BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse	§	AGREED
License Number 636223	§	
issued to GINA IRIS LAPORTE	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Bo considered the matter of GINA IRIS LAPORTE, Registered Nurse License Number 636 hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(8)&(10), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on March 25, 2011, 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(s).

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 Seychelles Polytechnic, Ontario, Canada, on December 31, 1984. Respondent was licensed to practice professional nursing in the State of Texas on January 2, 1997.

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

6. On or about November 28, 2008, Respondent was found to be incapacitated to practice nursing due to a substance dependence disorder and was issued a Decision on Consent by the Fitness to Practice Committee of the College of Nurses of Ontario, Toronto, Ontario, Canada. Respondent agreed to surrender her Certificate to practice professional nursing in Ontario, Canada. A copy of the Memorandum of Agreement, and Decision on Consent, effective November 28, 2008, is attached and incorporated, by reference, as a part of this order.

7. On or about June 15, 2010, Respondent's license to practice as a registered nurse in the State of Minnesota was SUSPENDED by the Minnesota Board of Nursing, Minneapolis, Minnesota, based on a finding of the College of Nurses of Ontario's Fitness to Practice Committee on Respondent's incapacity to practice nursing due to her substance dependence disorder. A copy of the Findings of Fact, Conclusions, and Final Order, dated June 15, 2010, is attached and incorporated, by reference, as part of this order.

8. In response to the incidents in Findings of Fact Numbers Six (6) and Seven (7), Respondent states that it began when she started to use Zopiclone/Imovane for sleep. At this time, Respondent was working 12 hour night shifts and couldn't sleep during the day due to construction. Respondent states she requested to be moved to the day shift but was turned out three times in a 3-4 month period. Respondent states she wanted to move back to Texas and was told the best route would be to surrender her certificate in Ontario. The Commission on Graduates of Foreign Nursing Schools advised Respondent to get licensed in the State of Minnesota, but Respondent never worked in Minnesota as a nurse. Additionally, Respondent states she knew nothing of the action taken my Minnesota until the Texas Board of Nursing informed her. Respondent states she has four (4) years of sobriety with a sobriety date of April 2, 2007. Respondent has provided negative drug screen reports obtained over the past year. Additionally, Respondent has provided the Board with a recent, favorable performance evaluation from her current employer.

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.

10. Formal Charges were filed on April 2, 2009; First Amended Formal Charges were filed on September 1, 2010.

11. Formal Charges were mailed to Respondent on April 7, 2009; First Amended Formal Charges were mailed to Respondent on September 1, 2010.

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)(8)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5).

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 636223, heretofore issued to GINA IRIS LAPORTE, including revocation of Respondent's license(s) 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 RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and 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.

IT IS FURTHER AGREED and ORDERED that, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

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(s) is/are encumbered by this Order, 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 that:

(1) RESPONDENT SHALL, within one (1) year of entry of this Order, 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 <u>not</u> 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 STIPULATIONS FOR ONE (1) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) 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:

(2) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations 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 present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations 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.

(3) 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.

(4) RESPONDENT SHALL CAUSE each employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.

(5) 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 Registered 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) month period for one (1) year(s) of employment as a nurse.

(6) 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 a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.**

(7) 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. 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 stipulation 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 stipulation 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(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

(8) 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) month period. 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, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 6 day of April, 2011.

GINA IRIS LAPORTE, Respondent

Sworn to and subscribed before me this 6th day of April, 2011.

SUSAN COX
SEAL Notary Public
STATE OF TEXAS
My Comm. Exp. 02-01-2014

Notary Public in and for the State of TEXAS

Approved as to form and substance.

Taralynn R. Mackay, Attorney for Respondent

Signed this 12th day of April, 2011.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 6th day of April, 2011, by GINA IRIS LAPORTE, Registered Nurse License Number 636223, and said Order is final.

Effective this 10th day of May, 2011.

