BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse	§	AGREED
License Number 734585	§	
issued to KERRY CURTIS	§	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 Bc considered the matter of KERRY CURTIS, Registered Nurse License Number 734585, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9),(10),(12)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on November 18, 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(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 Baccalaureate Degree in Nursing from the University of Texas, Austin, Texas, on August 14, 2006. Respondent was licensed to practice professional nursing in the State of Texas on October 12, 2006.

5. Respondent's professional nursing employment history includes:

10/2006 - 08/2008	RN	St. David's South Austin Hospital Austin, Texas

Respondent's professional nursing employment history continued:

09/2008 - 12/2008	RN	Seton Medical Center Austin, Texas
12/2009 - 02/2010	RN	The Hospital at Westlake Medical Center Austin, Texas
03/2010 - 08/2010	RN	Austin Neurocare Austin, Texas

08/2010 - Present Employment history unknown.

6. At the time of the initial incidents, Respondent was employed as a Registered Nurse with St. David's Hospital, Austin, Texas, and has been in this position for one (1) year and ten (10) months.

7. On or about August 17, 2008, while employed as a Registered Nurse with St. David's Hospital, Austin, Texas, Respondent administered seven (7) units of insulin to Patient K00106181097 instead of three (3) units as ordered by the physician. Subsequently, the patient's blood glucose level dropped to twenty-nine (29), and she was confused and shaking. Respondent's conduct was likely to injure the patient in that the administration of insulin in excess dosage of the physician's order could result in the patient suffering from adverse reactions.

8. On or about August 17, 2008, through August 21, 2008 while employed as a Registered Nurse with St. David's Hospital, Austin, Texas, Respondent misappropriated Hydrocodone belonging to the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of medications.

9. On or about January 7, 2009 through February 3, 2009, while employed as a Registered Nurse with the Hospital at Westlake Medical Center, Austin, Texas, Respondent withdrew Norco, Percocet, Dilaudid, Morphine, Fentanyl, and Pregabalin from the Medication Dispensing System (Omnicell) for patients but failed to document, or accurately document the administration of the medications in the patients' Medication Administration Records and/or nurse's notes. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patients which could result in an overdose.

10. On or about January 7, 2009 through February 3, 2009, while employed as a Registered Nurse with the Hospital at Westlake Medical Center, Austin, Texas, Respondent withdrew Acetaminophen/Codeine and Phenergan from the Medication Dispensing System (Omnicell)

for patients but failed to follow the facility's policy and procedure for wastage of any of the unused portions of the medications. Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (controlled Substances Act).

11. On or about January 7, 2009 through February 3, 2009, while employed as a Registered Nurse with the Hospital at Westlake Medical Center, Austin, Texas, Respondent misappropriated Hydrocodone/Acetaminophen, Acetaminophen/Codeine, Dilaudid, Morphine, Norco and Phenergan belonging to the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of medications.

12. On or about January 7, 2009 through February 3, 2009, while employed as a Registered Nurse with the Hospital at Westlake Medical Center, Austin, Texas, Respondent lacked fitness to practice professional nursing, in that she admitted that she had a substance abuse problem. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patients in potential danger

13. On or about May 19, 2009, Respondent engaged in the intemperate use of Hydrocodone, in that she produced a specimen for a random drug screen requested by the Texas Peer Assistance Program for Nurses (TPAPN), which resulted positive for Hydrocodone. Additionally, she admitted to taking Hydrocodone from an old prescription. The use of Hydrocodone by a Registered Nurse, while subject to call or duty, 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.

14. On or about August 17, 2009, Respondent engaged in the intemperate use of Morphine and Tramadol, in that she produced a specimen for a random drug screen requested by the Texas Peer Assistance Program for Nurses (TPAPN), which resulted positive for Morphine and Tramadol. The use of Morphine and Tramadol by a Registered Nurse, while subject to call or duty, 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.

15. On or about September 10, 2009, Respondent engaged in the intemperate use of Oxazepam, Morphine and Propoxyphene, in that she produced a specimen for a random drug screen requested by the Texas Peer Assistance Program for Nurses (TPAPN), which resulted positive for Oxazepam, Morphine and Propoxyphene. The use of Oxazepam, Morphine and Propoxyphene by a Registered Nurse, while subject to call or duty, 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.

16. On or about May 12, 2010, while employed as a Registered Nurse with Austin Neurocare, Austin, Texas, Respondent engaged in the intemperate use of Alcohol, in that she produced a produced a specimen for a random drug screen, requested by the Texas Peer Assistance Program for Nurses (TPAPN), which resulted positive for Alcohol. The use of Alcohol by a Registered Nurse, while subject to call or duty, 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.

