BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse	§	AGREED
License Number 236684	§	
issued to JANICE KAY GLOWKA	§	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

An investigation by the Texas Board of Nursing, hereinafter referred to as the Boa produced evidence indicating that JANICE KAY GLOWKA, hereinafter referred to as Responde Registered Nurse License Number 236684, may have violated Section 301.452(b)(10)&(12), Texas Occupations Code.

An informal conference was held on May 5, 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 William E. Hopkins, Attorney at Law. In attendance were Mary Beth Thomas, PhD, RN, Director, Nursing Division, Executive Director's Designee; Kyle Hensley, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; and Marcia Wilson, RN, 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.

4. Respondent received a Baccalaureate Degree in Nursing from The University of Texas, Austin, Texas, on May 1, 1976. Respondent was licensed to practice professional nursing in the State of Texas on September 1, 1976.

5. Respondent's nursing employment history includes:

1976 - 1978	Staff Nurse	Holy Cross Hospital Austin, Texas
1976 - 1978	Charge Nurse	Holy Cross Hospital Austin, Texas
1979 - 1986	Relief Surgical Scrub Nurse	Holy Cross Hospital Austin, Texas
1979 - 1986	Relief Post-Anesthesia Recovery Nurse	Holy Cross Hospital Austin, Texas
1979 - 1986	Relief House Supervisor	Holy Cross Hospital Austin, Texas
1979 - 1986	Assistant Staff Development Coordinator Coordinator of Day Surgery/ Outpatient Services	Holy Cross Hospital Austin, Texas
1987 - 1987	Director of Quality Assurance	Holy Cross Hospital Austin, Texas
1988 - 1989	Staff Nurse - Cardiac Step Down Telemetry Unit	Seton Medical Center & Seton Northwest Hospital Austin, Texas
1990 - 1994	Quality Resource Management Analyst	Seton Medical Center & Seton Northwest Hospital Austin, Texas
1995	Quality Improvement Coordinator	PCA Health Plans of Texas Austin, Texas
1996 - 1999	Case Manager	St. David's Health Care System Austin, Texas
2000 - 2002	Weekend House Supervisor	Healthsouth Rehabilitation Hospital, Austin, Texas
2003 - 2004	Infection Control, Employee Health Hospital Educator	Healthsouth Rehabilitation Hospital, Austin, Texas

Respondent's nursing employment history continued:

2005 - 2006	Clinical Case Manager Weekend Nursing Supervisor	Assista Corporation Park Bend Health Center Austin, Texas
2007	Weekend Nursing Supervisor Interim Director of Nursing Assistant Director of Nursing	The Summit at Westlake Hills Brookdale Senior Living Corporation, Austin, Texas
2007	Assistant Director of Nursing	Regency Corporation Heritage Park Nursing and Rehabilitation Center Austin, Texas
2008	Assistant Director of Nursing Charge Nurse	Trisun Healthcare Corporation Park Place Care Center Austin, Texas
05/2008 - 03/2010	Weekend Nursing Supervisor	The Summit at Lakeway Brookdale Senior Living Austin, Texas
06/2010 - Present	Weekend Nursing Supervisor	Southwood Care Center Austin, Texas

6. On or about February 1998 through February 2000, upon renewal of Respondent's nursing license, Respondent answered "No" to the question, "Have you ever been convicted, adjudged guilty by a court, plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrest (excluding minor traffic violations) since the last renewal?"

   - On or about October 29, 1997, Respondent plead Guilty to "Theft B Reduced to Issuance of a Bad Check" (a Class C Misdemeanor offense committed on September 24, 1996) in the County Court of Williamson County, Georgetown, Texas, Cause Number 9640542.

   - On or about February 24, 1999, Respondent plead No Contest to "Hot Check Theft Reduced to Issuance of a Bad Check" (a Class C Misdemeanor offense committed on October 22, 1997) in the County Court of Williamson County, Georgetown, Texas, Cause Number 9831952.

   Respondent's conduct may have affected the Board's decision regarding her renewal.

7. At the time of the incident which occurred in Finding of Fact Number Eight (8), Respondent was employed as a Weekend Nursing Supervisor with Park Bend Health Center, Austin, Texas, and had been in this position for four (4) months.

