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

In the Matter of Vocational Nurse License Number 181009	§	
and Registered Nurse License Number 713888	§	AGREED
issued to KARI KRISTINA MCKINLEY	§	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 Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of KARI KRISTINA MCKINLEY, Vocational Nurse License Number 181009 and Registered Nurse License Number 713888, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(2)(9)(10)&(13), Texas Occupations Code. Respondent waived informal conference, notice and hearing, and agreed to the entry of this Order offered September 10, 2006, 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. Respondent's license to practice vocational nursing in the State of Texas is currently in inactive status.

4. Respondent received a Vocational Nursing Diploma from Chemeketa Community College, Salem, Oregon, on May 1, 1996. Respondent originally became licensed to practice vocational nursing in the State of Texas on August 8, 2001. Respondent received an Associate Degree in Nursing from Regents College, Albany, New York, on November 15, 2004. Respondent originally became licensed to practice professional nursing in the State of Texas on February 22, 2005.

5. Respondent's complete nursing employment history is unknown.

6. On or about April 16, 2005 through April 17, 2005, while employed with South Austin Hospital, Austin, Texas, Respondent withdrew narcotics, including but not limited to Vicodin Norco and Morphine, from the medication dispensing system for patients, but failed to completely and accurately document the administration of the medications in the patients' Medication Administration Records (MARs), Nurses Notes, or both, as follows:

Date/ Time	Patient	NarcoticRecord (Accudose)	Physician's Order	Medication Administration Record	Nurses Notes	Waste
4/16/05 @ 0822	K00103121923	(1) Hydrocodone 5mg/apap 1 ea tab	(1) Vicodin po Q4-PRN	Not Documented	Not Documented	None
4/16/05 @ 0822	K00103121923	(1) Morphine Sulfate 4mg/ml- 1ml	2-4 mg Morphine Q2- PRN	Not Documented	Not Documented	0936 .5mg
4/16/05 @ 1106	K00103121923	(1) Hydrocodone 5mg/apap 1 ea tab	(1) Vicodin po Q4-PRN	Not Documented	Not Documented	None
4/16/05 @ 1107	K00103121923	(1) Morphine Sulfate 4mg/ml- 1ml	2-4 mg Morphine Q2- PRN	11am 4mg NO INITIALS	Not Documented	None
4/16/05 @ 1318	K00103121923	(1) Morphine Sulfate 4mg/ml- 1ml	2-4 mg Morphine Q2- PRN	Not Documented	Not Documented	None
4/16/05 @ 1452	K00103130883	(2) Hydrocodone 10mg/apap	2 Norco po x 1 now	1@1445 1@1615	Documented pain assessment	None
4/17/05 @ 0821	K00103126290	(2) Hydrocodone 5mg/apap 1 ea tab	1-2 Vicodin 5-500 po Q4 PRN	Not Documented	Not Documented	None
4/17/05 @ 1255	K00103126290	(1) Hydrocodone 5mg/apap 1 ea tab	1-2 Vicodin 5-500 po Q4 PRN	Not Documented	Not Documented	None
4/17/05 @ 1726	K00103126290	(1) Hydrocodone 5mg/apap 1 ea tab	1-2 Vicodin 5-500 po Q4 PRN	Not Documented	Not Documented	None

Respondent's conduct above was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose.

7. On or about April 16, 2005 through April 17, 2005, while employed with South Austin Hospital, Austin, Texas, Respondent withdrew narcotics, including but not limited to Vicodin, Norco and Morphine, from the medication dispensing system for patients, but failed to follow the policy and procedure for the wastage of the medications, as follows:

Date/ Time	Patient	NarcoticRecord (Accudose)	Physician's Order	Medication Administration Record	Nurses Notes	Waste
4/16/05 @ 0822	K00103121923	(1) Hydrocodone 5mg/apap 1 ea tab	(1) Vicodin po Q4-PRN	Not Documented	Not Documented	None
4/16/05 @ 1106	K00103121923	(1) Hydrocodone 5mg/apap 1 ea tab	(1) Vicodin po Q4-PRN	Not Documented	Not Documented	None
4/16/05 @ 1107	K00103121923	(1) Morphine Sulfate 4mg/ml- 1ml	2-4 mg Morphine Q2- PRN	11am 4mg NO INITIALS	Not Documented	None
4/16/05 @ 1318	K00103121923	(1) Morphine Sulfate 4mg/ml- 1ml	2-4 mg Morphine Q2- PRN	Not Documented	Not Documented	None
4/16/05 @ 1452	K00103130883	(2) Hydrocodone 10mg/apap	2 Norco po x 1 now	1@1445 1@1615	Documented pain assessment	None
4/17/05 @ 0821	K00103126290	(2) Hydrocodone 5mg/apap 1 ea tab	1-2 Vicodin 5-500 po Q4 PRN	Not Documented	Not Documented	None
4/17/05 @ 1255	K00103126290	(1) Hydrocodone 5mg/apap 1 ea tab	1-2 Vicodin 5-500 po Q4 PRN	Not Documented	Not Documented	None
4/17/05 @ 1726	K00103126290	(1) Hydrocodone 5mg/apap 1 ea tab	1-2 Vicodin 5-500 po Q4 PRN	Not Documented	Not Documented	None

Respondent's conduct was likely to injure the patients in that the administration of Vicodin and Morphine without out a physician's order could result in the patients suffering from adverse reactions. Respondent's failure to follow the policy for wastage 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).

