BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse	§
License Number 662646	§
issued to KELLY BAKER WEBSTER	§

ORDER OF THE BOARD

On this day, the Texas Board of Nursing for the State of Texas, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 662646, issued to KELLY BAKER WEBSTER, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal conference, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent is currently licensed to practice professional nursing in the State of Texas.

2. Respondent waived representation by counsel, informal conference, notice and hearing.

3. Respondent received an Associate Degree in Nursing from Galveston College, Galveston, Texas, on May 1, 1999. Respondent was licensed to practice professional nursing in the State of Texas on July 20, 1999.

4. Respondent's professional nursing employment history includes:

July 1999 - August 1999	Unknown
September 1999 - May 2001	RN Mainland Medical Center Texas City, Texas

Respondent's professional nursing employment history continued:

June 2001 - January 2002	Unknown
February 2002 - June 2003	RN Coastal Staffing Agency Lake Jackson, Texas
June 2003 - August 2003	RN Premiere Staffing Houston, Texas
August 2003 - October 2003	RN Memorial Hermann Hospital Southeast Houston, Texas
November 2003 - November 2005	Unknown
December 2005 - Present	RN/Clinic Administrator Valor Healthcare Texas City, Texas

5. On February 27, 2007, Respondent was issued an Agreed Order by the Board of Nurse Examiners for the State of Texas which required her to participate in and 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 27, 2007, is attached and incorporated, by reference, as part of this Order.

6. In a letter dated August 30, 20007, Respondent was notified by the Board of the following alleged violation of the Nursing Practice Act of the State of Texas:

   On or about July 26, 2007, Respondent became non-compliant with the Agreed Order issued to her by the Board of Nurse Examiners for the State of Texas on February 27, 2007. Non-compliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract in that she withdrew from TPAPN and stated her intention to surrender her license to practice professional nursing. Stipulation number three (3) of the Agreed Order dated February 27, 2007, states:

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

7. On August 19, 2008, Respondent returned License Number 662646 and submitted a statement to the Board voluntarily surrendering the right to practice professional nursing in Texas. A copy of the statement is attached and incorporated, by reference, as part of this Order.

8. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.

9. 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.

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 of Section 301.452(b)(1) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(11)(B).

4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.

5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.

6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC§§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

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ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 662646, heretofore issued to KELLY BAKER WEBSTER, to practice professional nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title of registered nurse or the abbreviation "RN" or wear any insignia identifying herself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.

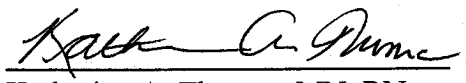
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.

3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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 compact states.

Effective this _27th____ day of August, 2008.

TEXAS BOARD OF NURSING

By: 

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

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

In the Matter of Registered Nurse License Number 662646	§	AGREED
issued to KELLY BAKER WEBSTER	§	ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of KELLY BAKER WEBSTER, Registered Nurse License Number 662646, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(2), (3), (9) & (10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on January 19, 2007, 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 Galveston College, Galveston, Texas, on May 1, 1999. Respondent originally became licensed to practice professional nursing in the State of Texas on July 20, 1999.

5. Respondent's professional nursing employment history includes:

July 1999 - August 1999	Unknown

Respondent's professional nursing employment history continued:

September 1999 - May 2001	RN Mainland Medical Center Texas City, Texas
June 2001 - January 2002	Unknown
February 2002 - June 2003	RN Coastal Staffing Agency Lake Jackson, Texas
June 2003 - August 2003	RN Premiere Staffing Houston, Texas
August 2003 - October 2003	RN Memorial Hermann Hospital Southeast Houston, Texas
November 2003 - November 2005	Unknown
December 2005 - Present	RN/Clinic Administrator Valor Healthcare Texas City, Texas

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Coastal Staffing Agency, Lake Jackson, Texas, and had been in this position for one (1) month.

