BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§	AGREED
License Number 167967	§	
issued to BARRON DWAIN WARDWELL	§	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 Boa accepted the voluntary surrender of Vocational Nurse License Number 167967, issued to BARRON DWAIN WARDWELL, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c) of the Texas Occupations Code.

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

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to 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 proceedings, notice and hearing, and agreed to the entry of this Order.

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

4. Respondent received a Certificate in Vocational Nursing from Western Texas College, Snyder, Texas, on August 21, 1997. Respondent was licensed to practice vocational nursing in the State of Texas on July 17, 1998.

5. Respondent's vocational nursing employment history includes:

08/2005 - 12/2006	LVN ADON	Stanton Nursing and Rehabilitation Stanton, Texas

Respondent's vocational nursing employment history continued:

06/2006 - 09/2006	LVN Charge Nurse	Kristi Lee Manor Colorado City, Texas
12/2006 - 08/2007	Unknown	
08/2007 - 07/2009	LVN	Parkview Nursing Spring, Texas
07/2009 - 10/2009	Unknown	
10/2009 - Present	LVN Charge Nurse	Parkview Nursing Spring, Texas

6. On or about August 26, 2008, Respondent was issued an Agreed Order by the Texas Board of Nursing, which required him to participate and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Findings of Fact, Conclusions of Law, and Order of the Board, dated August 26, 2008, is attached and incorporated, by reference, as part of this Order.

7. On or about November 13, 2008, Respondent entered a plea of "Guilty" to POSSESSION OF A CONTROLLED SUBSTANCE BY FRAUD (a 3rd Degree Felony offense committed on October 21, 2006), in the 32nd District Court, Mitchell County, Texas, under Cause No. 7066. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on probation for a period of five (5) years. Additionally, Respondent was ordered to pay a fine and court costs.

8. In response to Finding of Fact Number Seven (7), Respondent states: In November of 2008, I DID enter a plea of guilty for the charge of Poss of a Controlled Substance by Fraud, and I DID receive deferred adjudication for said charge.

9. On or about April 21, 2009, Respondent failed to comply with the Agreed Order issued to him by the Texas Board of Nursing on August 26, 2008. Non-compliance is the result of his failure to comply with Stipulation Number Three (3) of the Order, which reads, in pertinent part:

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

Specifically, Respondent did not complete the enrollment process, register with FirstLab, follow through with treatment recommendations and he failed to send in paperwork. On July 21, 2009, Respondent was dismissed from TPAPN and referred to the Board.

10. In response to Finding of Fact Number Nine (9), Respondent states: I did complete the enrollment process and I did register with First Lab and began logging in daily and testing when instructed to do so. I also had my assessment done at Springboard/TRS by Leslie Broadwell as I was instructed. As for treatment recommendations, she wrote on my paperwork that I DID NOT HAVE ANY SUBSTANCE ABUSE PROBLEMS, and that I DID NOT REQUIRE ANY TYPE OF DRUG OR ALCOHOL TREATMENT AND/OR COUNSELING. I provided TPAPN with a copy of this assessment and I still have copies if needed.

However, I WAS late in sending in paperwork for my monthly report forms, and I was late in starting my 90 meetings in 90 days. For the paperwork's tardiness, I have no excuse, I simply lost track of time and failed to submit it on time.

11. On or about June 29, 2009, Respondent failed to comply with the Agreed Order issued to him by the Texas Board of Nursing on August 26, 2008. Non-compliance is the result of a positive drug screen which constitutes a failure to comply with Stipulation Number Three (3) of the Order, which reads, in pertinent part:

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

Specifically, on or about June 29, 2009, while employed as a Licensed Vocational Nurse at Parkview Nursing and Rehabilitation, Big Spring, Texas, Respondent engaged in the intemperate use of Propoxyphene, Opiates, and Hydrocodone, in that he produced a specimen for a drug screen which resulted positive for Propoxyphene, Opiates, and Hydrocodone.

12. On or about June 29, 2009, while employed as a Licensed Vocational Nurse at Parkview Nursing and Rehabilitation, Big Spring, Texas, Respondent engaged in the intemperate use of Propoxyphene, Opiates, and Hydrocodone, in that he produced a specimen for a drug screen which resulted positive for Propoxyphene, Opiates, and Hydrocodone. Possession of Propoxyphene, Opiates, and Hydrocodone, without a valid prescription, is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Propoxyphene, Opiates, and Hydrocodone by a Licensed Vocational 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.

13. In response to Findings of Fact Numbers Eleven (11) and Twelve (12), Respondent states: On June 29, 2009, I did submit a drug screen specimen that subsequently yielded positive results for Darvocet and Hydrocodone (no opiates). I had developed a very painful toothache, which began on Friday, June 26, 2009, while I was at work (6am to 2pm shift). This toothache became progressively more painful throughout that night until finally I could not stand the pain any longer. I had begun taking antibiotics for the toothache (which I had

been prescribed previously and had never completed), however I had nothing to take to alleviate the pain. At this time, my mother was living with my wife and I. She did, and still does, have a prescription for both Hydrocodone and Darvocet. In a moment of profound weakness and stupidity, I asked, my mother for something for the pain. She gave me 2 Hydrocodone and 1 Darvocet and I took them, hoping that I would not have to test for TPAPN on Monday the 29th, which obviously I did end up having to do. However, it was an isolated incident, and June 27th was the only day that I took anything. I did not at any time go to work under the influence of controlled medications.

