BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse	§	AGREED
License Number 774271	§	
issued to THERESE MARIE DOLIVERA	§	ORDER

TEXAS BOARD OF NURSING
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 Texas Board of Nursing, hereinafter referred to as the Boa accepted the voluntary surrender of Registered Nurse License Number 774271, issued to THERESE MARIE DOLIVERA, 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 proceedings, notice and hearing, and agreed to the entry of this Order.

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

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).

2. Respondent waived representation by counsel, informal proceedings, 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 Diploma in Nursing from New England Baptist Hospital, Boston, Massachusetts, on June 1, 1973. Respondent was licensed to practice professional nursing in the State of Texas on August 13, 2009.

5. Respondent's complete professional nursing employment history includes:

8/73 - 5/79	Staff Nurse	Brookline Hospital Brookline, Massachusetts

Respondent's complete professional nursing employment history continued:

10/80 - 1/84	Staff Nurse	Framingham Union Hospital Framingham, Massachusetts
2/84 - 2/88	Staff Nurse	St. Thomas Hospital US Virgin Islands
2/88 - 3/96	Head Nurse	Mr. Callwood US Virgin Islands
9/96 - 5/98	Staff Nurse	Roy L. Schneider Hospital US Virgin Islands
6/98 - 8/09	Unknown	
9/1/09- unknown	Staff Nurse	Hearne Healthcare Hearne, Texas

6. On or about July 23, 2009, Respondent was issued an Eligibility Agreed Order by the Texas Board of Nursing. A copy of the July 23, 2009, Agreed Order, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this Order.

7. On or about August 17, 2010, Respondent was issued an Agreed Order by the Texas Board of Nursing. A copy of the August 17, 2010, Agreed Order, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this Order.

8. On or about September 6, 2011, and September 28, 2011, Respondent failed to comply with the Agreed Order issued to her by the Texas Board of Nursing on August 17, 2010. Respondent's non-compliance is the result of her failure to comply with Stipulation Number Thirteen (13) of the Order which reads:

   "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..."

   Specifically, on or about September 6, 2011, Respondent produced a specimen for a drug screen that resulted positive for Butalbital and Cannabinoid. On or about September 28, 2011, Respondent produced a specimen for a drug screen that resulted positive for Butalbital.

9. On or about September 9, 2011, while employed as a Registered nurse with Bluebonnet Hills Care Center, Brenham, Texas, Respondent engaged in the intemperate use of Butalbital and Cannabinoids, in that she produced a specimen for a drug screen that resulted positive for

Butalbital and Cannabinoids. Possession of Butalbital and Cannabinoids is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Butalbital and Cannabinoids by a Registered 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, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.

10. On or about September 25, 2011, while employed as a Registered nurse with Bluebonnet Hills Care Center, Brenham, Texas, Respondent misappropriated a Metoprolol ER 50mg tablet from resident E.R., in that she admitted that she took the pill for her husband and planned on putting it back once her husband's pills had arrived. Respondent's conduct was likely to defraud the facility and the patient of the cost of the medication.

11. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license to practice nursing in the State of Texas.

12. 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.

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.

3. The evidence received is sufficient to prove violations of Section 301.452(b)(1),(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(B),(5),(6)(G),(8),(10)(A)(D)(E)&(11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 774271, heretofore issued to THERESE MARIE DOLIVERA, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

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

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

7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Registered Nurse License Number 774271, heretofore issued to THERESE MARIE DOLIVERA, to practice nursing in the State of Texas, is accepted by 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 "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 nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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. 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 becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 24th day of October, 2011.

Therese Marie DiOlivera
THERESE MARIE DOLIVERA, Respondent

Sworn to and subscribed before me this 24th day of October, 2011.

SEAL

SONYA MARIE JOHNSON
MY COMMISSION EXPIRES
May 13, 2014

Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Registered Nurse License Number 774271, previously issued to THERESE MAIRE DOLIVERA.

Effective this 24 day of October, 20 11.

Katherine A. Thomas

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

BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse	§	AGREED
License Number 774271	§	
issued to THERESE MARIE D'OLIVERA	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of THERESE MARIE D'OLIVERA, Registered Nurse License Number 774271, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(1),(9) and (10), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on April 6, 2010, 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 proceedings, 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 Diploma in Nursing from New England Baptist Hospital, Boston, Massachusetts, on June 1, 1973. Respondent was licensed to practice professional nursing in the State of Texas on August 13, 2009.

5. Respondent's professional nursing employment history includes:

8/73 - 5/79	Staff Nurse	Brookline Hospital Brookline, Massachusetts
10/80 - 1/84	Staff Nurse	Framingham Union Hospital Framingham, Massachusetts

Respondent's professional nursing employment history continued:

2/84 - 2/88	Staff Nurse	St. Thomas Hospital US Virgin Islands
2/88 - 3/96	Head Nurse	Mr. Callwood US Virgin Islands
9/96 - 5/98	Staff Nurse	Roy L. Schneider Hospital US Virgin Islands
6/98 - 8/09	Unknown	
9/1/09- unknown	Staff Nurse	Hearne Healthcare Hearne, Texas

6. On July 23, 2009, Respondent was issued an Eligibility Agreed Order by the Texas Board of Nursing. A copy of the July 23, 2009, Agreed Order, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this Order.

7. On or about December 21, 2009, while employed with Hearne Healthcare Center, Respondent engaged in the intemperate use of Tramadol in that she produced a specimen for a drug screen which resulted positive for Tramadol. Possession of Tramadol is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Tramadol by a Registered 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 December 21, 2009, while employed with the aforementioned facility, Respondent failed to comply with the Eligibility Agreed Order issued to her on July 23, 2009, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Fourteen (14) of the Agreed Order which states, in pertinent part:

> (14) APPLICANT 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....

9. On or about January 12, 2010, while employed with the aforementioned facility, Respondent engaged in the intemperate use of Propoxyphene in that she produced a specimen for a drug screen which resulted positive for Propoxyphene. Possession of Propoxyphene is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Propoxyphene by a Registered 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 January 12, 2010, while employed with the aforementioned facility, Respondent failed to comply with the Eligibility Agreed Order issued to her on July 23, 2009, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Fourteen (14) of the Agreed Order which states, in pertinent part:

> (14) APPLICANT 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....

11. On or about January 12, 2010, while employed with the aforementioned facility, Respondent engaged in the intemperate use of Morphine in that she produced a specimen for a drug screen which resulted positive for Morphine. Possession of Morphine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Morphine by a Registered 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.

12. On or about January 12, 2010, while employed with the aforementioned facility, Respondent failed to comply with the Eligibility Agreed Order issued to her on July 23, 2009, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Fourteen (14) of the Agreed Order which states, in pertinent part:

> (14) APPLICANT 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....

13. On or about January 12, 2010, while employed with the aforementioned facility, Respondent misappropriated Propoxyphene and Morphine belonging to the facility and patients thereof. Respondent admitted to the misappropriation and personal use of Propoxyphene and Morphine due to pain associated with a Staph infection. Respondent's conduct was likely to defraud the facility and the patients thereof of the cost of the medication.

14. Respondent's last known date of sobriety is January 12, 2010, as indicated in Finding of Fact Number Twelve (12).

15. Respondent states she did not have health insurance and had no other way in which to obtain the pain medications and that at no point did her use of these medications negatively affect her practice as a nurse.

16. 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 a violations of Section 301.452(b)(1), (9) and (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(G), (8), (10)(A) & (D), and (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 774271, heretofore issued to THERESE MARIE D'OLIVERA, including revocation of Respondent's 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 774271, previously issued to THERESE MARIE D'OLIVERA, to practice nursing in Texas is 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 AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

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 nurse licensure compact privilege without the written permission of the Texas Board of Nursing 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, Texas Occupations Code, §§301.001 *et seq*., the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq*. and this Order.

(2) RESPONDENT SHALL pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.

(3) RESPONDENT SHALL pay a monitoring fee in the amount of five hundred ($500.00) dollars. 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.

(4) 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) 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 Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; 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/disciplinaryaction/stipscourses.html.*

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 WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(5) RESPONDENT SHALL notify all future employers in 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 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.

(7) 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.

(8) For the remainder of the probation period, RESPONDENT SHALL be supervised by a Registered Nurse who is on the premises. The supervising nurse 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.

(9) 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.

(10) 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.

(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 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 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.

(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 next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) 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. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board.

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 or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

(15) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. 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, all encumbrances will be removed from RESPONDENT's license to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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 nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 10th day of May, 2010.

Therese Marie D'Olivera

THERESE MARIE D'OLIVERA, Respondent

Sworn to and subscribed before me this 10th day of May, 2010.

SEAL

MARILYN BOWEN
Notary Public
STATE OF TEXAS
My Comm. Exp. 11-10-12

Notary Public in and for the State of Texas

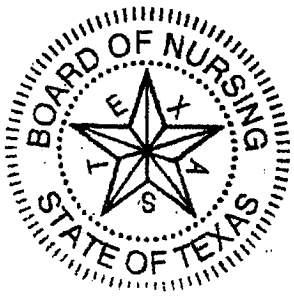
Approved as to form and substance.

DAN LYPE, Attorney for Respondent

Signed this 23 day of July, 2010.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 10th day of May, 20 10, by THERESE MARIE D'OLIVERA, Registered Nurse License Number 774271, and said Order is final.

Effective this 17th day of August, 20 10.



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

BEFORE THE BOARD OF NURSING
FOR THE STATE OF TEXAS
****

In the Matter of	§	ELIGIBILITY
THERESE MARIE DOLIVERA	§	
APPLICANT for Eligibility for Licensure	§	AGREED ORDER

On the date entered below, the Texas Board of Nursing, hereinafter referred to as the Board, considered the Temporary License/Endorsement Application and supporting documents filed by THERESE MARIE DOLIVERA, hereinafter referred to as APPLICANT, together with any documents and information gathered by staff and APPLICANT's Certificate contained herein. Information received by the Board produced evidence that APPLICANT may have violated Section 301.452(8), Texas Occupations Code.

APPLICANT waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on March 9, 2009, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about December 2, 2008, Applicant submitted an Application for Licensure by Endorsement requesting a determination of eligibility for licensure in compliance with Section 301.257 of the Texas Occupations Code and the Board's Rule at 22 Texas Administrative Code Section 213.30.

2. Applicant waived notice, administrative hearing, and judicial review.

3. Applicant graduated with a Diploma in Professional Nursing from New England Baptist Hospital School of Nursing, Boston, Massachusetts, in June 1973.

4. Applicant completed the Application for Licensure by Endorsement and answered "no" to the question which reads as follows: *"Has any licensing authority refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, suspended, placed on probation, refused to renew a professional license or certificate held by you now or previously, or ever fined, censured, reprimanded or otherwise disciplined you?"*

5. In July 2007, Applicant's licensure with the Virgin Islands Board of Nurse Licensure was suspended contingent upon completion of a one (1) year drug rehabilitation program. Applicant's license is currently still in a suspended status.

6. Applicant has sworn that with the exception of matters disclosed in connection with the Temporary License/Endorsement Application, her past behavior conforms to the Board's professional character requirements.

7. After considering the action taken by the Virgin Islands Board of Nurse Licensure along with Applicant's conduct since July 2007, the Executive Director is satisfied that Applicant is able to meet the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

8. Applicant has sworn that her past behavior conforms to the Board's professional character requirements. Applicant presented no evidence of behavior which is inconsistent with good professional character.

9. On March 9,2 009, the Executive Director considered evidence of Applicant's past behavior in light of the character factors set out in 22 Texas Administrative Code §213.27 and determined that Applicant currently demonstrates the criteria required for good professional character.

10. Licensure of Applicant poses no direct threat to the health and safety of patients or the public, provided Applicant complies with the stipulations outlined in this Order.

11. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Applicant's disclosures.

12. Applicant has been advised by the Board that any information found to be incomplete, incorrect or misleading to the Board or a subsequent discovery of a basis of ineligibility will be considered by the Board and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through fraud or deceit.

CONCLUSIONS OF LAW

1. The Texas Board of Nursing has jurisdiction over this matter pursuant to Section 301.453 *et seq.*, Texas Occupations Code.

2. Applicant has submitted an Application for Licensure by Endorsement requesting a determination of eligibility for licensure in compliance with Section 301.257 of the Texas Occupations Code and the Board's Rule at 22 Texas Administrative Code Section 213.30.

3. The evidence in Findings of Fact Number Five (5), is sufficient cause to take disciplinary action under Section 301.452 *et seq.*, Texas Occupations Code, and, therefore, sufficient cause to deny licensure.

4. The action taken by another jurisdiction is grounds for denial of a license under Section 301.452 *et seq.*, Texas Occupations Code.

5. Applicant shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452 *et seq.*, Texas Occupations Code.

6. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 Texas Administrative Code §213.27, the Board is satisfied that the individual is able to consistently conform her conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

ORDER

IT IS THEREFORE AGREED that the application of THERESE MARIE DOLIVERA, APPLICANT, is hereby CONDITIONALLY GRANTED and shall be subject to the following conditions:

(1) APPLICANT SHALL obtain and read the Texas Nursing Practice Act, and the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice.

(2) Upon payment of the necessary fees, APPLICANT SHALL be issued a license to practice professional nursing in the State of Texas, which shall bear the appropriate notation.

(3) Upon receiving authorization to practice professional nursing in Texas, APPLICANT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

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

IT IS FURTHER AGREED and ORDERED that while APPLICANT's license is encumbered by this Order the APPLICANT 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 APPLICANT wishes to work.

(4) APPLICANT SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in Texas nursing jurisprudence and ethics. APPLICANT 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 Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. APPLICANT 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 APPLICANT'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/disciplinaryaction/stipscourses.html.*

(5) APPLICANT SHALL pay a monetary fine in the amount of seven hundred and fifty dollars (750.00). APPLICANT SHALL pay this fine within forty-five (45) days of initial

licensure in the State of Texas. 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 PETITIONER PRACTICE AS A REGISTERED NURSE IN THE STATE OF TEXAS, PETITIONER WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND PETITIONER MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION 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 STIPULATION PERIOD:

(6) APPLICANT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on APPLICANT's license. APPLICANT 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.

(7) APPLICANT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Applicant by the Board, to the Board's office within five (5) days of employment as a nurse.

(8) For the first year of employment as a Nurse under this Order, APPLICANT SHALL be directly supervised by a Registered Nurse. Direct supervision requires another professional nurse to be working on the same unit as APPLICANT and immediately available to

provide assistance and intervention. APPLICANT SHALL work only on regularly assigned, identified and predetermined unit(s). The APPLICANT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. APPLICANT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(9) For the remainder of the stipulation period, APPLICANT SHALL be supervised by a Registered Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as APPLICANT, 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 Applicant is currently working. APPLICANT SHALL work only regularly assigned, identified and predetermined unit(s). APPLICANT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. APPLICANT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(10) APPLICANT 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 Applicant is regularly assigned for one (1) year of employment as a nurse.

(11) APPLICANT 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.

(12) APPLICANT 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.

(13) APPLICANT SHALL CAUSE each employer to submit, on forms provided to the Applicant by the Board, periodic reports as to APPLICANT's capability to practice nursing. These reports shall be completed by the Registered Nurse who supervises the APPLICANT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for three (3) years of employment as a nurse.

(14) APPLICANT 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, APPLICANT 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 APPLICANT 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.**

(15) APPLICANT 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 next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the stipulation period, random screens shall be performed at least once every three (3) months. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis is the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

- Amphetamines
- Barbiturates
- Benzodiazepines
- Cannabinoids
- Cocaine
- Ethanol
- tramadol hydrochloride (Ultram)
- Meperidine
- Methadone
- Methaqualone
- Opiates
- Phencyclidine
- Propoxyphene

A Board representative may appear at the APPLICANT's place of employment at any time during the stipulation period and require APPLICANT 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. APPLICANT SHALL be responsible for the costs of all random drug screening during the stipulation period.

Any positive result for which the nurse does not have a valid prescription will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board. Failure to report for a drug screen may be considered the same as a positive result and may result in further disciplinary action by this Board.

(16) APPLICANT SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. APPLICANT 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 APPLICANT. APPLICANT 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, that upon full compliance with the terms of this Order, APPLICANT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

APPLICANT'S CERTIFICATION

I am the Applicant in this matter. I have fully and truthfully disclosed all of my past convictions and I have caused a complete and accurate criminal history to be submitted to the Texas Board of Nursing from each jurisdiction in which I have been convicted. I certify that my past behavior, except as disclosed in my Temporary License/Endorsement Application has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of conviction such as conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

In connection with my application, I acknowledge that I have read and I understand Sections 301.157, 301.252, 301.253, 301.260, and 301.452(b) of the Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, and Board Rules at 213.27, 213.28, and 213.29 at 22 Texas Administrative Code, which are incorporated by reference as a part of this Order. I agree with all terms of this Order and any stipulations. I agree to inform the Board of any other grounds for denial of licensure prior to accepting any permit or license from the Texas Board of Nursing.

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.

I understand that I can be represented by an attorney in this matter. I waive notice, administrative hearing, and judicial review of this Order and request that the Executive Director of the Texas Board of Nursing enter this Order.

Signed this 27th day of May, 2009.

Therese Marie D'Olivera

THERESE MARIE DOLIVERA, APPLICANT

Sworn to and subscribed before me this 27th day of May, 2009.

SEAL

SELENA M. TREVINO
Notary Public
STATE OF TEXAS
My Comm. Exp.06-30-09

Notary Public in and for the State of Texas

Approved as to form and substance.

Louis Leichter, Attorney for Applicant

Signed this 28 day of May, 2009.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Order of Conditional Eligibility that was signed on the 27th day of May, 2009, by THERESE MARIE DOLIVERA, APPLICANT, for Temporary License/Endorsement Application, and said Order is final.

Entered this 23rd day of July, 2009.

BOARD OF NURSING
FOR THE STATE OF TEXAS

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