BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse	§	AGREED
License Number 528207	§	
issued to RUTH LEANETTE CLARK	§	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 RUTH LEANETTE CLARK, Registered Nurse License Number 528 hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(1), (9) & (10), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on August 27, 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 nursing in the State of Texas.

4. Respondent received an Associate Degree in Nursing from Iowa Western Community College, Council Bluffs, Iowa on June 26, 1985. Respondent was licensed to practice professional nursing in the State of Texas on October 28, 1985.

5. Respondent's professional nursing employment history includes:

1985 - 1986	RN	St. Mary's of the Plains Lubbock, Texas

Respondent's professional nursing employment history continued:

1986 - 1988	RN	Care Team Lubbock, Texas
1988 - 11/93	RN	University Medical Center Lubbock, Texas
11/93 - 09/04	RN	Highland Medical Center Lubbock, Texas
10/04 - 03/08	RN	Lubbock Dialysis Center - Redbud Lubbock, Texas
03/08 - Present	RN	Lubbock State Supported Living Center Lubbock, Texas

6. On July 28, 2006, Respondent was issued an Agreed Order by the Board of Nurse Examiners for the State of Texas which required her to participate in and successfully complete the Texas Assistance Peer Assistance Program for Nurses (TPAPN). A copy of the Findings of Facts, Conclusions of Law, and Agreed Order dated July 28, 2006, is attached and incorporated, by reference, as part of this Order.

7. At the time of the events described in Findings of Fact Numbers Eight (8) and Nine (9), Respondent was employed as a Registered Nurse with Lubbock Dialysis Center - Redbud, Lubbock, Texas and has been in this position for two (2) years and eleven (11) months.

8. On or about September 25, 2007, while employed with Lubbock Dialysis Center-Redbud, Lubbock, Texas, Respondent engaged in the intemperate use of alcohol in that she submitted a specimen for a drug screen 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 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.

9. On or about September 25, 2007, while employed with Lubbock Dialysis Center-Redbud, Lubbock, Texas, Respondent became non-compliant with the Agreed Order issued to her by the Board of Nurse Examiners for the State of Texas on July 28, 2006. Non-compliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN), in that she engaged in the intemperate use of alcohol as evidenced by her submission of a specimen for a drug screen which resulted positive for alcohol. Stipulation Number Three (3) of the Agreed Order dated July 28, 2006, states:

"RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term."

On or about October 11, 2007, Respondent was dismissed from TPAPN and referred back to the Board.

10. Regarding the conduct outlined in Findings of Fact Numbers Eight (8) and Nine (9), Respondent states that she was informed by Terry Shockley of TPAPN that she had a positive drug screen for alcohol on September 25th. Respondent states that she had not had any alcohol as she does not drink and that she has remained clean and sober since August 2003. Respondent states that she had a bad cold and did take two doses of Nyquil to be able to sleep. Respondent states that she was informed by Ms. Shockley that Nyquil is 80 proof alcohol and that due to this she would have to refer Respondent back to the Board. Respondent states that she completed her first year of TPAPN without incident despite a trying year medically. She states that she used only Motrin for pain and continued to work full-time. Respondent adds that she has tried very hard to maintain her sobriety and follow all TPAPN rules and requests and is very upset with herself for having not realized that Nyquil could cause her such problems.

11. Respondent submitted letters of support from Karen Comer, RN, Nursing Operations Officer and Donald Minnis, RN, BSN, both of Lubbock State Supported Living Center. Ms. Comer states that Respondent has been honest about the issue with the Board. She states that she has been to Respondent's residence and at no time, whether at home or at work, has she ever seen Respondent impaired in any way. She adds that Respondent is an asset to the facility and does an excellent job in her position. Mr. Minnis states that he has never witnessed Respondent to be impaired or in any way unable to fulfill her duty requirements. He states that Respondent informed him of the Board matter, and he adds that she is a valued member of their team. Respondent also submitted letters of support from her sponsor, Shelly Butler, RN, and Michelle McElroy, RN, a TPAPN advocate. Ms. Butler states that Respondent has never exhibited any signs of dependency or addiction to her. Ms. McElroy states that Respondent has never appeared to be under the influence at any time that she has been working with her. Respondent states that she is currently a nurse educator and does not perform patient care due to health issues.

12. 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) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5), (9), (10)(A) & (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 528207, heretofore issued to RUTH LEANETTE CLARK, 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 RESPONDENT SHALL receive the sanction of a LIMITED LICENSE 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 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, 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) While under the terms of this Order, RESPONDENT SHALL NOT provide direct patient care. For the purposes of this Order, 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.

(2) SHOULD RESPONDENT desire to return to a clinical practice setting, which would require her to provide direct patient care, RESPONDENT SHALL petition the Board for such approval.

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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 5th day of October, 2010.