14. Formal Charges were filed on November 20, 2009.

15. Formal Charges were mailed to Respondent on November 24, 2009.

16. Respondent, by his signature to this Order, expresses his desire to voluntarily surrender his license to practice nursing in the State of Texas.

17. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.

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 violations of Section 301.452(b)(1),(3),(9)&(10) Texas Occupations Code, 22 TEX. ADMIN. CODE §217.12(9),(10)(A)&(D),(11)(B)&(13).

4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 167967, heretofore issued to BARRON DWAIN WARDWELL, including revocation of Respondent's license to practice nursing in the State of Texas.

5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.

6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose

conditions for reinstatement of licensure.

7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Vocational License Number 167967, heretofore issued to BARRON DWAIN WARDWELL, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice vocational nursing, use the title "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying himself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse during the period in which the license is surrendered.

2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.

3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 3 day of September, 2010.

Barron Dwain Wardwell

BARRON DWAIN WARDWELL, Respondent

Sworn to and subscribed before me this 3 day of September 2010.

SEAL

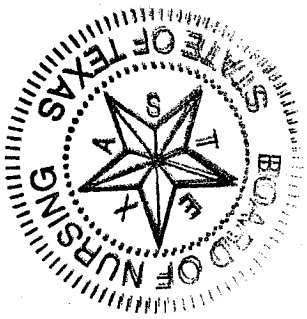
Davina Douglass

Notary Public in and for the State of TX

Surry County

DAVINA DOUGLASS
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
5-4-2014

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Vocational Nurse License Number 167967, previously issued to BARRON DWAIN WARDWELL.



Effective this *10th* day of *September*, 20*10*.

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

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§	
License Number 167967	§	AGREED
issued to BARRON DWAIN WARDWELL	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BARRON DWAIN WARDWELL, Vocational Nurse License Number 167967, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on July 9, 2008, 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 vocational nursing in the State of Texas.

4. Respondent received a Certificate in Vocational Nursing from Western Texas College, Snyder, Texas, on August 21, 1997. Respondent was licensed to practice vocational nursing in the State of Texas on July 17, 1998.

5. Respondent's vocational nursing employment history includes:

07/98 - 10/04	unknown	
11/04 - 01/06	LVN	Stanton Nursing and Rehabilitation Stanton, Texas

Respondent's vocational nursing employment history continued:

01/06 - 05/06	LVN	Rockwood Manor Midland, Texas
05/06 - 10/06	LVN	Kristi Lee Manor Colorado City, Texas
11/06 - present	unknown	

6. At the time of the incidents, Respondent was employed as a Licensed Vocational Nurse with Kristi Lee Manor, Inc., Colorado City, Texas, and had been in this position for six (6) months.

7. On or about October 21, 2006, while employed with Kristi Lee Manor, Inc., Colorado City, Texas, Respondent misappropriated thirty (30) tablets of Lortab from Patient Medical Record Number 59, in that he admitted to such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

8. On or about October 21, 2006, while employed with Kristi Lee Manor, Inc., Colorado City, Texas, Respondent misappropriated thirty (30) tablets of Lortab from Patient Medical Record Number 16, in that he admitted to such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

9. On or about October 21, 2006, while employed with Kristi Lee Manor, Inc., Colorado City, Texas, Respondent misappropriated thirty (30) tablets of Lortab from Patient Medical Record Number 23, in that he admitted to such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

10. On or about March 17, 2008, Respondent was arrested by the Mitchell County Sheriff's Office, Colorado City, Texas, for the Class A Misdemeanor offense of POSSESSION OF A CONTROLLED SUBSTANCE PG 3. On or about April 17, 2008, Respondent was indicted for the felony offense of FRAUD AND POSSESSION OF A CONTROLLED SUBSTANCE, by the Mitchell County Grand Jury, Colorado City, Texas. The court's disposition of this case is presently unknown to this office.

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 of Fact Numbers Seven (7) to Ten (10) resulted from Respondent's impairment by dependency on chemicals.

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 violations of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(G),(8),(10)(E), (11)(B)&(13).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 167967, heretofore issued to BARRON DWAIN WARDWELL, including revocation of Respondent's license to practice vocational 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):

RESPONDENT SHALL deliver the wallet-sized license issued to BARRON DWAIN WARDWELL, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order for appropriate notation.

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include

payment of a non-refundable participation fee in the amount of three hundred fifty dollars ($350) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep hishis/her license to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

(5) IT IS FURTHER AGREED, SHOULD RESPONDENT be convicted of or receive a deferred order for the offense(s) as outlined in Finding of Fact Number Ten (10), said judicial action will result in further disciplinary action including Revocation of Respondent's license to practice vocational nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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 multistate licensure 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 multistate licensure 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, 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 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 Texas Board of Nursing, 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 20th day of August, 2008.

Barron Dwain Wardwell
BARRON DWAIN WARDWELL, Respondent

Sworn to and subscribed before me this 20th day of August, 2008.

SEAL

Galynn Gamble

Notary Public in and for the State of Texas

GALYNN B. GAMBLE
MY COMMISSION EXPIRES
March 31, 2011

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Agreed Order that was signed on the 20th day of August, 2008, by BARRON DWAIN WARDWELL, Vocational Nurse License Number 167967, and said Order is final.

Entered and effective this 26th day of August, 2008.

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