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

MEMORANDUM OF AGREEMENT

B E T W E E N:

COLLEGE OF NURSES OF ONTARIO

hereinafter referred to as the "College"

- and -

GINA I. LAPORTE
Registration No. 9117151

hereinafter referred to as the "Member"

The Member and the College ("Parties") agree that:

1. An inquiry into the Member's health was initiated by the Executive Director and the result of that inquiry was reviewed by the Executive Committee on March 13, 2008.

2. The Member admits to being incapacitated as that term is defined in subsection 1(1) of the Health Professions Procedural Code of the Nursing Act, 1991 ("Code").

3. The Member has informed the College that she wishes to surrender her Certificate of Registration ("Certificate") and to undertake not to engage in the practice of nursing until such time as her Certificate is returned to her.

4. It is beneficial to both Parties to avoid the need to have a formal hearing and therefore the Parties agree that

(i) all notices and procedural requirements for a formal hearing are waived, including those required by the Regulated Health Professions Act, 1991, the Health Professions Procedural Code, the Statutory Powers Procedure Act, or any other applicable legislation, and that no formal hearing is required for this Agreement to come into effect;

(ii) a decision of the Fitness to Practise Committee with respect to the finding of incapacity shall be issued on consent without a formal hearing. They agree that the document attached as Schedule "A", once approved by the Fitness to Practise Committee, is a binding Decision of the Fitness to Practise Committee, issued on consent;

(iii) the Chair or a panel of the Fitness to Practise Committee shall be entitled to receive relevant background material in order to give consideration to the issuance of the Decision on Consent; and

(iv) a determination of what action, if any, should be taken as a result of the finding of incapacity will be held in abeyance until the Member applies to the Director, Investigations and Hearings of the College of Nurses of Ontario ("Director") for a return of her Certificate.

5. The Member undertakes and agrees not to engage in the practice of nursing and not to apply for a return of her Certificate until her health is such as to permit her to return to the practice of nursing and she has

(i) arranged for continuing treatment and monitoring by Dr. Frank Evans ("Dr. Evans") or another physician specializing in addiction medicine approved by the Director ("Addiction Specialist"), in order to treat her substance dependency disorder;

(ii) established a comprehensive aftercare program ("Aftercare Program") approved by her Addiction Specialist which Aftercare Program shall include regular attendance with her Addiction Specialist and, if recommended by her Addiction Specialist, shall include

(a) regular attendance at a Health Professionals Support Group approved by her Addiction Specialist;

(b) attendance at meetings of Narcotics Anonymous or Alcoholics Anonymous at such frequency as her Addiction Specialist shall consider appropriate; ~~and~~

(c) obtaining, if she has not already done so, a Narcotics Anonymous or Alcoholics Anonymous sponsor; and

(d) the analysis of random supervised urine samples;

(iii) provided to the Director the analysis of a minimum of three (3) random supervised urine samples per month for at least three (3)months immediately prior to her applying for the return of her Certificate;

(iv) obtained and delivered to the Director, a current written report from each of her Addiction Specialist and her family physician ("Member's Reports") advising of his/her involvement in the Member's treatment, the nature of the Member's current program/treatment and the results of all urine and/or blood analyses which were stated to be positive for the presence of controlled or mood altering substance(s) or alcohol, and

(a) confirming that s/he has reviewed this Agreement, a copy of the

assessment report (letter) of Dr. Martyn Judson addressed to the College and dated January 14, 2008, a copy of the assessment report (letter) of Dr. Joseph C. MacMillan addressed to the College and dated September 22, 2007 and a copy of the record of Humber River Regional Hospital relating to the Member's treatment commencing October 30, 2006 and including records relating to her admission to the Bridgeway Chemical Dependency Program of February 12, 2007. A copy of the Agreement, Humber River Regional Hospital records and Dr. Judson's and Dr. MacMillan's reports will be provided to the healthcare practitioner upon the request of the Member;

(b) in the case of her Addiction Specialist, providing details of the Member's Aftercare Program;

(c) confirming that, in his/her opinion, so long as the Member complies fully with her Aftercare Program, the Member is capable of returning to the practice of nursing without risk of harm to patients or significant risk of relapse to the use of chemicals [including alcohol]; and

(d) advising whether in his/her opinion, the Member's return to practice of nursing shall be subject to any specific terms, conditions, or limitations and if so, what those terms, conditions or limitations should be; and

(v) provided to the Director a list of names and addresses of all persons and facilities who have provided treatment to the Member for substance dependency/abuse from the date of this Agreement ("List"), as well as releases so that the Director may obtain information from each of them. In addition, the Member shall co-operate with the Director and provide such documents as the

Director may request to verify the accuracy of the List including a Release to permit the Director to access information from O.H.I.P.

