BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse	§	AGREED
License Number 610576	§	
issued to MICHELLE MOHUN OVERBEY	§	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 Bo considered the matter of MICHELLE MOHUN OVERBEY, Registered Nurse License Number 610576, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on March 2, 2011, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

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

2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

3. Respondent holds a license to practice professional nursing in the State of Texas, which is currently in Delinquent status.

4. Respondent received a Baccalaureate Degree in Nursing from the University of Texas Health Science Center, Houston, Texas, on August 19, 1994. Respondent was licensed to practice professional nursing in the State of Texas on October 18, 1994.

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

6. At the time of the incident, Respondent was employed as a Registered Nurse with Cypress Fairbanks Hospital, Houston, Texas, and had been in this position for approximately two (2) years.

7. On or about October 24, 2006, while employed as a Registered Nurse with Cypress Fairbanks Hospital, Houston, Texas, Respondent engaged in the intemperate use of Meperidine and Opiates in that she produced a specimen for a drug screen which resulted positive for Meperidine and Opiates. Possession of Meperidine and Opiates, without a valid prescription, is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Meperidine and Opiates 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 October 24, 2006, while employed as a Registered Nurse with Cypress Fairbanks Hospital, Houston, Texas, Respondent admitted that she misappropriated Demerol belonging to the facility and/or patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

9. In response to Findings of Fact Numbers Seven (7) and Eight (8), Respondent states: I admit full responsibility for my actions. This was a period of my life I deeply regret and understand that one of the consequences of my behavior is the questioning of my ability to practice nursing in a safe manner.

10. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.

11. 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.

12. Formal Charges were filed on May 5, 2010.

13. Formal Charges were mailed to Respondent on May 6, 2010.

14. On August 18, 2010, Respondent's license was Revoked by Default by the Eligibility and Disciplinary Committee of the Board.

15. On December 2, 2010, Respondent filed a Motion for Rehearing challenging the August 18, 2010 Default Order entered by the Board.

16. On February 9, 2010, the Order granting the Respondent's Motion for Rehearing was entered, which set aside the previously entered Default Order. Attached hereto and incorporated by reference is the Board's Order granting Respondent's Motion for Rehearing.

17. Respondent's conduct described in Findings of Fact Numbers Seven (7) and Eight (8) resulted from Respondent's impairment by dependency on chemicals.

18. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.

2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violations of Section 301.452(b)(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(A),(5),(6)(G),(10)(A),(D),(E) &(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 610576, heretofore issued to MICHELLE MOHUN OVERBEY, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the

Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars ($500.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her license to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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 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 multistate licensure 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, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including 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.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, 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 25 day of March, 2011.

Michelle Mohun Overbey

MICHELLE MOHUN OVERBEY, Respondent

Sworn to and subscribed before me this 25th day of March, 2011.

SEAL

NOTARY PUBLIC STATE OF TEXAS
LISA M. CLAY
Notary Public, State of Texas
My Commission Expires
September 21, 2014

Lisa M Clay

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 and enter the Agreed Order that was signed on the *25th* day of *March*, 20*11*, by MICHELLE MOHUN OVERBEY, Registered Nurse License Number 610576, and said Order is final.

Entered and effective this 30th day of March, 20 11.

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

In the Matter of Permanent License	§	**BEFORE THE TEXAS**
Number 610576, Issued to	§	
MICHELLE MOHUN OVERBEY, Respondent	§	**BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MICHELLE MOHUN OVERBEY, is a Registered Nurse holding license number 610576, which is in Delinquent status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about October 24, 2006, while employed as a Registered Nurse with Cypress Fairbanks Hospital, Houston, Texas, Respondent engaged in the intemperate use of Meperidine and Opiates in that she produced a specimen for a drug screen which resulted positive for Meperidine and Opiates. Possession of Meperidine and Opiates, without a valid prescription, is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Meperidine and Opiates 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.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(1)(A),(5),(10)(A)&(D)&(11)(B).

CHARGE II

On or about October 24, 2006, while employed as a Registered Nurse with Cypress Fairbanks Hospital, Houston, Texas, Respondent admitted that she misappropriated Demerol belonging to the facility and/or patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(1)(A),(B),(6)(G),(8)&(10)(E).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to § 301.461, TEX. OCC. CODE ANN. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars ($1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder and for Fraud, Theft & Deception, which can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.state.tx.us/disciplinaryaction/discp-matrix.html.

Filed this 5th day of May, 2010.

TEXAS BOARD OF NURSING

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IN THE MATTER OF	§	BEFORE THE
PERMANENT CERTIFICATE	§	
NUMBER **610576**	§	TEXAS BOARD
ISSUED TO	§	
MICHELLE MOHUN OVERBEY	§	OF NURSING

ORDER OF THE BOARD

TO: Michelle Mohun Overbey
13211 April Mist Ct.
Cypress, TX 77429

During open meeting on February 8, 2011, in Austin, Texas, the Texas Board of Nursing considered the Motion for Rehearing fi led in the above-styled matter. The Eligibility and Disciplinary Committee of the Board approved an Order on August 17, 2010, revoking professional nursing license number **610576** issued to **MICHELLE MOHUN OVERBEY**. Petitioner filed a Motion for Rehearing in this matter and after review and due consideration of the filed Motion, the Board ***GRANTS*** the Petitioner's Motion for Rehearing. The Order issued August 17, 2010, revoking professional nursing license number **610576,** is set aside.

Entered this 9th day of February, 2011.

TEXAS BOARD OF NURSING

BY: Katherine A. Thomas

KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR