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

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse License	§	
Number 669584 and Vocational Nurse	§	AGREED
License Number 172987, issued to	§	
SHELLY D. WEAVER,	§	ORDER
a.k.a. SHELLY DIANN WEAVER	§	

An investigation by the Texas Board of Nursing, hereinafter referred to as the Board, produced evidence indicating that SHELLY D. WEAVER, a.k.a. SHELLY DIANN WEAVER, hereinafter referred to as Respondent, Registered Nurse License Number 669584 and Vocational Nurse License Number 172987, may have violated Section 301.452(b)(9),(10)&(12), Texas Occupations Code.

An informal conference was held on October 27, 2009, at the office of the Texas Board of Nursing, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Courtney Newton, Attorney at Law. In attendance were Mary Beth Thomas, PhD, RN, Director, Executive Director's Designee; John F. Legris, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Kimberly Botello-Rodriguez, Investigator and James S. Smelser, Investigator.

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 notice and hearing, and consented to the entry of this Order.

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

4. Respondent received a Certificate in Vocational Nursing from Odessa College, Odessa, Texas on August 12, 1999, and an Associate Degree in Nursing from Odessa College, Odessa, Texas on May 1, 2000. Respondent was licensed to practice vocational nursing in the State of Texas on September 15, 1999 and professional nursing in the State of Texas on June 27, 2000.

5. Respondent's nursing employment history includes:

8/1999 - 8/2000	Unknown	
09/18/2000 to 11/23/ 2000	RN - OB/GYN	Medical Center Hospital Odessa, Texas.
11/23/2000 to 06/01/2001	Medical Leave	Medical Center Hospital Odessa, Texas.
06/01/2001 to 04/17/2007	RN - OB/GYN	Medical Center Hospital Odessa, Texas.
04/18/2007 to 06/02/2009	Unknown	
06/02/2009 to Present	RN - NICU	Odessa Regional Medical Center Odessa, Texas.

6. At the time of the incident described in Finding of Fact Number Seven (7), Respondent was employed as a Registered Nurse with Medical Center Hospital, Odessa, Texas, and had been in this position for six (6) years and seven (7) months.

7. On or about April 11, 2007, while employed as a Registered Nurse with Medical Center Hospital, Odessa, Texas, Respondent engaged in the intemperate use of Hydrocodone in that she produced a specimen for a drug/alcohol screen which resulted positive for Hydrocodone. The use of 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.

8. With regards to Finding of Fact Number Seven (7), Respondent states she has prescriptions for and used Hydrocodone because she was involved in a traffic accident which caused damage to her ankle. Respondent states she underwent surgery to her right foot on September 13, 2007 and immediately weaned off narcotic pain medication. Additionally, Respondent completed two outpatient treatment programs and one inpatient program, attends AA meetings and has a sponsor.

9. On or about April 15, 2010, Respondent presented to Everton A. Edmondson, M.D. who performed an independent pain management evaluation on Respondent. Dr. Edmondson stated in summary, that Respondent has legitimate sources of chronic pain. Respondent was appropriately treated and has had ongoing supervision by physicians for her chronic pain and PTSD. Respondent's current medications do not impair her level of cognition or general

function. These medications allow her to function in her general capacity as a nurse and to asymptote toward normality, in regular life, as much as possible. Dr. Edmondson further states, It is apparent that Respondent's use of these medications were consistently appropriate. Respondent is able to consistently behave in accordance with the requirements of Rules 213.27-213.29 and 22 Texas Administrative Code, as well as the minimum standards set by the Board's Rules 217.11 and 22 TAC and generally accepted nursing standards.

10. 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.

11. On or about September 1, 2010, Respondent notified the Board that she has recently been diagnosed with a debilitating medical condition which, she anticipates, will prevent her from being able to practice as a nurse for at least the next year. Respondent indicated that she agreed to place her licenses in inactive status and to reactivate her licenses, subject to the terms of this Agreed Order, should she desire to return to the practice of nursing in the future. A copy of Respondent's signed and notarized statement is attached and incorporated herein by reference as part of this Order.