6. If the Member applies for the return of her Certificate, the Parties agree that:

(i) the Director shall have three (3) weeks from the date the last of the Member's Reports was received to consider whether the College wishes to have an independent assessment(s) of the Member's health condition. If the Director wishes the Member to undergo such an assessment, it shall be completed by an assessor or assessors of the College's choosing, at the College's expense and the Member shall co-operate with the assessment. A copy of the report of each assessment ("Assessment Report") completed will be provided to the Member; and

(ii) a hearing of the Fitness to Practise Committee will be scheduled as soon as is practical after the Director receives copies of all of the Member's Reports and Assessment Report(s).

7. The Member agrees

(i) that the public portion of the College's Register will contain an entry to the effect that the Member has surrendered her Certificate and is therefore not currently entitled to practise nursing; and

(ii) to surrender her Annual Payment Card to the College or to her Solicitor immediately upon her signing this Agreement and that she will not ask for the return of her Annual Payment Card until her Certificate is returned to her by an Order of the Fitness to Practise Committee. In the event of the surrender of her Annual Payment Card to her Solicitor, her Solicitor shall be required to provide

a written Undertaking to the College that her Solicitor will not return the Annual Payment Card to the Member until the Member's Certificate is directed to be returned to the Member by an Order of the Fitness to Practise Committee.

8. The Member acknowledges that she has obtained independent legal advice from her Solicitor, Mia London, of the firm of Cavalluzzo Hayes Shilton McIntyre & Cornish LLP, prior to entering into this Agreement.

DATED at Toronto, Ontario, this 25th day of September, 2008.

Witness as to execution by Gina I. Laporte

Gina I. Laporte

College of Nurses of Ontario

The Fitness to Practise Committee consents to the waiver of the procedural requirements as set out in this Agreement and issues the attached Decision on the consent of the parties and the Committee.

Nov 28/08

Date Signed by the Panel Chair

Panel Chair, Fitness to Practise Committee

SCHEDULE "A"

FITNESS TO PRACTISE COMMITTEE
of the
COLLEGE OF NURSES OF ONTARIO

COLLEGE OF NURSES OF ONTARIO

and

GINA I. LAPORTE
Registration No. 9117151

DECISION ON CONSENT

Finding:

The Fitness to Practise Committee finds **Gina I. Laporte** ("Member") to be incapacitated as defined in subsection 1(1) of the Health Professions Procedural Code of the Nursing Act, 1991 ("Code") due to her Substance Dependence Disorder.

Dated: Nov 28/08

Panel Chair, Fitness to Practise Committee

Gina I. Laporte

Witness

Minnesota BOARD OF Nursing

2829 University Avenue SE #200, Minneapolis, MN 55414-3253
Email: nursing.board@state.mn.us
Website: www.nursingboard.state.mn.us

I, Shirley A. Brekken, Executive Director of the Minnesota Board of Nursing, do hereby certify that I am the Custodian of the Records of the Minnesota Board of Nursing and that the attached documents in the matter of Gina I. Laporte, RN, are true and correct copies of said documents as they appear among the files and records in the Minnesota Board of Nursing office. The documents are kept in the regular course of business of the Minnesota Board of Nursing and were prepared as a matter of routine business practice of the Board.

WITNESS, my hand and seal of the Minnesota Board of Nursing the 7th day of July, 2010.

MINNESOTA BOARD OF NURSING

By: _____
Shirley A. Brekken
Executive Director

SEAL

Subscribed and sworn to before me this

7th day of July, 2010.

Susan J. Barr
Signature – Notary

My commission expires:

SUSAN J. BARR
Notary Public
Minnesota
My Commission Expires January 31, 2015

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BEFORE THE MINNESOTA

BOARD OF NURSING

In the Matter of
Gina I. Laporte, R.N.
License No. 182405-2

FINDINGS OF FACT, CONCLUSIONS, AND FINAL ORDER

The above-entitled matter came on for a prehearing conference on March 24, 2010, before Administrative Law Judge ("ALJ") Richard C. Luis at the request of the Minnesota Board of Nursing ("Board") Review Panel. The matter was initiated pursuant to the Notice and Order for Prehearing Conference and Hearing ("Notice of Hearing") issued by the Board Review Panel on February 3, 2010. Careen Martin, Assistant Attorney General, represented the Board Review Panel. Gina I. Laporte, R.N. ("Respondent"), made no appearance.

On April 6, 2010, the ALJ issued Findings of Fact, Conclusions and Recommendation ("ALJ's report"), recommending the Board take disciplinary action against the nursing license of Respondent. (A true and accurate copy of the ALJ's report is attached hereto and incorporated herein as Exhibit B.)

The Board convened to consider the matter on June 3, 2010, in Conference Room A on the fourth floor of University Park Plaza, 2829 University Avenue S.E., Minneapolis, Minnesota. Daphne Lundstrom, Assistant Attorney General, appeared and waived oral argument on behalf of the Board Review Panel. Respondent did not appear. Amy Witt, R.N., Board member, did not participate in deliberations and did not vote in the matter. Susan E. LaMotte, Nursing Practice Specialist for the Board, did not participate in the deliberations. Nathan W. Hart, Assistant Attorney General, was present as legal advisor to the Board.

FINDINGS OF FACT

The Board has reviewed the record of this proceeding and hereby accepts the April 6, 2010, ALJ's report and accordingly adopts and incorporates by reference the Findings of Fact therein. Paragraph 5 of the ALJ's Findings of Fact states, "Pursuant to Minn. R. 1400.600, the allegations set forth in the Notice and Order for Prehearing Conference and Hearing are taken as true without further evidence, and they are incorporated into these Findings by reference."

The allegations contained in the Notice of Hearing are as follows:

1. Respondent is licensed as a registered nurse in the State of Minnesota.

2. On January 26, 2009, the Minnesota Board of Nursing received correspondence from the College of Nurses of Ontario, Ontario, Canada, advising that Respondent is no longer entitled to practice nursing in Ontario. This decision was based on a finding of the College of Nurses of Ontario's Fitness to Practice Committee of Respondent's incapacity to practice nursing based upon her substance dependence disorder. Respondent surrendered her Canadian Certificate on November 28, 2008.

3. By letter dated May 26, 2009, Board staff contacted Respondent regarding resolution of this matter. By letter dated June 10, 2009, Board staff reminded Respondent of the need to resolve this matter.

4. To date, Respondent has not responded to the Board's letters.

CONCLUSIONS

The Board accepts the April 6, 2010, ALJ's report and accordingly adopts and incorporates the Conclusions therein.

ORDER

Based on the foregoing Findings of Fact and Conclusions and upon the recommendation of the ALJ, the Board issues the following Order:

1. NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Respondent as a registered nurse in the State of Minnesota is **SUSPENDED** immediately for an indefinite period of time.

2. IT IS FURTHER ORDERED that during the period of suspension Respondent shall not engage in any conduct which constitutes the practice of nursing as defined in Minnesota Statutes section 148.171, subdivision 15, and shall not imply to any persons by words or conduct that Respondent is authorized to practice nursing in the State of Minnesota.

3. IT IS FURTHER ORDERED that Respondent surrender to the Board her nursing registration certificate. Respondent shall personally deliver or mail the certificate to the Minnesota Board of Nursing, c/o Shirley A. Brekken, Executive Director, 2829 University Avenue S.E., Suite 200, Minneapolis, Minnesota 55414, within ten days of the date of this Order.

