BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse License Number 732020	§	AGREED
and Vocational Nurse License Number 189549	§	
issued to WALTER DEAN MCFALL	§	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 considered the matter of WALTER DEAN MCFALL, Registered Nurse License Number 732020 and Vocational Nurse License Number 189549, 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 proceedings, notice and hearing, and agreed to the entry of this Order offered on March 9, 2010, 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 proceedings, notice and hearing, and agreed to the entry of this Order.

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

4. Respondent received a Certificate in Vocational Nursing from Paris Junior College, Paris, Texas, on May 9, 2003. Respondent was licensed to practice vocational nursing in the State of Texas on July 23, 2003. Respondent received an Associate Degree in Nursing from Paris Junior College, Paris, Texas, on May 12, 2006. Respondent was licensed to practice professional nursing in the State of Texas on July 25, 2006.

5. Respondent's vocational and professional nursing employment history includes:

05/2003 - 03/2007	LVN/RN Charge Nurse	Greenville Health & Rehab Greenville, Texas
04/2007 - 12/2007	RN Supervisor	Greencrest Manor Greenville, Texas
01/2007 - 03/2008	Unknown	
03/2008 - 7/2008	RN Supervisor	Greencrest Manor Greenville, Texas
07/2008 - Present	Unknown	

6. On or about January 8, 2009, Respondent entered a plea of "Guilty" and was convicted of EVADING ARREST/DETENTION (a Class B misdemeanor offense committed on October 24, 2008), under Cause No. CR0826331, RESIST ARREST SEARCH OR TRANSPORT (a Class A misdemeanor offense committed on October 24, 2008), under Cause No. CR0826332, and ASSAULT CAUSES BODILY INJURY FAMILY MEMBER (a Class A misdemeanor offense committed on October 24, 2008), under Cause No. CR0926351, in the County Court, Sulphur Springs, Texas. As a result of the convictions, Respondent was sentenced to three (3) months confinement with time served. Additionally, Respondent was ordered to pay a fine and court costs.

7. In response to Finding of Fact Number Six (6), Respondent states: My wife and I were separated on October 24, 2008. Later this same day, my now ex-wife stole my recently deceased mother's car, her life insurance paperwork, and my checkbook and debit card from Greenville (Hunt County) and took them to Brashear (Hopkins County). I went to Brashear to get these things back, but she refused to return them. I grabbed her shoulder and threatened her for stealing my mother's things and my things. She then said she would return the items to me, but wanted me to wait outside the house. Once I was outside, she again refused to return the stolen items and called the police claiming that I had choked her. I was going towards the backyard when the police showed up. They said that they were there to arrest me and when I got to the front yard, I was placed in handcuffs.

8. On or about January 16, 2009, Respondent entered a plea of "Guilty" and was convicted of DRIVING WHILE INTOXICATED 2ND OFFENSE (a Class A misdemeanor offense committed on August 10, 2008), in the County Court at Law of Hunt County, Texas, under Cause No. CR0801883. As a result of the conviction, Respondent was sentenced to 250 days confinement in the Hunt County Jail, and ordered to pay a fine and court cost.

9. In response to Finding of Fact Number Eight (8), Respondent states: In regard to my DWI 2nd, I plead guilty because I was indeed guilty. The only family I had, my mother, had recently passed away. I was not working at the time, and I was on an emotional roller coaster, but I should not have driven after I'd been drinking alcohol. I reacted wrongly to a bad situation. I am no longer drinking and am going to AA regularly.

10. 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.

11. 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.

12. Respondent's conduct described in Finding of Fact Number Eight (8) resulted from Respondent's impairment by dependency on alcohol.

13. 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(13).

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 732020 and Vocational Nurse License Number 189549, heretofore issued to WALTER DEAN MCFALL, including revocation of Respondent's license to practice 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):

(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 five hundred dollars ($500.00) 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 his 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.

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 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, 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 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.

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

Signed this 21 day of April, 2010.

WALTER DEAN MCFALL, Respondent

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

SEAL

Kimberly Lackey

Notary Public in and for the State of Texas

KIMBERLY LACKEY
Notary Public, State of Texas
My Commission Expires
DECEMBER 12, 2012

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 *21st* day of *April*, 20*10*, by WALTER DEAN MCFALL, Registered Nurse License Number 732020 and Vocational Nurse License Number 189549, and said Order is final.

Entered and effective this *23rd* day of *April*, 20*10*.

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