Name: ROBERT ROY WITTMER

RN License Number: 643249

Date of Order: 04/20/2006

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS
****

In the Matter of Registered Nurse	§	AGREED
License Number 643249	§	
issued to ROBERT ROY WITTMER	§	ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of ROBERT ROY WITTMER, Registered Nurse License Number 643249, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10) & (12), Texas Occupations Code. Respondent waived informal conference, notice and hearing, and agreed to the entry of this Order offered on October 20, 2005, 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 informal conference, notice and hearing, and agreed to the entry of this Order.

3. Respondent's license to practice professional nursing in the State of Texas is currently inactive.

4. Respondent received a Baccalaureate in Nursing from Southern Connecticut State University, New Haven, Connecticut, on May 1, 1997. Respondent was licensed to practice professional nursing in the State of Texas in July 1997.

5. Respondent's professional employment history includes:

7/97 - 1/01	Staff Nurse	Children's Medical Center Dallas, Texas
2/00 - 8/00	Staff Nurse	HCA Medical Center of Arlington Arlington, Texas
8/00 - 8/02	Staff Nurse	Methodist Medical Center Dallas, Texas
3/01 - 8/02	Staff Nurse	Nurses Stat Dallas, Texas
9/02 - 1/03	Unknown	
2/03 - 6/04	Staff Nurse	Children's Medical Center Dallas, Texas
7/04 - present	Unknown	

6. At the time of the incidents in Findings of Fact Numbers Seven (7) through Nine (9), Respondent was employed as a Staff Nurse with Children's Medical Center, Dallas, Texas, and had been in this position for one (1) year and three (3) months.

7. On or about May 6, 2004 through May 16, 2004, while employed at Children's Medical Center, Dallas, Texas, Respondent withdrew Morphine from the OmniCell Medication Dispensing System, but failed to properly waste unused portions of the medications. Respondent's conduct placed the hospital pharmacy in violation of Chapter 481 of the Health and Safety Code (Controlled Substances Act).

8. On or about May 6, 2004 through May 16, 2004, while employed at Children's Medical Center, Dallas, Texas, Respondent exhibited strange and unusual behavior, which included a change in personality. Respondent's condition may have prevented him from delivering safe nursing care.

9. On or about May 19, 2004, while employed at Children's Medical Center, Dallas, Texas, Respondent admitted that he had inadvertently placed a vial of Fentanyl in his scrub pocket and had taken it home after being confronted with the fact that four (4) 50 ml Fentanyl vials were missing after he had completed his shift on May 6, 2004 and May 16, 2004. Respondent's conduct failed to take precautions and prevent the loss of medications and was in violation of Chapter 481 of the Health and Safety Code (Controlled Substances Act).

10. On July 20, 2005, Respondent underwent a polygraph examination by Donald W. Ramsey, M.A., Polygraph Examiner, Dalhousie Polygraph Services. The objective of the polygraph examination was to determine if Respondent had misappropriated any controlled substances or used any drugs illegally while he was employed at Children's Medical Center. Prior to the examination, Respondent submitted to a urine drug screen which was negative. During the examination, Respondent reported that he had inadvertently left a vial of Fentanyl in his scrubs pocket, which he discovered after he had left the hospital. Respondent also acknowledged that he had not properly recorded wastage of Morphine, but he denied he had misappropriated or used any of the unused portions of Morphine. The results of the polygraph examination indicated no deception and that Respondent was truthful.

11. On July 21, 2005, Respondent underwent a forensic psychological evaluation by John Lehman, Ph.D. Dr. Lehman's findings indicate that Respondent does not appear to be suffering from a chemical dependency or chemical abuse disorder. Dr. Lehman does find that Respondent is suffering from a significant depression which is untreated and he feels that psychological and psychiatric treatment is needed immediately. Dr. Lehman concludes that Respondent is **not** fit to practice in his current state; however, if he engages in treatment and is responsive, he should be able to regain fitness within a fairly short time.

12. On September 30, 2005, Respondent underwent a follow-up psychiatric assessment by Robert Allister, M.D., Psychiatrist. Dr. Allister reviewed Dr. Lehman's psychological evaluation prior to conducting Respondent's assessment. Dr. Allister states that Respondent has been in on-going counseling with the Employee Assistance Program. Dr. Allister concludes that Respondent does not require medications because it appears he is receiving results from the counseling he has been receiving.

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 possible impaired nursing care due to the inappropriate use of substances.

15. Respondent's conduct described in Findings of Fact Numbers Seven (7) through Nine (9) was significantly influenced by Respondent's abuse of substances and/or mental illness.

16. 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 violations of Section 301.452(b)(10) & (12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1), (12), (18) & (19).

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 643249, heretofore issued to ROBERT ROY WITTMER, 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 Professional Nurse License Number 643249 previously issued to ROBERT ROY WITTMER, to practice professional nursing in Texas is hereby SUSPENDED and said suspension is enforced until such time that Respondent complies with the requirements of Stipulation Number One (1).

IT IS FURTHER 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 the Texas Peer Assistance Program for Nurses (TPAPN). Respondent's suspension will be stayed upon Respondent's compliance with the requirements of Stipulation Number One (1). Once said suspension is stayed, Respondent's license shall be probated until Respondent completes all requirements of this final order.

(1) RESPONDENT SHALL, make a payment of a non-refundable participation fee in the amount of five hundred dollars ($500) payable to TPAPN at time of application and entry into the TPAPN program.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Board of Nurse Examiners.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

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.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privileges, 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, 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 revocation of Respondent's 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 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 29 day of March, 20 2006

Robert Roy Wittmer

ROBERT ROY WITTMER, Respondent

Sworn to and subscribed before me this 29th day of March, 20 06

Marcey L. Joy

Notary Public in and for the State of _____

SEAL

MARCEY L. JOY
Notary Public - New Hampshire
My Commission Expires 9-17-08

Approved as to form and substance.

Taralynn R. MacKay

TARALYNN MACKAY, Attorney for Respondent

Signed this 10th day of March, 2006.

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 29th day of March, 2006, by ROBERT ROY WITTMER, Registered Nurse License Number 643249, and said Order is final.

Effective this 20th day of April, 2006.

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