BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse	§	AGREED
License Number 724989	§	
issued to JOSHUA SETH CORKERN	§	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 B considered the matter of JOSHUA SETH CORKERN, Registered Nurse License Number 72 , 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 April 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 a Baccalaureate Degree in Nursing from Prairie View A&M College, Houston, Texas, on December 10, 2005. Respondent was licensed to practice professional nursing in the State of Texas on February 16, 2006.

5. Respondent's complete professional nursing employment history includes:

02/06-09/08	RN	Ben Taub General Hospital Houston, Texas
08/7-11/07	RN	North Cypress Medical Center Cypress, Texas

Respondent's professional employment history continued:

08/08-09/08	RN	Behavioral Hospital of Bellaire Bellaire, Texas
09/08-10/08	Unknown	
11/08-04/09	RN	MD Anderson Cancer Center Houston, Texas
05/09-12/09	Unknown	
01/10-04/10	RN	Plaza Specialty Hospital Houston, Texas
05/10-Present	Unknown	

6. At the time of the initial incidents in Finding of Fact Number Seven (7), Respondent was employed as a Registered Nurse with Ben Taub General Hospital, Houston, Texas, and had been in this position for approximately ten (10) months.

7. On or about October 4, 2006, while employed as a Registered Nurse with Ben Taub General Hospital, Houston, Texas, Respondent withdrew Fentanyl from the Medication Dispensing System for patients without valid physicians' orders; failed to follow the facility's policy and procedures for wastage of any of the unused portions of the medications; and misappropriated Fentanyl from the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to injure the patient, in that, the administration of Fentanyl without a valid physician's order could result in the patients experiencing adverse reactions; subsequent care givers would rely on his documentation to further medicate the patient which could result in an overdose; and Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

8. On or about December 6, 2006, while employed as a Registered Nurse with Ben Taub General Hospital, Houston, Texas, Respondent engaged in the intemperate use of Tramadol in that he submitted a specimen for a drug screen requested by Texas Peer Assistance Program for Nurses that produced a positive result for Tramadol (240 ng/mL). The use of Tramadol 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 February 9, 2008, while employed as a Registered Nurse with Ben Taub General Hospital, Houston, Texas, Respondent withdrew Demerol and Fentanyl from the Medication Dispensing System (Pyxis) for patients without valid physicians' orders and for patients that were never patients at Ben Taub General Hospital by using fictitious names and medical record numbers. Respondent's conduct was likely to injure the patient, in that the administration of Demerol and Fentanyl, without a valid physician's order, could result in the patients experiencing adverse reactions, and Respondent's conduct was likely to deceive the pharmacy and possession of Demerol and Fentanyl is prohibited by Chapter 481 of the Texas Health and Safety Code.

10. At the time of the incidents in Finding of Fact Number Eleven(11), Respondent was employed as a Registered Nurse with Behavioral Hospital of Bellaire, Houston, Texas, and had been in this position for approximately one (1) month.

11. On or about September 22, 2008, while employed at Behavioral Hospital of Bellaire, Houston, Texas, Respondent withdrew Methadone from the Medication Dispensing System for patients without valid physicians' orders, falsely documented the administration of these medications in the patients' medical records, and admitted he misappropriated Methadone for his own personal use from the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to injure the patient in that, the administration of Methadone, without a valid physician's order could result in the patients experiencing adverse reactions; subsequent care givers would rely on his documentation and could have resulted in nonefficacious treatment; and was likely to defraud the facility and patients of the cost of the medications.

12. At the time of the incidents in Finding of Fact Numbers Thirteen (13), through Fourteen (14), Respondent was employed as a Registered Nurse with MD Anderson Cancer Center, Houston, Texas, and had been in this position for approximately five (5) months.

13. On or about April 11, 2009, through May 8, 2009, while employed as a Registered Nurse with MD Anderson Cancer Center, Houston, Texas, Respondent withdrew Demerol and Fentanyl from the Medication Dispensing System for patients in excess frequency/dosage of the physicians' orders; failed to document, or accurately document the administration of the medications in the patients' Medication Administration Records and/or nurses notes; failed to follow the facility's policy and procedures for wastage of any of the unused portions of the medications; and misappropriated Demerol and Fentanyl from the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to injure the patient in that, the administration of Demerol and Fentanyl in excess frequency and/or dosage of the physician's order could result in the patient suffering from adverse reactions; subsequent care givers would rely on his documentation to further medicate the patient which could result in an overdose; likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act); and defraud the facility and patients of the cost of the medications.

14. On or about April 11, 2009, through May 8, 2009, while employed as a Registered Nurse with MD Anderson Cancer Center, Houston, Texas, Respondent lacked fitness to practice nursing in that he showed signs of impairment including, but not limited to, slower speech, low eyelids, and "looked drowsy". Respondent's condition could have affected his ability to recognize 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.

15. At the time of the incidents in Finding of Fact Numbers Sixteen (16), Respondent was employed as a Registered Nurse with Plaza Specialty Hospital, Houston, Texas, and had been in this position for approximately four (4) months.

16. On or about March 6, 2010, through April 4, 2010, while employed as a Registered Nurse with Plaza Specialty Hospital, Houston, Texas, Respondent withdrew Fentanyl from the Medication Dispensing System 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; failed to follow the facility's policy and procedures for wastage of any of the unused portions of the medications; and misappropriated Fentanyl from the facility and patients thereof, or failed to take precautions to prevent such misappropriation. 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) and Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

17. On or about July 18, 2010, while employed as a Registered Nurse with Select Specialty Hospital, and assigned to Houston Medical Center, Houston, Texas, Respondent withdrew numerous narcotic medications including Norco from the Medication Dispensing System 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; failed to follow the facility's policy and procedure for wastage of any of the unused portions of the medication; and misappropriated numerous medications including Norco from the facility or patients thereof or failed to take precautions to prevent such misappropriation. 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; deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substance Act); and defraud the facility and patients of the cost of the medications.

18. 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 violation of Section 301.452(b)(9),(10),(12)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A),(B)&(D), and 22 TEX. ADMIN. CODE §217.12(1)(A),(B)&(C),(4),(5),(6)(A),(G)&(H),(10)(A),(B),(C),(D)&(E)&(11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 724989, heretofore issued to JOSHUA SETH CORKERN, 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 724989, previously issued to JOSHUA SETH CORKERN, 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 724989 previously issued to JOSHUA SETH CORKERN, 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, 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 entry of this Order, 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 entry of this Order. 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) YEAR(S) 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.

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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 to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 26 day of August, 2010.

Joshua Corkern

JOSHUA SETH CORKERN, Respondent

Sworn to and subscribed before me this 26 day of August, 2010.

SEAL

Notary Public in and for the State of Texas

Approved as to form and substance.

Taralynn R. MacKay

Taralynn Mackay, Attorney for Respondent

Signed this 27 day of August, 2010.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 26th day of August, 2010, by JOSHUA SETH CORKERN, Registered Nurse License Number 724989, and said Order is final.

Effective this 21st day of October, 2010.

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