8. On or about April 16, 2005 through April 17, 2005, while employed with South Austin Hospital, Austin, Texas, Respondent misappropriated narcotics, including but not limited to Vicodin and Morphine, belonging to the facility and patients thereof or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

9. On or about October 24, 2005, while employed with Austin State Hospital, Austin, Texas, Respondent engaged in the intemperate use of alcohol in that Respondent submitted a specimen for a drug screen which resulted positive for alcohol; Respondent admitted to drinking alcohol; and Respondent admitted herself into the Starlite Recovery Center, Center Point, Texas. 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.

10. On or about May 13, 2006, Respondent was arrested by the Travis County, Texas, Sheriff's Office, for the Third Degree Felony offense of "Burglary of a Habitation," Cause No. 06-202527. This case is currently pending prosecution in Travis County, Texas.

11. On or about May 29, 2006, 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:

> "Have you been convicted, adjudged guilty by a court, plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrest (excluding minor traffic violations) since your last renewal? This includes expunged offenses and deferred adjudication with or without prejudice of guilt."

On or about May 13, 2006, Respondent was arrested by the Travis County, Texas, Sheriff's Office, for the Third Degree Felony offense of "Burglary of a Habitation," Cause No. 06-202527. Respondent's conduct was likely to deceive the Board of Nurse Examiners for the State of Texas, and may have affected the Board's decision to license her.

12. Respondent's last known date of sobriety is October 24, 2005, as indicated in Finding of Fact Number Nine (9).

13. 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 violations of Section 301.452(b)(2)(9)(10)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(D) and 22 TEX. ADMIN. CODE §217.12(4),(6)(G)&(I),(8)&(10)(A)(C)(D)&(E), &(13).

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 713888 and Vocational Nurse License Number 181009, heretofore issued to KARI KRISTINA MCKINLEY, including revocation of Respondent's licenses 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 Registered Nurse License Number 713888 and Vocational Nurse License Number 181009, previously issued to KARI KRISTINA MCKINLEY, to practice nursing in the State of Texas, are hereby SUSPENDED and said suspension is enforced until Respondent completes a treatment program approved by the Board, provides documentation of successful completion, and has obtained 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 Registered Nurse License Number 713888 and Vocational Nurse License Number 181009 previously issued to KARI KRISTINA MCKINLEY, upon receipt of this Order, be immediately delivered to the office of the Board of Nurse Examiners for the State of Texas.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate privilege, if any, to practice nursing in compact states.

IT IS FURTHER AGREED and ORDERED that while Respondent's licenses are 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 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 licenses to practice professional and vocational 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 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 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 can be found on the Board's website* www.bne.state.tx.us *(under BNE events).*

(4) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete a course in nursing 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. 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 Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, 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. *Board approved courses may be found on the Board's website, www.bne.state.tx.us (under BNE events).*

(5) RESPONDENT SHALL pay a monetary fine in the amount seven hundred fifty dollars ($750.00). RESPONDENT SHALL pay this fine within forty-five (45) days of the suspension being stayed. 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.

(6) IT IS FURTHER AGREED, SHOULD RESPONDENT be convicted of or receive a deferred order for the offense as outlined in Finding of Fact Number TEN (10), said judicial action will result in further disciplinary action including Revocation of Respondent's license to practice nursing in the State of Texas.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A 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 OR VOCATIONAL NURSE (LVN) WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(7) RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the probation conditions on RESPONDENT's licenses. 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.

(8) RESPONDENT SHALL CAUSE each present employer in 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 nurse.

(9) For the first year of employment as a nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse. Direct supervision requires another 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.

(10) For the duration of the probation period, RESPONDENT SHALL be supervised by a Registered Nurse who is on the premises. The supervising RN or LVN 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 nurse 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.

(11) RESPONDENT SHALL NOT practice as a 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 nurse.

(12) RESPONDENT SHALL NOT practice as a nurse in any critical care area for one (1) year of employment as a 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.

(13) 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 nurse.

(14) 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 nursing. These reports shall be completed by the nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) months for three (3) years of employment as a nurse.

(15) 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.**

(16) 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.

(17) 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 licenses and multistate licensure privileges, if any, to practice 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 licenses to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 28th day of October, 2006.

Kari McKinley

KARI KRISTINA MCKINLEY, Respondent

Sworn to and subscribed before me this 28th day of October, 2006.

SEAL

Kim McCauley

Notary Public in and for the State of Oregon

OFFICIAL SEAL
KIM McCAULEY
NOTARY PUBLIC-OREGON
COMMISSION NO. 409799
MY COMMISSION EXPIRES SEPT. 18, 2010

Approved as to form and substance.

LOUIS LEICHTER, Attorney for Respondent

Signed this 30 day of Oct, 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 28th day of October, 2006, by KARI KRISTINA MCKINLEY, Registered Nurse License Number 713888 and Vocational Nurse License Number 181009, and said Order is final.

Effective this 11th day of December, 2006.

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