8. On or about May 22, 2006, through May 28, 2006, while employed with Park Bend Health Center, Austin, Texas, and acting as Weekend Supervisor of that facility, Respondent lacked fitness to practice safe nursing in that Respondent exhibited impaired behavior. Respondent was observed with glazed eyes, slurred speech, sluggishness, and unsteady gait, and appeared "unable to focus." When asked to take a urine drug test, Respondent refused. Respondent's conduct was likely to injure patients in that her condition may have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care.

9. In response to the incidents in Findings of Facts Number Eight (8), Respondent denies that she exhibited impaired behavior and it was not mentioned to her at the facility. Respondent believes that possibly what was observed was allergy symptoms. She refused to take a drug test because she was angry and frustrated at being accused.

10. On or about September 12, 2008, Respondent underwent a Forensic Psychological Exam with a Chemical Dependency Component with Dr. Matthew L. Ferrera, Ph.D. In the opinion of Dr. Ferrera, Respondent does not appear to have much in common with individuals who have a chronic substance abuse disorder even though she had some substance use experimentation in her youth. Dr. Ferrara recommends that Respondent be monitored by the Board for one (1) year.

11. The Board finds that Respondent's performance evaluation from her previous employer, dated October 2008, describes her as "a valued performer" who is "knowledgeable of her position, accurate in nursing, ... a charge nurse as well as supervisor and (she) completes both in a timely manner." The facility's Director of Nursing Services indicates in a letter dated August 13, 2009, that he expects Respondent's performance will continue to be at the company's standard.

12. Charges were filed on February 19, 2009.

13. Charges were mailed to Respondent on February 19, 2009.

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 Article 4525(b)(2)&(9), TEX. REV. CIV. STAT. ANN. *[eff. 9/1/97]*, Section 301.452(b)(2),(10), Texas Occupations Code *[eff. 9/1/99]*, TEX ADMIN. CODE, §217.13(17)*[eff. 10/1998]*, and TEX ADMIN. CODE §217.12(22)&(23)*[eff. 1/2000]*, Section 301.452(b)(10)&(12), Texas Occupations Code, *[eff. 9/1/05]*, TEX ADMIN. CODE §217.11(1)(B)*[eff. 9/28/04]*, and §217.12(4),(5),(8)&(10)(A)*[eff. 9/28/04]*.

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 236684, heretofore issued to JANICE KAY GLOWKA, including revocation of Respondent's license to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a WARNING 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 multistate licensure privilege, if any, to practice nursing in compact states.

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 that:

(1) RESPONDENT SHALL, within one (1) year of entry of this Order, 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.*

(2) 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.*

(3) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars ($500.00). 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 A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD.

(4) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations 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 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 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.

(5) 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.

(6) RESPONDENT SHALL CAUSE each employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.

(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. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis is 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 stipulation 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 will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board. Failure to report for a drug screen may be considered the same as a positive result and may result in further disciplinary action by this Board.

(9) IT IS FURTHER AGREED and ORDERED that the terms of this ORDER are conditional upon Respondent's current employment as a registered nurse with Southwood Care Center, Austin, Texas. Should this employment cease or change, it is agreed by the parties that the following stipulations SHALL ALSO apply:

(10) 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.

(11) 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 one (1) year of employment as a nurse.

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.

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

Signed this 7 day of July, 2010.

Janice Kay Glowka

JANICE KAY GLOWKA, Respondent

Sworn to and subscribed before me this 7th day of July, 2010.

SEAL

Cynthia L. LoCastro

Notary Public in and for the State of TX

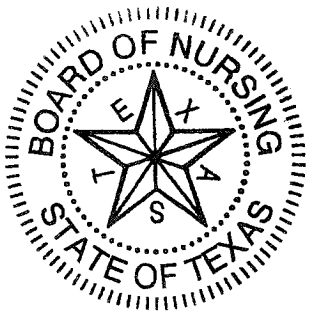
CYNTHIA L LOCASTRO
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
07-05-2011
NOTARY WITHOUT BOND

Approved as to form ~~and substance.~~

William E. Hopkins, Attorney for Respondent

Signed this 7th day of July, 2010.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 7th day of July, 2010, by JANICE KAY GLOWKA, Registered Nurse License Number 236684, and said Order is final.



Effective this 17th day of August, 2010.

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