4. IT IS FURTHER ORDERED that Respondent may petition the Board to have the suspended status removed from her license at such time as she is willing to respond to the Findings of Fact set forth above. Her license may be reinstated, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Respondent to demonstrate by a preponderance of the evidence that she is capable of conducting herself in a fit and competent manner in the practice of professional nursing, is successfully participating in a program of chemical dependency rehabilitation, and has been sober and free from mood-altering chemicals during the 12 months immediately preceding her petition. At the time of Respondent's petition, Respondent must meet with a Board Review Panel to review her response

to the Findings of Fact and provide documentation of 12 months of uninterrupted sobriety. In petitioning for removal of the suspension, Respondent shall comply with or provide the Board with, at a minimum, the following:

a. A response to each separate fact set forth in the Findings of Fact.

b. Evidence of compliance with the provisions of this Order. As part of the proof of compliance, Respondent shall submit the following in support of her petition:

1) A report from Respondent herself. This report shall provide and address:

a) Respondent's sobriety, including the date she last used mood-altering chemicals, including alcohol, and the circumstances surrounding any use while this Order is in effect;

b) Respondent's treatment and weekly participation in a chemical dependency support group such as Alcoholics Anonymous during the 12 months preceding the petition. Evidence of participation shall include, but need not be limited to, attendance sheets which have been signed or initialed and dated by a participant who has attended the weekly meeting;

c) Respondent's ability to handle stress;

d) Respondent's employment, if any;

e) Respondent's future plans for nursing and the steps she has taken to prepare herself to return to nursing practice;

f) Evidence Respondent has maintained the knowledge, skills, and ability to practice professional nursing safely; and

g) Any other information Respondent believes would assist the Board in its ultimate review of this matter.

2) A report from Respondent's employment supervisor(s), if any, during the 12 months immediately preceding the petition. This report shall provide and address:

a) Respondent's typical work schedule;

b) Respondent's attendance and reliability;

c) Respondent's ability to carry out assigned functions;

d) Respondent's ability to handle stress;

e) Respondent's sobriety; and

f) Any other information the supervisor believes would assist the Board in its ultimate review of this matter.

3) A report from any and all physicians and dentists and any other health professional who has prescribed mood-altering chemicals to Respondent during the 12 months preceding her petition. This report shall provide and address:

a) The name, dosage, frequency, and purpose of the mood-altering chemicals prescribed to Respondent;

b) Confirmation the prescribing health professional has reviewed this Order and has been informed of Respondent's chemical dependency history; and

c) Any other information the reporter believes would assist the Board in its ultimate review of this matter.

4) A report from any mental health treatment professional whom Respondent consults during the 12 months preceding her petition. This report shall provide and address:

a) Verification the mental health treatment professional has reviewed this Order;

b) Identification of a plan of treatment, including any medications, devised for Respondent;

c) A statement of the involvement between Respondent and the mental health treatment professional, including the number and frequency of meetings;

d) Respondent's progress with therapy and compliance with the treatment plan;

e) The mental health treatment professional's conclusion as to the need for continuing therapy and Respondent's discontinuance of therapy; and

f) Any other information the mental health treatment professional believes would assist the Board in its ultimate review of this matter.

5) A report from any health care professional whom Respondent consults for physical health, mental health, or chemical dependency treatment during the 12 months preceding her petition. Each report shall provide and address:

a) Verification the health care professional has reviewed this Order;

b) Identification of diagnoses and any plans of treatment, including medications, devised for Respondent;

c) Respondent's progress with therapy and compliance with the treatment plan;

d) A statement regarding Respondent's mental health status;

e) A statement regarding Respondent's sobriety;

f) Recommendations for additional treatment, therapy, or monitoring; and

g) Any other information the health care professional believes would assist the Board in its ultimate review of this matter.

6) Within two months prior to petitioning, if requested by the Board, Respondent shall undergo a chemical dependency relapse prevention evaluation performed by a chemical dependency relapse prevention professional. Respondent shall submit, or cause to be submitted, the credentials of the chemical dependency relapse prevention evaluator for review and preapproval by Board staff for purposes of this evaluation. Respondent is responsible for the costs of the evaluation. The results of the evaluation shall be sent directly to the Board and must include a statement verifying the evaluator has reviewed this Order prior to the evaluation.

