

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse License Number 673365 § AGREED  
issued to BETH MARCELLE ARBAUGH § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BETH MARCELLE ARBAUGH, Registered Nurse License Number 673365, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(1),(9)&(10), Texas Occupations Code. Respondent waived informal conference, notice and hearing, and agreed to the entry of this Order offered on December 17, 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 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 a Baccalaureate Degree in Nursing from the University of Mary Hardin-Baylor, Belton, Texas, on May 1, 2000. Respondent was licensed to practice professional nursing in the State of Texas on October 24, 2000.
5. Respondent's professional employment history includes:

10/00-10/01	Staff Nurse	Scott & White Hospital Temple, Texas
11/01	Unknown	

Respondent's professional nursing employment history continued:

12/01-Unknown	Staff Nurse	Memorial City Hospital Houston, Texas
1/02-4/05	Staff Nurse	Baptist Health System San Antonio, Texas
5/05-6/05	Not employed in nursing	
7/05-8/05	Staff Nurse	Christus Health Santa Rosa Hospital San Antonio, Texas
8/05-3/06	Not employed in nursing	
4/06-Present	Staff Nurse	Kerrville State Hospital Kerrville, Texas

6. On or about February 7, 2006, Respondent was issued an Agreed Order by the Board of Nurse Examiners for the State of Texas which required her to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated February 7, 2006, is attached and incorporated by reference as part of this Order.
7. On or about September 27, 2006, while employed with the Kerrville State Hospital, Kerrville, Texas, Respondent submitted a specimen for drug/alcohol screening through the TPAPN monitoring program which resulted positive for alcohol. Respondent also admitted to the consumption of alcohol but denies consumption at work, while subject to call or prior to a shift. The use of alcohol by a 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 September 27, 2006, Respondent failed to comply with the Agreed Order issued to her by the Board of Nurse Examiners for the State of Texas on February 7, 2006. Non-compliance is the result of Respondent's use of alcohol as evidenced by a positive drug/alcohol screen collected on September 27, 2006, and Respondent's admitted use of alcohol. Stipulation Number Three (3) of the Agreed Order dated February 7, 2006, states the following:

"RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term."

9. In response to Finding of Fact Number Seven (7), Respondent states that her brief relapse with alcohol that occurred in September has in no way adversely affected her performance as a nurse or her position with Kerrville State Hospital.
10. On or about March 30, 2007, while employed with the Kerrville State Hospital, Kerrville, Texas, Respondent engaged in the intemperate use of alcohol in that Respondent admitted to relapsing on alcohol. The use of alcohol by a 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.
11. In response to Finding of Fact Number Ten (10), Respondent provided evidence that on or about April 9, 2007, she voluntarily entered the Starlight Treatment Center, Center Point, Texas, for inpatient treatment for alcohol abuse/dependency. Respondent was successfully discharged from in-patient treatment on May 23, 2007. On or about May 30, 2007, Respondent continued with intensive outpatient treatment and was successfully discharged on July 5, 2007.
12. Respondent states that on or about July 4, 2007, she resumed the practice of nursing with the approval of her treatment team and the management at the Kerrville State Hospital. The hospital is fully aware of Respondent's history and retains the right to test her at anytime.
13. Respondent provided evidence that she is currently monitored by Anand Mehendale, M.D., an addictionologist. Dr. Mehendale randomly screens Respondent for prohibited substances. She has only provided negative samples. Respondent is also active in the programs and activities of Alcoholics Anonymous and is involved in a professional recovery group.
14. Respondent states that her date of sobriety is March 31, 2007.
15. 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.
16. Formal Charges were filed on May 15, 2007.
17. Formal Charges were mailed to Respondent on May 17, 2007.

### 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 a violations of Section 301.452(b)(1),(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5),(9),(10)(A)&(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 673365, heretofore issued to BETH MARCELLE ARBAUGH, 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 Texas Board of Nursing, that Registered Nurse License Number 673365, previously issued to BETH MARCELLE ARBAUGH, to practice professional nursing in Texas is hereby SUSPENDED and said suspension is enforced until April 1, 2008, and until Respondent provides documentation of twelve (12) consecutive months of sobriety. Any relapse prior to the completion of the twelve (12) consecutive months of sobriety will result in an extension of the enforced suspension until such twelve (12) consecutive months of sobriety and additional treatment have been attained.

IT IS FURTHER ORDERED that Permanent Certificate Number 673365, previously issued to BETH MARCELLE ARBAUGH, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate 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 the 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, upon verification of successful completion of the approved treatment program and twelve (12) consecutive months of sobriety as set out in this Order, the Suspension will be stayed, and RESPONDENT will be placed on probation for three (3) years with the following agreed terms of probation:

(1) 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.

(2) RESPONDENT SHALL pay all re-registration fees, if applicable, and be issued a license to practice professional nursing in the State of Texas with the appropriate notation.

(3) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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.bon.state.tx.us/about/stipscourses.html>.*

(4) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500.00). RESPONDENT SHALL pay this fine within forty-five (45) days of the suspension being stayed. Payment is to be made directly to the Texas Board of Nursing 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 PROBATION CONDITIONS FOR THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) 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 PROBATIONARY PERIOD:**

(5) RESPONDENT SHALL notify all future employers in professional nursing of this Order of the Board and the probation conditions 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.

(6) 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.

(7) For the first year of employment as a Registered Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse. Direct supervision requires another professional nurse to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). The 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.

(8) For the remainder of the probation period, 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. Multiple employers are prohibited.

(9) RESPONDENT SHALL NOT practice as a professional nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Respondent is regularly assigned for one (1) year of employment as a professional nurse.

(10) RESPONDENT SHALL NOT practice as a professional nurse in any critical

care area for one (1) year of employment as a professional nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(11) RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a professional nurse.

(12) 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 Registered Nurse to the office of the Board at the end of each three (3) months for three (3) years of employment as a professional nurse.

(13) 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.



(14) 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 probation 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 probation 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 probation 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.

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

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.

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**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 24 day of January, 2008.

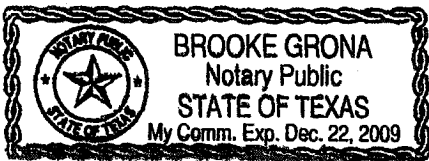
*Beth Arbaugh*

BETH MARCELLE ARBAUGH, Respondent

Sworn to and subscribed before me this 24th day of January, 2008

*Brooke Grana*

SEAL



Notary Public in and for the State of Texas

Approved as to form and substance.

*Jon E. Porter*

JON E. PORTER, Attorney for Respondent

Signed this 25th day of January, 2008

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 24th day of January, 2008, by BETH MARCELLE ARBAUGH, Registered Nurse License Number 673365, and said Order is final.

Effective this 18th day of March, 2008.



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

BEFORE THE BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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In the Matter of Registered Nurse License Number 673365 § AGREED  
issued to BETH MARCELLE ARBAUGH § ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of BETH MARCELLE ARBAUGH, Registered Nurse License Number 673365, 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 January 4, 2006, by Katherine A. Thomas, MN, RN, Executive Director.

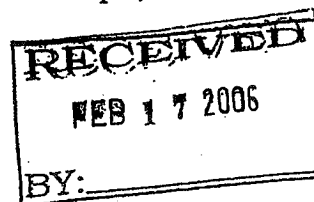
FINDINGS OF FACT

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 a Baccalaureate Degree in Nursing from the University of Mary Hardin-Baylor, Belton, Texas, on May 1, 2000. Respondent became licensed to practice professional nursing in the State of Texas on October 24, 2000.
5. Respondent's professional nursing employment history includes:

10/00-10/01

Staff Nurse

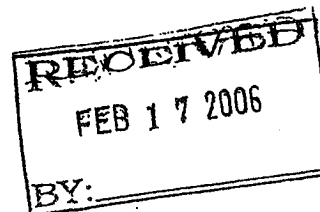
Scott & White Hospital  
Temple, Texas



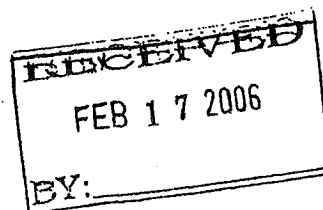
Respondent's professional nursing employment history continued:

12/01-Unknown	Staff Nurse	Memorial City Hospital Houston, Texas
1/02-4/05	Staff Nurse	Baptist Health System San Antonio, Texas
4/05-7/05	Unknown	
7/05-8/05	Staff Nurse	Christus Health Santa Rosa Hospital San Antonio, Texas
8/05-Present	Not employed in nursing	

6. At the time of the initial incident, Respondent was employed as a Staff Nurse with Baptist Health System, San Antonio, Texas, and had been in this position for approximately one (1) year.
7. On or about December 22, 2004, through January 14, 2005, while employed with Baptist Health System, San Antonio, Texas, Respondent misappropriated Morphine belonging to the facility and patients thereof, in that Respondent admitted to the misappropriation of Morphine for her personal consumption. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.
8. On or about December 22, 2004, through January 14, 2005, while employed with Baptist Health System, San Antonio, Texas, Respondent withdrew Morphine from the Pyxis Medication Dispensing System for patients, but failed to follow the policy and procedure for the wastage of the medication. Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
9. On or about December 22, 2004, through January 14, 2005, while employed with Baptist Health System, San Antonio, Texas, Respondent engaged in the intemperate use of Morphine in that Respondent admitted to the intemperate use. Possession of Morphine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Morphine by a nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in patients' conditions, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.



