

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of License Number 246506 § AGREED
issued to STEVEN W. ZOGG § ORDER

An investigation by the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, produced evidence indicating that STEVEN W. ZOGG, hereinafter referred to as Respondent, License Number 246506, may have violated Section 301.452(b)(10), Texas Occupations Code.

An informal conference was held on January 14, 2003, at the office of the Board of Nurse Examiners, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by R. Paige Arnette, Attorney at Law. In attendance were Sandra Owen, MN, RN, Director, Professional Nursing Division, Executive Director's Designee; E. Joy Sparks, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; and Candace Villarreal, Investigator.

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 notice and hearing, and consented to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received a Bachelor of Science Degree in Nursing from Texas Christian University, Fort Worth, Texas, on May 1, 1978. Respondent was licensed to practice professional nursing in the State of Texas in March 1979.

5. Respondent's professional employment history includes:

1978-1980	Surgical First Assistant	Angelo L. Otero, MD Fort Worth, Texas
1980-1981	Head Nurse	Harris Methodist Hospital Fort Worth, Texas
1981-1991	Surgical First Assistant	Philip Bechtel, MD Fort Worth, Texas
1991-1994	Surgical First Assistant	Self-Employed
1994-1997	Case Manager	Visiting Nurses Association/ Total Home Health Fort Worth, Texas
7/97-7/98	Director of Surgical Services	Campbell Health System Fort Worth, Texas
7/98-Present	Staff Nurse Operating Room	Healthsouth-Fort Worth Surgery Center Fort Worth, Texas

6. At the time of the incident Respondent was employed as a Staff Nurse with Healthsouth-Fort Worth Surgery Center, Fort Worth, Texas, where Respondent had been employed for the past three (3) years and nine (9) months.
7. Respondent, on or about April 25, 2002, while visiting patient (L.S.), misappropriated ten (10) Vicodin tablets from the patient. The patient was receiving services from Visiting Nurses Association, Fort Worth, Texas, and Respondent continued to visit the patient even though he was no longer employed with the agency. Respondent's conduct was likely to defraud the patient of the cost of the medication.
8. Respondent completed a chemical dependency evaluation performed by Linda Allen, MA, LCDC, on August 18, 2002. Ms. Allen utilized a clinical interview and screening, including the ASI and SASSI III. Ms. Allen found that Respondent did not meet the criteria for alcohol or opioid dependence/abuse, and exhibited a low probability of substance dependence. Ms. Allen concluded that Respondent would be able to consistently behave in accordance with the Board's requirements and rules, and feels Respondent would avoid behaviors identified by the Board as unprofessional. However, Ms. Allen feels that due to Respondent's use of alcohol to cope with a stressful employment situation, his family history, and Ms. Allen's inability to rule out Respondent's continued use of Hydrocodone, a supportive outpatient group therapy would be recommended for a minimum of twelve (12) weeks.

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 violation of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(19).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against License Number 246506, heretofore issued to STEVEN W. ZOGG, including revocation of Respondent's professional license to practice 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 Professional 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 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 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-size license issued to STEVEN W. ZOGG, to the office of the Board of Nurse Examiners within ten (10) days of Respondent's receipt of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing jurisprudence. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include Registered 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, and documentation of care.* Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL submit to the Office of the Board a Verification of Course Completion form, provided to the Respondent by the Board and completed by the sponsoring institution, 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.

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. The course shall be a minimum of six (6) contact hours in length. In order for the course to be approved, the target audience shall include Registered Nurses. The course shall include content on the following: *principles of nursing ethics; confidentiality; and professional boundaries.* RESPONDENT SHALL submit to the Office of the Board a Verification of Course Completion form, provided to the Respondent by the Board and completed by the sponsoring institution, to verify RESPONDENT's

successful completion of the course. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure.

(4) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars (\$250). 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, UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE, OR WHERE DIRECT PATIENT CARE IS NOT PROVIDED, WILL NOT APPLY TO THIS STIPULATION PERIOD:

(5) 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 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 to each future employer prior to accepting an offer of employment.

(6) RESPONDENT SHALL take every reasonable effort to 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 take every reasonable effort to 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.

(7) RESPONDENT SHALL be supervised by a Registered Nurse who is on the premises. The supervising RN 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 RN 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 in the practice of professional nursing. Multiple employers in the nursing profession are prohibited.

(8) RESPONDENT SHALL take every reasonable effort to 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 Registered Nurse to the office of the Board at the end of each three (3) months for one (1) year of employment as a professional nurse.

(9) 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 take every reasonable effort to 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.

(10) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period of the stipulation period, random screens shall be performed at least once per week. For the second three (3) month period of the stipulation period, random screens shall be performed at least once per month. For the remaining six (6) months 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:

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.

(11) RESPONDENT SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. RESPONDENT SHALL take every reasonable effort to cause the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT's progress in therapy, rehabilitation and capability to safely practice professional nursing. The report must indicate whether or not the RESPONDENT's stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the stipulation period, or until RESPONDENT is dismissed from therapy.

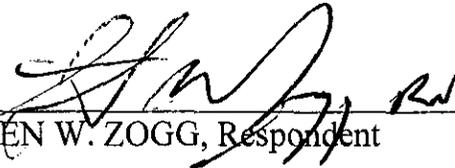
(12) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and RESPONDENT SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least; the date of each meeting, the name of each group 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 during the one (1) year term of this order. No duplications, copies, 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.

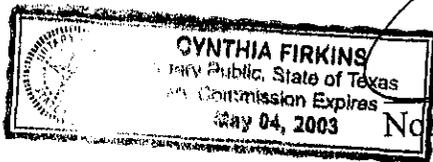
RESPONDENT'S CERTIFICATION

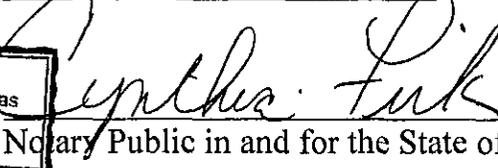
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Order and further agree to comply with all conditions of said Order, to avoid further 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 7th day of March, 2003.

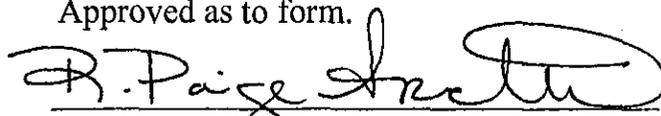

STEVEN W. ZOGG, Respondent

Sworn to and subscribed before me this 7th day of March, 2003.




Cynthia Firkins
Notary Public in and for the State of Texas

Approved as to form.


R. PAIGE ARNETTE, Attorney for Respondent

Signed this 11th day of April, 2003.

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 7th day of March, 2003, by STEVEN W. ZOGG, License Number 246506, and said Order is final.

Effective this 13th day of May, 2003.


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