7. On or about February 12, 2002, Respondent plead nolo contendere and was convicted of the offense of "Driving While Intoxicated," a Class B Misdemeanor, in the Galveston County Court at Law No. 3, Galveston, Texas, Cause Number 209688. Respondent was sentenced to confinement in the Galveston County Jail for a period of six (6) months, and assessed a fine and court costs in the total amount of five hundred ten dollars and twenty-five cents ($510.25). The imposition of the confinement portion of the sentence was suspended, and Respondent was placed on community supervision for a period of twelve (12) months. On March 12, 2003, Respondent was discharged from community supervision.

8. On or about September 9, 2002, Respondent submitted a renewal application to the Board of Nurse Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information, in that she answered "no" to the following question:

> Since issuance or last renewal, have you plead guilty (including no contest plea), been found guilty or convicted of any felony or misdemeanor other than a minor traffic violation? (Note: DWI or DUI, including first offenses, are not considered minor traffic violations.)

On or about February 12, 2002, Respondent plead nolo contendere and was convicted for the offense of "Driving While Intoxicated," a Class B Misdemeanor, in the Galveston County Court at Law No. 3, Galveston, Texas, Cause Number 209688.

9. On or about August 21, 2003, Respondent submitted an application for employment with Memorial Hermann Healthcare System, Houston, Texas, in which she provided false, deceptive, and/or misleading information, in that she answered "no" to the following question:

> Have you ever been convicted of, or been on probation for, or deferred adjudication for, or are you awaiting trial for, or on probation for, or deferred adjudication for any felony or misdemeanor?

On or about February 12, 2002, Respondent plead nolo contendere and was convicted for the offense of "Driving While Intoxicated," a Class B Misdemeanor, in the Galveston County Court at Law No. 3, Galveston, Texas, Cause Number 209688.

10. On or about August 2003 through September 2003, while employed with Memorial Hermann Hospital Southeast, Houston, Texas, Respondent misappropriated Vicodin belonging to the facility and its patients thereof in that Respondent admitted to the misappropriation for her own personal use. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

11. On or about August 2003 through September 2003, while employed with Memorial Hermann Hospital Southeast, Houston, Texas, Respondent engaged in the intemperate use of Vicodin in that she admitted that she used Vicodin without a valid prescription. Possession of Vicodin is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Vicodin by a Registered 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 patient in potential danger.

12. On or about January 20, 2004, Respondent plead guilty and was convicted of the offense of "Theft Property $50 - $500," a Class B Misdemeanor, in the Harris County Court at Law No. 5, Houston, Texas, Cause Number 1214698. Respondent was sentenced to confinement for a period of ten (10) days in the Harris County Jail, and ordered to pay court costs in the amount of two hundred one dollars ($201.00).

13. On or about July 30, 2004, Respondent plead guilty and was convicted of the offense of "Theft," a Class B Misdemeanor, in the Harris County Court at Law No. 12, Houston, Texas, Cause Number 1250119. Respondent was sentenced to confinement for a period of twenty (20) days in the Harris County Jail, and ordered to pay court costs in the amount of two hundred one dollars ($201.00).

14. On or about May 13, 2005, Respondent plead guilty and was convicted of the offense of "Theft $50 - $500," a Class B Misdemeanor, in the Harris County Court at Law No. 9, Houston, Texas, Cause Number 1302580. Respondent was sentenced to confinement for a period of one hundred (100) days in the Harris County Jail, and ordered to pay court costs in the amount of two hundred one dollars ($201.00).

15. On or about July 2006, while employed with Valor Healthcare, Texas City, Texas, Respondent engaged in the intemperate use of Vicodin in that she admitted that she used Vicodin without a valid prescription. Possession of Vicodin is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Vicodin by a Registered 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 patient in potential danger.

16. On July 27, 2006, Respondent submitted to a forensic psychological evaluation with a chemical dependency component administered by Rion N. Hart, Ph.D. On October 6, 2006, a polygraph examination was administered to Respondent by Morris Covin, Licensed Polygraph Examiner. Respondent was seen by Dr. Hart for a follow-up appointment on October 31, 2006. Incorporating the results of the polygraph exam which yielded a finding that Respondent "did tell substantially the truth," Dr. Hart offers the following conclusions and recommendations.