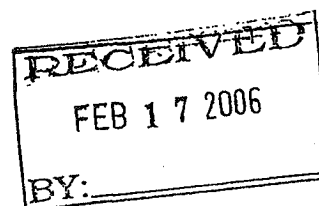
10. On or about January 14, 2005, while employed with Baptist Health System, San Antonio, Texas, Respondent lacked fitness to practice professional nursing due to exhibiting impaired behavior while on duty, including but not limited to work performance deterioration and behavioral changes. Respondent's conduct was likely to have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
11. On or about April 29, 2005, while employed with Baptist Health System, San Antonio, Texas, Respondent lacked fitness to practice professional nursing due to exhibiting impaired behavior while on duty, including but not limited to being disoriented. Respondent's conduct was likely to have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
12. Respondent denies the conduct described in Finding of Fact Number Eleven (11) and states that she maintained her sobriety through July 2005.
13. On or about August 19, 2005, while employed with Christus Health Santa Rosa Hospital, San Antonio, Texas, Respondent misappropriated Demerol and Darvocet from the facility and patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
14. On or about August 19, 2005, while employed with Christus Health Santa Rosa Hospital, San Antonio, Texas, Respondent lacked fitness to practice professional nursing due to exhibiting impaired behavior while on duty, including but not limited to being sluggish and slow. Respondent's conduct was likely to have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
15. On or about August 19, 2005, while employed with Christus Health Santa Rosa Hospital, San Antonio, Texas, Respondent engaged in the intemperate use of Demerol and Vicodin in that Respondent admitted to the intemperate use. Possession of Demerol and Vicodin is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Demerol and Vicodin by a nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in patients' conditions, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.



16. On or about August 19, 2005, while employed with Christus Health Santa Rosa Hospital, San Antonio, Texas, Respondent engaged in the intemperate use of Propoxyphene as evidenced by a positive drug screen. Possession of Propoxyphene is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Propoxyphene by a nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in patients' conditions, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
17. On or about November 23, 2005, through December 22, 2005, Respondent participated and successfully completed a residential substance abuse treatment program at Serenity Foundation of Texas, Fredericksburg, Texas. Carol McCarrick, LCDC, Serenity Foundation of Texas, Fredericksburg, Texas, states that Respondent was an asset to the client community. Ms. McCarrick states that Respondent completed the treatment program and compiled a goodbye letter to chemicals. Throughout the course of treatment, Respondent addressed a number of significant treatment issues that would assist her in facilitating a continuing recovery lifestyle. It is Ms. McCarrick's assessment that with participation in a support group three (3) to four (4) times weekly, Respondent's potential for ongoing recovery is good.
18. Respondent states that her sobriety date is October 8, 2005.
19. The Respondent's conduct described in the preceding Finding of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
20. 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 and chemical dependency.
21. Respondent's conduct described in preceding Findings of Fact resulted from Respondent's impairment by dependency on chemicals.
22. 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 violation of Section 301.452(b)(9),(10)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5),(6)(G)&(10)(A),(C)&(D).
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 673365, heretofore issued to BETH MARCELLE ARBAUGH, including revocation of Respondent's professional license to practice 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 the Texas Peer Assistance Program for Nurses (TPAPN):

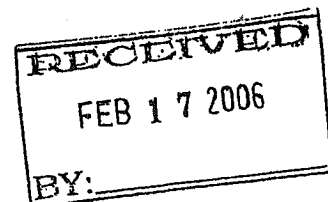
(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500) payable to TPAPN.

(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.

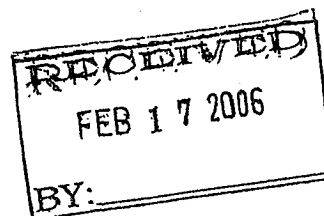
IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

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.

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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 Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of 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 Board of Nurse Examiners, 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 30<sup>th</sup> day of January, 2006.

Baugh

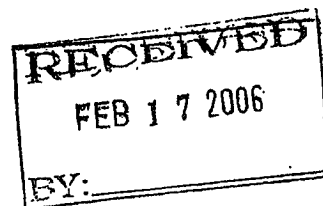
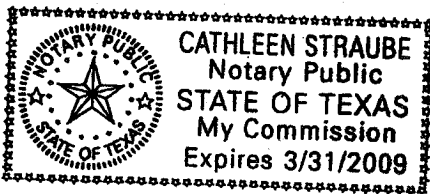
BETH MARCELLE ARBAUGH, Respondent

Sworn to and subscribed before me this 30<sup>th</sup> day of January, 2006.

SEAL


Cathleen Straube

Notary Public in and for the State of Texas



WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby accept and enter the Agreed Order that was signed on the 30th day of January, 2006, by BETH MARCELLE ARBAUGH, Registered Nurse License Number 677365, and said Order is final.

Entered and effective this 7th day of <sup>February</sup> January, 2006.

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