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)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(E)&(10)(A).

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 669584 and Vocational Nurse License Number 172987, heretofore issued to SHELLY D. WEAVER, a.k.a. SHELLY DIANN WEAVER, including revocation of Respondent's licenses 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 REPRIMAND 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(s) is/are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL, within one (1) year of reactivation of her license(s), 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 not 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.*

(2) RESPONDENT SHALL pay a monitoring fee in the amount of five hundred dollars ($500.00). RESPONDENT SHALL pay this fee within forty five (45) days of reactivation of her license(s). 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 REACTIVATE HER LICENSE(S) AND 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 A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE A REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD.

(3) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S licenses. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT'S licenses. 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.

(4) 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.

(5) 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.

(6) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT'S capability to practice nursing. These reports shall be completed by the Registered Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for two (2) years of employment as a nurse.

(7) 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.**

(8) 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 stipulation 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 stipulation period.

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

(9) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. RESPONDENT SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by RESPONDENT. RESPONDENT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) month period. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

(10) RESPONDENT SHALL undergo a neuropsychological evaluation. The evaluation shall be performed by a Board certified psychiatrist or a clinical psychologist approved by the Board. The evaluation shall be completed <u>within ninety (90) days from the date of reactivation of Respondent's license(s)</u>. RESPONDENT SHALL CAUSE the performing psychiatrist or clinical psychologist to send a report of the evaluation to the Board office. The report shall include:

1. a description of the instruments used for evaluation and the results of the evaluation;

2. a statement as to the RESPONDENT'S fitness to safely practice nursing; and

3. recommendations for therapy or other follow-up.

RESPONDENT SHALL comply with the recommendations for therapy or other follow-up If the evaluation states that Respondent lacks fitness to practice professional or vocational 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. 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 professional and vocational nursing in the State of Texas.

(11) 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 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 stipulation period, or until RESPONDENT is dismissed from therapy.

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.

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 21 day of September, 2010.

Shelly D. Weaver

SHELLY D. WEAVER, a.k.a SHELLY DIANN WEAVER,
Respondent

Sworn to and subscribed before me this 21st day of September, 2010.

SEAL

ELIZABETH A. JONES
MY COMMISSION EXPIRES
February 15, 2012

Elizabeth A. Jones

Notary Public in and for the State of Texas

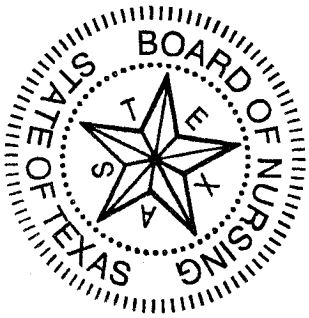
Approved as to form and substance.

Courtney Newton, Attorney for Respondent

Signed this 23rd day of September, 2010.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 21st day of September, 2010, by SHELLY D. WEAVER, a.k.a. SHELLY DIANN WEAVER, Registered Nurse License Number 669584 and Vocational Nurse License Number 172987, and said Order is final.

Effective this 21st day of October, 2010.



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

TEXAS BOARD OF NURSING

My name is SHELLY DIANN WEAVER and I currently hold Texas Registered Nurse License Number 669584 and Vocational Nurse License Number 172987. I hereby request to place my licenses on inactive status and agree to keep my licenses to practice nursing on inactive status until such time as I desire to return to the practice of nursing.

I understand that if and whenever I decide to reactivate my license(s) and return to the practice of nursing, I will have to meet all requirements for licensure reactivation and I acknowledge that I will have to comply with the attached Agreed Order.

Shelly Diann Weaver

SHELLY DIANN WEAVER, AFFIANT

SWORN TO AND SUBSCRIBED before me the 13th day of September, 20 10.

SEAL

VICKEY VENEGAS
MY COMMISSION EXPIRES
July 14, 2014

Vickey Venegas

Notary Public in and for the State of Texas

Approved as to form and substance.

Courtney Newton, Attorney for Respondent

Signed this 23rd day of September, 20 10