7) During Respondent's petition, the Board may direct Respondent, without prior notice, to submit to laboratory hair, blood, and urine screenings to determine the presence or absence of alcohol or drugs. Respondent shall arrange with her employer for release from work for purposes of fulfilling the requirements of the laboratory screening. The Board may contact Respondent by telephone, letter, or through personal contact by an agent to direct her to submit to the tests within two hours after she is contacted by the Board. The hair, blood, and urine screens shall be: (1) observed in their drawing; (2) handled through legal chain-of-custody methods; and (3) paid for by Respondent. The results of the screens shall be reported directly to the Board. The biological fluid testing shall take place at Hennepin County Medical Center, 701 Park Avenue South, Minneapolis, Minnesota 55415. If Respondent is farther than 30 miles from Hennepin County Medical Center and the blood and urine testing is to be completed through the mail, the drug screening tests used must be those obtained from Hennepin

County Medical Center. All blood and urine tests processed through the mail must be directed to the attention of the toxicology supervisor at Hennepin County Medical Center.

8) At any time while this Order is in effect and at the request of the Board, Respondent shall complete and sign health records waivers and chemical dependency treatment records waivers supplied by the Board to allow representatives of the Board to discuss Respondent's case with and to obtain written evaluations and reports and copies of all of Respondent's health, mental health, or chemical dependency records from her physician, mental health professional/therapist, chemical dependency counselor, or others from whom Respondent has sought or obtained treatment, support, or assistance.

9) Any additional information relevant to Respondent's petition reasonably requested by the Board Review Panel.

5. IT IS FURTHER ORDERED that Respondent shall meet all reregistration requirements in effect at the time of her petition, including but not limited to completing the appropriate application, paying the requisite fees, and completing any necessary continuing education requirements.

6. IT IS FURTHER ORDERED that, pursuant to Minnesota Statutes section 148.262, subdivision 4, when Respondent petitions for reinstatement of her registered nurse license, she must pay to the Board the total costs of the proceedings which resulted in the suspension of her license, including the costs paid by the Board to the Office of Administrative Hearings. The total costs of the proceedings are $450.00 and shall be paid by cashier's check(s) or money order(s) made payable to the Minnesota Board of Nursing, c/o Shirley A. Brekken, Executive Director, 2829 University Avenue S.E., Suite 200, Minneapolis, Minnesota 55414.

7. IT IS FURTHER ORDERED that Respondent's violation of this Order shall constitute the violation of a Board order for purposes of Minnesota Statutes section 148.261, subdivision 1(18), and provide grounds for further disciplinary action.

8. IT IS FURTHER ORDERED that the Board may, at any regularly scheduled meeting following Respondent's petition for reinstatement of her license and her meeting with a Board Review Panel, take any of the following actions:

a. Issue a nursing registration certificate to Respondent.

b. Issue a nursing registration certificate to Respondent with limitations placed upon the scope of Respondent's practice and/or conditional upon further reports to the Board.

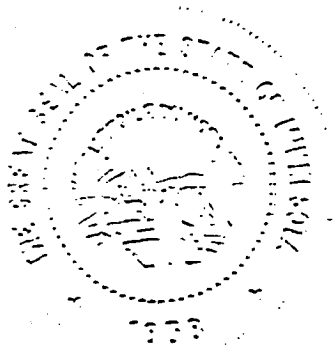
c. Continue the suspension of Respondent's license upon her failure to meet the burden of proof.

Dated: June 15, 2010.

STATE OF MINNESOTA
BOARD OF NURSING

SHIRLEY A. BREKKEN
Executive Director

AG: #2638933-v1



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STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE BOARD OF NURSING

In the Matter of the License of Gina I. LaPorte, R.N.

FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATION

This matter came on Prehearing Conference on March 24, 2010, at the Minnesota Board of Nursing Offices in Minneapolis. The Hearing record closed on March 31, 2010, upon receipt of correspondence from counsel.