17. In response to Findings of Fact Numbers Seven (7) through Sixteen (16), Respondent states: "I am entering inpatient treatment at Austin Recovery on December 30, 2009. There are false allegations on the insulin incident. On July 25, 2008, I was hospitalized and diagnosed with multiple sclerosis. When I returned to work at St. David's South Austin after taking sick leave, and was terminated on August 21, 2008, for something I did not do. I believe I was terminated because of my diagnosis. I admit that my employment at Westlake was a disaster. I am in the TPAPN program and my case manager is Becky Drozd. I am recovering from my addiction to Opiates and Benzodiazepines. I have been sober for three months and have had negative drug screens since August 17, 2009. I know that I messed up really bad. I will never divert medication again. I am entering treatment so that I can gain tools to keep me sober."

18. Respondent's last known date of sobriety is May 10, 2010, as indicated in Finding of Fact Number Sixteen (16).

19. 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.

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)(9),(10),(12)& (13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(A),(B),(C)&(D). and 22 TEX. ADMIN. CODE §217.12(1)(A),(B)&(E),(4),(5),(6)(G),(8),(10)(A),(C)&(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 734585, heretofore issued to KERRY CURTIS, 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 Registered Nurse License Number 734585, previously issued to KERRY CURTIS, to practice nursing in Texas is hereby SUSPENDED and said suspension is ENFORCED until Respondent completes the following requirements:

(1) Verification of successful completion of the approved treatment.

(2) Verification of twelve (12) consecutive months of sobriety.

(3) RESPONDENT SHALL, undergo a pain management evaluation. The evaluation shall be performed by a Board approved Medical Doctor or Doctor of Osteopathy, licensed by the Texas Medical Board, and certified as a Diplomat with the American Board of Pain Medicine. RESPONDENT SHALL CAUSE the performing physician to send a report of the evaluation to the Board office. The report shall include:

1. The clinical indications and medication regimen, if any, consisting of non-addictive, non-mood-altering substance(s), or rationale for the chronic use of controlled substances;
2. A statement as to the RESPONDENT'S fitness to safely practice nursing while taking the prescribed medication(s); and
3. Recommendations for pain management therapy and/or other follow-up(s).

If the evaluation states that Respondent lacks fitness to practice nursing, RESPONDENT SHALL cease to provide direct patient care until such time that the same evaluator deems Respondent safe to return to direct patient care. Direct patient care involves a personal relationship between the Nurse and the client, and includes, but is not limited to: teaching; counseling; assessing the client's needs

and strengths; and providing skilled nursing care. If the results of the evaluation reveal further violations of the Nursing Practice Act, further disciplinary action may be taken, including revocation of Respondent's license to practice nursing in the State of Texas.

RESPONDENT SHALL comply with the recommendations for pain management and/or other follow-ups. If pain management therapy is recommended, RESPONDENT SHALL participate in pain management therapy with a Board approved Medical Doctor or Doctor of Osteopathy, licensed by the Texas Medical Board, and certified as a Diplomat with the American Board of Pain Medicine. RESPONDENT SHALL CAUSE the physician to submit written reports to the Board, which shall include, at a minimum, the clinical indications and rationale for the chronic use of controlled substances, RESPONDENT'S progress and compliance with pain management therapy, and a prognosis as to RESPONDENT'S ability to safely practice nursing in a direct patient care setting. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the probation period, or until RESPONDENT no longer requires the use of addictive, mood-altering, and/or controlled substances.

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 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 above requirements, the Suspension will be STAYED, and RESPONDENT will be placed on PROBATION for three (3) of years 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, 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 <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.*

(4) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address: http://www.learningext.com/products/generalce/critical/ctabout.asp.*

(5) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars ($500). 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.

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:

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

(7) 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.

(8) 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.

(9) 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.

(10) 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.

(11) 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.

(12) 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.

(13) 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.

(14) 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.**

(15) 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
Barbiturates
Benzodiazepines
Cannabinoids
Cocaine
Ethanol
tramadol hydrochloride (Ultram)
Meperidine
Methadone
Methaqualone
Opiates
Phencyclidine
Propoxyphene

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

(16) RESPONDENT SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. RESPONDENT SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT'S progress in therapy, rehabilitation and capability to safely practice professional nursing. The report must indicate whether or not the RESPONDENT'S stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the probation period, or until RESPONDENT is dismissed from therapy.

(17) 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(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 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 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 11 day of January, 20 11.

KERRY CURTIS, Respondent

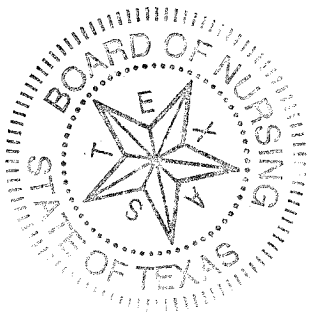
Sworn to and subscribed before me this 11TH day of January, 20 11.

SEAL

Notary Public in and for the State of Texas

FERNANDO MENCHACA
Notary Public, State of Texas
My Commission Expires
June 29, 2014

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 11th day of January, 2011, by KERRY CURTIS, Registered Nurse License Number 734585, and said Order is final.

Effective this 8th day of February, 2011.

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