> It appears that she has been stable, sober and functioning adequately since the Fall of 2005 and is currently employed as the administrator of a VA Clinic where no controlled substances are kept. The test results yielded no indicators of significant psychological disturbance or impairment. While for the last year she has appeared to demonstrate the ability to consistently behave in accordance with the requirements of Rules 213.27 - 213.19 and 217.11, as well as consistently avoid unprofessional conduct as stipulated in 217.12, confidence that she could continue to do so without more comprehensively addressing her problems is limited. Although she is currently being prescribed Zoloft by a family member, the testing indicates a level of agitation and impulsivity that could reflect a Bipolar Disorder. This needs to be further assessed and treated by a psychiatrist. She also has not been involved in any formal recovery or addiction program, without which

the likelihood of relapse is increased. It is recommended that she be placed in the treatment of a psychiatrist for at least several years, be monitored at work and be engaged in a recovery program. Compliance with these, at a minimum, would be necessary to have confidence that she could continue to behave in accordance with Board Rules.

17. 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.

18. 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.

19. Respondent's conduct described in Findings of Fact Numbers Seven (7), Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14) and Fifteen (15) resulted from Respondent's dependency on chemicals.

20. 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)(2), (3), (9) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.12(1), (19), (22) & (23) and 217.12(10)(A) & (13)(effective September 28, 2004).

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 662646, heretofore issued to KELLY BAKER WEBSTER, 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.

(5) 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 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 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 20 day of February 2007.

Kelly Baker Webster
KELLY BAKER WEBSTER, Respondent

Sworn to and subscribed before me this 20th day of February, 2007.

SEAL

Barbara D Blakley
Notary Public in and for the State of 9-5-2009

BARBARA D. BLAKLEY
NOTARY PUBLIC
STATE OF TEXAS
My Comm. Expires 09-05-2009

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 20th day of February, 2007, by KELLY BAKER WEBSTER, Registered Nurse License Number 662646, and said Order is final.

Entered and effective this 27th day of February, 2007.

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

August 6, 2008

Texas Board of Nursing
333 Guadalupe Street, Ste 3-460
Austin, TX 78701

RE: License number 662646

Dear Ms. Thomas,

I have read the agreed order closely and after much consideration and prayer I would like to respectfully surrender my nursing license. I am very aware of, and accept responsibility for choices I made in the past. I can also appreciate the position of the nursing board and understand that you must protect the public at all costs.

That being said I would like to explain my reason for choosing to surrender my license. I realize that there is no way you can know who I am today based on the information in my file for you see only the bad. However, I know who I am; my family knows who I am; and most importantly God knows who I am. I am at peace with that. I made many sacrifices to earn this license only to find that nursing just wasn't all I had anticipated it to be. If I so desired I could make the additional sacrifices you are asking for, however, I cannot justify within myself the desire to make these sacrifices for something that's not that important to me. Please don't get me wrong - I love taking care of people and helping them. That is all I have wanted to do since I was four years old. Back then little girls either wanted to be nurses or teachers so I settled on becoming a nurse and only after actually beginning my career as a nurse did I realize that perhaps nursing wasn't the appropriate avenue for my caring and compassion.

As you may or may not know I went through hell from 2003 to 2005. Granted, I went through it by my own choice and I have suffered innumerable consequences behind that choice. But I have moved beyond my past – without therapy and without rehab. Perhaps I am the exception to the rule. I realize now that I have been blessed greatly by a God who wastes no pain. I survived living in the devil's den and came out a much stronger, wiser person – a person with a testimony to share with others still struggling. So, yes, I do still have a deep passion and commitment to caring for others; it's just that the 'others' I want to care for are not found in hospitals or clinics – they are found on street corners, under bridges or in seedy motels. I don't need to be a registered nurse to share my testimony or to try to make a difference - for in essence that's all I ever really wanted to do – make a difference in someone's life and I will devote the rest of my life to doing that. In the end I am truly grateful that I serve a loving and merciful God who is more forgiving than the nursing board.

Sincerely,

Kelly Webster

Kelly Webster
ENCL