BEFORE THE TEXAS BOARD OF NURSING

****

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

In the Matter of Registered Nurse License Number 713447	§	AGREED
issued to MATTHEW CURTIS FENWICK	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Boar considered the matter of MATTHEW CURTIS FENWICK, Registered Nurse License Numb 713447, 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 informal proceedings, notice and hearing, and agreed to the entry of this Order offered on July 30, 2010, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

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

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

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

4. Respondent received an Associate Degree in Nursing from Tyler Junior College, Tyler, Texas, on December 16, 2004. Respondent was licensed to practice professional nursing in the State of Texas on February 10, 2005.

5. Respondent's professional nursing employment history includes:

03/05 - 12/06	RN	East Texas Medical Center Tyler, TX

Respondent's professional nursing employment history (continued):

01/07 - 08/07	RN	Select Care Staffing Mineola, TX
09/07 - 02/09	Unknown	
03/09 - 02/10	RN	Texas Spine and Joint Tyler, TX
03/10 - Current	Unknown	

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as a Registered Nurse with East Texas Medical Center, Tyler, and has been in this position for approximately one (1) year and eight (8) months.

7. On or about November 14, 2006, through December 18, 2006, while employed as a Registered Nurse with East Texas Medical Center, Tyler, Texas, Respondent withdrew narcotics from the Medication Dispensing System (Pyxis) for patients without valid physicians' orders, as follows:

Date	Patient Medical Record Number	Physician's Order	Medication Dispensing System (Pyxis)	Medication Administration Record (MAR)	Nurse's Notes	Wastage
11/14/06	00033638388	None	(1) Norco 5-325 @ 23:37	Not documented as administered	Not documented as administered	None
12/02/06	00033710963	None	(2) Norco 7.-325 @ 02:19	Not documented as administered	Not documented as administered	None
12/02/06	00033710963	None	(1) Norco 7.5-325 @ 03:23	Not documented as administered	Not documented as administered	None
12/02/06	00033712738	None	(1) Norco 7.5-325 @ 23:56	Documented as administered @ 00:00	Not documented as administered	None
12/12/06	00033754540	None	(2) Norco 7.5-325 @ 21:59	Not documented as administered	Not documented as administered	None
12/12/06	00033755000	None	(1) Norco 5-325 @ 22:19	Not documented as administered	Not documented as administered	None
12/13/06	00033756305	None	(1) Norco 7.5-325 @ 04:40	Not documented as administered	Not documented as administered	None
12/15/06	00033772880	None	(1) Norco 7.5-325 @ 22:38	Documented as administered	Documented as administered	None
12/16/06	00033772344	None	(2) Norco 7.5-325 @ 01:56	Documented as administered	Documented as administered	None
12/16/06	00033773177	None	(1) Norco 7.5-325 @ 06:44	Documented as administered	Documented as administered	None
12/16/06	00033774605	None	(1) Norco 5-325 @	Documented as	Documented as	None

			20:18	administered	administered	
12/17/06	00033775453	None	(1) Norco 7.5-325 @ 04:16	Documented as administered	Documented as administered	None
12/17/06	00033777111	None	(1) Norco 7.5-325 @ 19:04	Documented as administered	Documented as administered	None
12/17/06	00033776766	None	(1) Norco 7.5-325 @ 19:14	Documented as administered	Documented as administered	None
12/18/06	00033777590	None	(1) Norco 7.5-325 @ 01:50	Documented as administered	Documented as administered	None

Respondent's conduct was likely to injure the patient in that the administration of narcotics in excess of, or without physicians' orders, could result in the patient suffering from adverse reactions.

8. On or about November 14, 2006, through December 18, 2006, while employed as a Registered Nurse with East Texas Medical Center, Tyler, Texas, Respondent withdrew narcotics from the Medication Dispensing System (Pyxis) for patients, but failed to document, or accurately document the administration, including signs, symptoms and response to the medications administered , in the patients' Medication Administrations Records or Nurses Notes as follows:

Date	Patient Medical Record Number	Physician's Order	Medication Dispensing System (Pyxis)	Medication Administration Record (MAR)	Nurse's Notes	Wastage
11/14/06	00033638388	None	(1) Norco 5-325 @ 23:37	Not documented as administered	Not documented as administered	None
12/02/06	00033710963	None	(2) Norco 7.-325 @ 02:19	Not documented as administered	Not documented as administered	None
12/02/06	00033710963	None	(1) Norco 7.5-325 @ 03:23	Not documented as administered	Not documented as administered	None
12/12/06	00033754540	None	(2) Norco 7.5-325 @ 21:59	Not documented as administered	Not documented as administered	None
12/12/06	00033755000	None	(1) Norco 5-325 @ 22:19	Not documented as administered	Not documented as administered	None
12/13/06	00033756305	None	(1) Norco 7.5-325 @ 04:40	Not documented as administered	Not documented as administered	None
12/15/06	00033772880	None	(1) Norco 7.5-325 @ 22:38	Documented as administered	Documented as administered	None
12/16/06	00033772344	None	(2) Norco 7.5-325 @ 01:56	Documented as administered	Documented as administered	None
12/16/06	00033773177	None	(1) Norco 7.5-325 @ 06:44	Documented as administered	Documented as administered	None
12/16/06	00033774605	None	(1) Norco 5-325 @ 20:18	Documented as administered	Documented as administered	None
12/17/06	00033775453	None	(1) Norco 7.5-325 @ 04:16	Documented as administered	Documented as administered	None
12/17/06	00033777111	None	(1) Norco 7.5-325	Documented as	Documented as	None

			@ 19:04	administered	administered	
12/17/06	00033776766	None	(1) Norco 7.5-325 @ 19:14	Documented as administered	Documented as administered	None
12/18/06	00033777590	None	(1) Norco 7.5-325 @ 01:50	Documented as administered	Documented as administered	None

Respondent's conduct was likely to injure the patient in that subsequent care givers would rely on his documentation to further medicate the patient which could result in an overdose.

9. On or about November 14, 2006, through December 18, 2006, while employed as a Registered Nurse with East Texas Medical Center, Tyler, Texas, Respondent withdrew narcotics from the Medication Dispensing System (Pyxis) for patients, but failed to follow the facility's policy and procedure for wastage of the unused portions of the medications/narcotics, as follows:

Date	Patient Medical Record Number	Physician's Order	Medication Dispensing System (Pyxis)	Medication Administration Record (MAR)	Nurse's Notes	Wastage
11/14/06	00033638388	None	(1) Norco 5-325 @ 23:37	Not documented as administered	Not documented as administered	None
12/02/06	00033710963	None	(2) Norco 7.-325 @ 02:19	Not documented as administered	Not documented as administered	None
12/02/06	00033710963	None	(1) Norco 7.5-325 @ 03:23	Not documented as administered	Not documented as administered	None
12/12/06	00033754540	None	(2) Norco 7.5-325 @ 21:59	Not documented as administered	Not documented as administered	None
12/12/06	00033755000	None	(1) Norco 5-325 @ 22:19	Not documented as administered	Not documented as administered	None
12/13/06	00033756305	None	(1) Norco 7.5-325 @ 04:40	Not documented as administered	Not documented as administered	None
12/15/06	00033772880	None	(1) Norco 7.5-325 @ 22:38	Documented as administered	Documented as administered	None
12/16/06	00033772344	None	(2) Norco 7.5-325 @ 01:56	Documented as administered	Documented as administered	None
12/16/06	00033773177	None	(1) Norco 7.5-325 @ 06:44	Documented as administered	Documented as administered	None
12/16/06	00033774605	None	(1) Norco 5-325 @ 20:18	Documented as administered	Documented as administered	None
12/17/06	00033775453	None	(1) Norco 7.5-325 @ 04:16	Documented as administered	Documented as administered	None
12/17/06	00033777111	None	(1) Norco 7.5-325 @ 19:04	Documented as administered	Documented as administered	None
12/17/06	00033776766	None	(1) Norco 7.5-325 @ 19:14	Documented as administered	Documented as administered	None
12/18/06	00033777590	None	(1) Norco 7.5-325 @ 01:50	Documented as administered	Documented as administered	None

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 Substance Act).

10. On or about November 14, 2006, through December 18, 2006, while employed as a Registered Nurse with East Texas Medical Center, Tyler, Texas, Respondent misappropriated, or failed to take precautions to prevent such misappropriation of narcotics, as follows:

Date	Patient Medical Record Number	Physician's Order	Medication Dispensing System (Pyxis)	Medication Administration Record (MAR)	Nurse's Notes	Wastage
11/14/06	00033638388	None	(1) Norco 5-325 @ 23:37	Not documented as administered	Not documented as administered	None
12/02/06	00033710963	None	(2) Norco 7.-325 @ 02:19	Not documented as administered	Not documented as administered	None
12/02/06	00033710963	None	(1) Norco 7.5-325 @ 03:23	Not documented as administered	Not documented as administered	None
12/12/06	00033754540	None	(2) Norco 7.5-325 @ 21:59	Not documented as administered	Not documented as administered	None
12/12/06	00033755000	None	(1) Norco 5-325 @ 22:19	Not documented as administered	Not documented as administered	None
12/13/06	00033756305	None	(1) Norco 7.5-325 @ 04:40	Not documented as administered	Not documented as administered	None
12/15/06	00033772880	None	(1) Norco 7.5-325 @ 22:38	Documented as administered	Documented as administered	None
12/16/06	00033772344	None	(2) Norco 7.5-325 @ 01:56	Documented as administered	Documented as administered	None
12/16/06	00033773177	None	(1) Norco 7.5-325 @ 06:44	Documented as administered	Documented as administered	None
12/16/06	00033774605	None	(1) Norco 5-325 @ 20:18	Documented as administered	Documented as administered	None
12/17/06	00033775453	None	(1) Norco 7.5-325 @ 04:16	Documented as administered	Documented as administered	None
~~12/17/06~~	~~00033777111~~	~~None~~	~~(1) Norco 7.5-325~~ @ 19:04	~~Documented as~~ administered	~~Documented as~~ administered	~~None~~
12/17/06	00033776766	None	(1) Norco 7.5-325 @ 19:14	Documented as administered	Documented as administered	None
12/18/06	00033777590	None	(1) Norco 7.5-325 @ 01:50	Documented as administered	Documented as administered	None

Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

11. In response to Findings of Fact Numbers Seven (7) through Ten (10), Respondent states that he is prescribed Hydrocodone by his personal physician for migraine headaches and does not have a need to misappropriate patient medication. Respondent states that he had no knowledge of what had happened regarding these allegations.

12. On or about December 21, 2006, while employed as a Registered Nurse with East Texas Medical Center, Tyler, Texas, Respondent engaged in the intemperate use of Amines, Barbiturates, Benzodiazepines, and Opiates in that he produced a specimen for a drug screen which resulted positive for Amines, Barbiturates, Benzodiazepines, and Opiates. Possession of Amines, Barbiturates, Benzodiazepines, and Opiates, without a lawful prescription is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Amines, Barbiturates, Benzodiazepines, 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, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.

13. In response to Finding of Fact Number Twelve (12), Respondent admits that he takes Norco for migraines. Additionally, Respondent states that he remembered he had taken Valium for anxiety and had taken a GI cocktail for an upset stomach one time at work.

14. On or about December 5, 2009, through January 26, 2010, while employed as a Registered Nurse with Texas Spine and Joint Hospital, Tyler, Texas, Respondent withdrew medications/narcotics from the Medication Dispensing System (Pyxis) for patients, but failed to document, or accurately document the administration, including signs, symptoms and responses to the medications administered in the patients' Medication Administration Record of Nurses Notes, as follows:

Date	Patient Account Number	Physicians Orders	Medication Dispensing System (Pyxis) Records	Medication Administration Record (MAR)	Nursing Notes
12/05/09	207453	Dilaudid 05mg IV q 2Hr PRN	(1) Hydromorphone HCL 2mg/ml Inj @ 05:40	Not documented as administered	Not documented as administered
12/09/09	208992	Norco 10 1-2 Tabs PO q 4-6Hrs Prn Pain	(2) Hydrocodone/APAP 10/325 1ea/1ea Tab @ 23:36	Not documented as administered	Not documented as administered
12/10/09	208992	Dilaudid 1-2mg IV q 2Hrs PRN pain	(1) Hydromorphone HCL 2mg/ml Inj @ 06:35	Not documented as administered	Not documented as administered
12/13/09	208397	Norco 7.5/325 1-2 PO q 4-Hrs PRN	(2) Hydrocodone/ APAP 7.5/325mg 1ea/ 1ea Tab @ 21:22	Not documented as administered	Not documented as administered
12/14/09	209245	Percocet 10mg 1-2 PO q 6Hrs	(2) Oxycodone/APAP 10/325 1ea/1ea Tab @ 03:21	Not documented as administered	Not documented as administered
01/15/10	210947	Soma 1 PO q 6Hrs PRN Muscle Spasms	(1) Carisoprodol 350mg/1ea Tab @ 06:10	Not documented as administered	Not documented as administered
01/19/10	212601	Norco 10/325 1-2 Tabs PO q 4 Hrs PRN Pain	(2) Hydrocodone/APAP 10/325 1ea/1ea Tab @ 01:50	Not documented as administered	Not documented as administered
01/24/10	212791	Diluadid 1-2mg q 4Hrs IVP PRN	(1) Hydromorphone HCL 2mg/ml Inj @ 02:12	Not documented as administered	Not documented as administered
01/24/10	212058	Norco 10/325 1-2 Tabs	(2) Hydrocodone/APAP	Not documented as	Not documented

		PO q 4Hrs Prn Pain	10/325 1ea/1ea Tab @ 06:21	administered	as administered
01/24/10	212058	Meperidine 25mg IVP q 1Hr PRN Pain	(1) Meperidine HCL 25mg/1ml Inj @ 06:21	Not documented as administered	Not documented as administered
01/26/10	211194	Norco 10mg PO q 4Hrs PRN Pain	(2) Hydrocodone/APAP 10/325 1ea/1ea Tab @ 20:44	Not documented as administered	Not documented as administered
01/26/10	211194	Demoral 50-100mg IM PRN Pain	(1) Meperidine HCL 100mg/1ml Inj @ 20:44	Not documented as administered	Not documented as administered
01/26/10	211194	Demoral 50-100mg IM PRN Pain	(1) Meperidine HCL 100mg/1ml Inj @ 21:40	Not documented as administered	Not documented as administered
01/26/10	211194	Ambien 6.25mg or 12.5mg PO q Bedtime PRN Insomnia	(1) Zolpidem Tartrate 10mg/1ea Tab @ 21:46	Not documented as administered	Not documented as administered
01/26/10	212156	Meperidine 25mg IVP q 1Hr PRN Pain	(1) Meperidine HCL 25mg/1ml Inj @ 22:19	Not documented as administered	Not documented as administered

Respondent's conduct was likely to injure the patient in that subsequent care givers would rely on his documentation to further medicate the patient which could result in an overdose.

15. In response to Finding of Fact Number Fourteen (15), Respondent states that he should not have been at work that night. Respondent admits that he administered Demerol to a patient but failed to chart it or mis-charted it. Respondent states that he was not given the opportunity to document late entries on the chart.

16. On or about December 5, 2009, through January 26, 2010, while employed as a Registered Nurse with Texas Spine and Joint Hospital, Tyler, Texas, Respondent misappropriated, or failed to take precautions to prevent such misappropriation of narcotics. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

17. On or about January 26, 2010, while employed as a Registered Nurse with Texas Spine and Joint Hospital, Tyler, Texas, Respondent lacked fitness to practice professional nursing in that Respondent was sluggish, staggering, and appeared disoriented. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

18. In response to Finding of Fact Number Seventeen (17), Respondent states that he was not feeling well and immediately requested a replacement. Respondent states that he was doing the best he could to take care of my patients in between trips to the restroom.

19. On or about January 28, 2010, while employed as a Registered Nurse with Texas Spine and Joint Hospital, Tyler, Texas, Respondent engaged in the intemperate use of Opiates, Benzodiazepines, and Darvocet in that Respondent submitted a specimen for a drug screen which resulted positive for Opiates, Benzodiazepines, and Darvocet. Possession of Opiates, Benzodiazepines, and Darvocet, without a lawful prescription is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Opiates, Benzodiazepines, and Darvocet by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.

20. In response to Finding of Fact Number Nineteen (19), admits to taking his grandfather's Darvocet and Valium because he had a migraine, which was not relieved by the Hydrocodone that he was prescribed.