Ruth Leanette Clark

RUTH LEANETTE CLARK, Respondent

Sworn to and subscribed before me this 5th day of October, 2010.

SEAL

Lori Gomez

Notary Public in and for the State of Texas

LORI GOMEZ
MY COMMISSION EXPIRES
July 14, 2013

Approved as to form and substance.

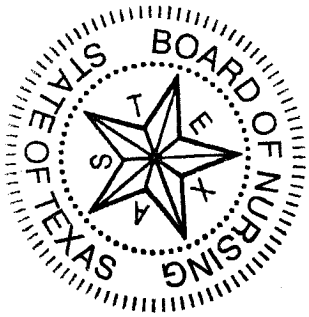
Taralynn R. Mackay

TARALYNN R. MACKAY, Attorney for Respondent

Signed this 8th day of October, 2010.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 5th day of October, 20 10, by RUTH LEANETTE CLARK, Registered Nurse License Number 528207, and said Order is final.

Effective this 9th day of November, 20 10.



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

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

In the Matter of Registered Nurse License Number 528207	§	AGREED
issued to RUTH LEANETTE CLARK	§	ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of RUTH LEANETTE CLARK, Registered Nurse License Number 528207, 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 conference, notice and hearing, and agreed to the entry of this Order offered on March 28, 2006, 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.

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

3. Respondent is currently licensed to practice professional nursing in the State of Texas.

4. Respondent received an Associate Degree in Nursing from Iowa Western Community College, Council Bluffs, Iowa, on June 1, 1985. Respondent was licensed to practice professional nursing in the State of Texas on October 28, 1985.

5. Respondent's professional nursing employment history is as follows:

1985 - 1986	Staff Nurse	St. Mary's of The Plains Lubbock, Texas
1986 - 1988	Staff Nurse	Care Team Lubbock, Texas

Respondent's professional nursing employment history continued:

1988 - 11/1993	Staff Nurse	University Medical Center Lubbock, Texas
11/1993 - 9/2004	Staff Nurse	Highland Medical Center Lubbock, Texas
9/2004 - Present	Unknown	

6. On or about May 21, 2003, while employed with Highland Medical Center, Lubbock, Texas, Respondent engaged in the intemperate use of Marijuana in that she produced a specimen which resulted positive for Marijuana. Possession of Marijuana is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Marijuana 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.

7. On or about June 23, 2003, while employed with Highland Medical Center, Lubbock, Texas, Respondent engaged in the intemperate use of Marijuana in that she produced a specimen which resulted positive for Marijuana. Possession of Marijuana is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Marijuana 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 August 8, 2003, while employed with Highland Medical Center, Lubbock, Texas, Respondent engaged in the intemperate use of Marijuana in that she produced a specimen which resulted positive for Marijuana. Possession of Marijuana is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Marijuana 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.

9. On or about June 18, 2004, while employed with Highland Medical Center, Lubbock, Texas, Respondent engaged in the intemperate use of Propoxyphene and Hydrocodone in that she produced a specimen which resulted positive for Propoxyphene and Hydrocodone. Possession of Propoxyphene and Hydrocodone is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Propoxyphene and Hydrocodone 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 August 23, 2004, while employed with Highland Medical Center, Lubbock, Texas, Respondent engaged in the intemperate use of Cannabinoids in that she produced a specimen which resulted positive for Cannabinoids. Possession of Cannabinoids is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of 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, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

11. 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.

12. 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.

13. Respondent's conduct described in Finding Numbers Six (6), Seven (7), Eight (8), Nine (9), and Ten(10) was significantly influenced by Respondent's chemical dependency.

14. 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 violation of Section 301.452(b)(9) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12 (1).

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 528207, heretofore issued to RUTH LEANETTE CLARK, including revocation of Respondent's professional license 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 and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars ($500) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Board of Nurse Examiners.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

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

IT IS FURTHER AGREED and ORDERED that while Respondent's license is 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 State of Texas 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 revocation of Respondent's license and multistate licensure privileges, if any, to practice professional 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 Board of Nurse Examiners, 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 professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 28th day of July, 2006

Ruth Leanette Clark

RUTH LEANETTE CLARK, Respondent

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

SEAL

OFFICIAL SEAL
CONNIE CHANDLER
Notary Public - Texas
LUBBOCK COUNTY
My Commission Expires
10-04-2008

Connie Chandler

Notary Public in and for the State of Texas

JUL. 28. 2006 1:52PM LUBBOCK DIALYSIS CENTER - REDBUD NO. 8897 P. 2
C40
528207:091

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby accept and enter the Agreed Order that was signed on the 28th day of July, 20____, by RUTH LEANETTE CLARK, Registered Nurse License Number 528207, and said Order is final.

Entered and effective this 28th day of July, 2006.

Katherine A. Thomas

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