNETH EUGENE QUALLS, Vocational Nurse License Number 173478, and said Order is final.

Effective this 25th day of August, 2015.

Katherine A. Thomas

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