21. On or about June 15, 2010, Respondent underwent a Forensic Psychological Evaluation conducted by Antoinette R. McGarrahan, Ph.D. Dr. McGarrahan states that based on all the available information, Respondent meets current criteria for opioid and benzodiazepine dependence. Dr. McGarrahan states that it is not completely clear whether he meets criteria for any psychiatric or personality disorder at this time because of his extremely defensive responses on psychological testing and his history of being deceptive with regard to the allegations, his substance abuse, and his psychiatric history. Given Respondent's apparent ongoing substance dependence, and the behaviors he had engaged in to continue his addiction and to hide his addiction, her opinion is that Respondent will likely not be able to be in accordance with Board rules concerning professional conduct until he receives extensive substance abuse treatment. Dr. McGarrahan states that Respondent will not be able to avoid engaging in unprofessional conduct until such treatment is obtained. Dr. McGarrahan recommends that Respondent be able to show (objectively) a sustained period of sobriety before returning to his work as a nurse.

---

22. Respondent's last known date of sobriety is January 28, 2010, as indicated in Finding of Fact Number Nineteen (19).

22. 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.

23. Formal Charges were filed on December 8, 2009.

24. Formal Charges were mailed to Respondent on December 8, 2009.

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 violation of Section 301.452(b)(9),(10),(12)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A),(B),(C)&(D)(iv), and 22 TEX. ADMIN. CODE §217.12(1)(A)&(B),(4),(5),(6)(G),(8),(10)(A),(B),(C)&(D)&(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 713447, heretofore issued to MATTHEW CURTIS FENWICK, including revocation of Respondent's license to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Registered Nurse License Number 713447, previously issued to MATTHEW CURTIS FENWICK, to practice nursing in Texas is hereby SUSPENDED, and said suspension is ENFORCED until Respondent completes a treatment program approved by the Board, provides documentation of successful completion, and has obtained twelve (12) consecutive months of sobriety. Any relapse prior to the completion of the twelve (12) consecutive months of sobriety will result in an extension of the enforced suspension until such twelve (12) consecutive months of sobriety and additional treatment have been attained.

IT IS FURTHER ORDERED that Permanent Certificate Number 713447 previously issued to MATTHEW CURTIS FENWICK, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

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

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this order the Respondent may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED, upon verification of successful completion of the approved treatment and twelve (12) consecutive months of sobriety as set out in this Order, the Suspension will be STAYED, and RESPONDENT will be placed on PROBATION for three (3) years with the following agreed terms of probation:

(1) RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.*, and this Order.

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

(3) RESPONDENT SHALL pay a monitoring fee in the amount of five hundred ($500) dollars. RESPONDENT SHALL pay this fine within forty-five (45) days of entry of this Order of the suspension being stayed. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(4) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is <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.*

(5) 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://ncsbn.hivelive.com/hives/a0f6f3e8a0/summary.*

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

A Board representative may appear at the RESPONDENT'S place of employment at any time during the probation period and require RESPONDENT to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the probation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

(16) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. RESPONDENT SHALL provide acceptable evidence of attendance. Acceptable evidence shall

consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by RESPONDENT. RESPONDENT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) months. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license, the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

RESPONDENT'S CERTIFICATION

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

Signed this 27 day of September, 2010.

Matt Fenwick

MATTHEW CURTIS FENWICK, Respondent

Sworn to and subscribed before me this 27 day of September, 2010.

SEAL

Rene Kennedy

Notary Public in and for the State of Texas

RENE KENNEDY
Notary Public
STATE OF TEXAS
My Comm. Exp. August 14, 2014

Approved as to form and substance.

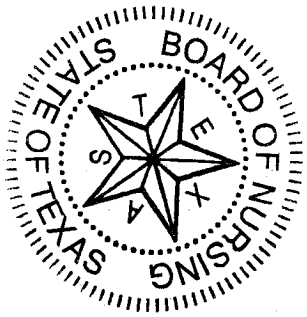
Taralynn R. MacKay

TARALYNN MACKAY, Attorney for Respondent

Signed this 5th day of Oct, 2010.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 27th day of September, 2010, by MATTHEW CURTIS FENWICK, Registered Nurse License Number 713447, and said Order is final.

Effective this 9th day of October, 2010.



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