Careen Martin, Assistant Attorney General, appeared on behalf of the Board of Nursing's Review Panel (Review Panel). There was no appearance by or on behalf of Gina I. LaPorte, R.N. (Licensee, Respondent).

STATEMENT OF ISSUE

Whether disciplinary action should be taken against the nursing license of Gina I. LaPorte for failure to report disciplinary action against her nursing license in Canada, for actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of use of alcohol, drugs or chemicals, and for failing to cooperate with an investigation of the Board, in violation of Minn. Stat. §§ 148.261, subds. 1(4), 1(9), 1(23), and 148.265?

Based on the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On February 3, 2010, the Review Panel sent the Notice and Order for Prehearing Conference and Hearing in this matter to the Respondent at her last known address.

2. The Notice and Order for Prehearing Conference and Hearing scheduled a Prehearing Conference to take place at 1:30 p.m. on March 24, 2010. The Notice and Order for Prehearing Conference and Hearing contained the following provision, at page 2:

> 1. Respondent's failure to appear at the prehearing conference settlement conference or hearing may result in a finding that Respondent is in default, that the allegations contained in this Notice and Order for Prehearing Conference and Hearing may be accepted as true, and its proposed action may be upheld.

EXHIBIT B

3. On March 24, 2010, the Respondent did not appear at the Prehearing Conference and no appearance was made on her behalf. She did not contact the Administrative Law Judge, the Review Panel, or the Office of Attorney General prior to the Prehearing Conference to request a different date or time.

4. Because the Respondent failed to appear for the Prehearing Conference or make other arrangements with the Administrative Law Judge, she is in default.

5. Pursuant to Minn. R. 1400.6000 (2009) the allegations set forth in the Notice and Order for Prehearing Conference and Hearing are taken as true without further evidence, and they are incorporated into these Findings by reference.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Board of Nursing have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 148.261 and 148.262.

2. The Licensee/Respondent was given timely and proper notice of the Prehearing Conference in this matter, and the Board of Nursing has complied with all procedural requirements.

3. Under Minn. R. 1400.6000, the Respondent is in default as a result of her failure to appear at the scheduled Prehearing Conference.

4. Under Minn. R. 1400.6000, when a party defaults, the allegations and issues set out in the Notice and Order for Prehearing Conference and Hearing may be taken as true and deemed proved. The Administrative Law Judge therefore deems the allegations in the Notice and Order for Prehearing Conference and Hearing to be proven.

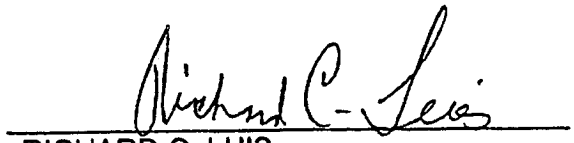
5. The Board of Nursing has grounds to take disciplinary action against the Respondent's license based on violations of Minn. Stat. §§ 148.261, subds. 1(4), 1(9), and 1(23), and 148.265. Specifically, the Respondent failed to notify the Board of disciplinary action against her license in the Province of Ontario, Canada, failed to notify the Board that the College of Nurses of Ontario found that she was incapable of practicing nursing based on substance dependence disorder, and has failed to respond to letters from the Board regarding resolution of this matter, which constitutes a failure to cooperate with an investigation of the Board.

Based on the Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RECOMMENDED that the Minnesota Board of Nursing take appropriate disciplinary action against the Nursing License of Gina I. LaPorte, R.N.

Dated: April 6, 2010



RICHARD C. LUIS
Administrative Law Judge

Reported: Default

NOTICE

This report is a recommendation, not a final decision. The Board of Nursing will make the final decision after a review of the record. The Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact Shirley A. Brekken, Executive Director, Board of Nursing, 2829 University Avenue SE, Suite 200, Minneapolis, MN 55414 to learn the procedure for filing exceptions or presenting argument.

If the Board fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Board must then return the record to the Administrative Law Judge within 10 calendar days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Board, or upon the expiration of the deadline for doing so. The Board must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.