BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse	§	
License Number 222717	§	AGREED
issued to MARY KAY HOLMES	§	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 Bo: considered the matter of MARY KAY HOLMES, Registered Nurse License Number 222717, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10),(12)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on December 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 professional nursing in the State of Texas.

4. Respondent received a/an Baccalaureate in Nursing Degree from Saint Paul's Hospital, Dallas, Texas on May 1, 1969. Respondent was licensed to practice professional nursing in the State of Texas on May 25,1970..

5. Respondent's professional nursing employment history includes:

1989 - 2004	Charge Nurse	Baylor Richardson Hospital Richardson, Texas

Respondent's professional nursing employment history (continued):

2004 - 2006	Staff Nurse	Vitas Hospice Dallas, Texas
01/07 - 04/08	Staff Nurse	Epic Med Staff Dallas, Texas
04/07 - 07/07	Staff Nurse	Maxim Staffing Solutions Dallas, Texas
08/07 - 12/07	Staff Nurse	Pro Touch Staffing Dallas, Texas
04/08 - Present	Unknown	

6. On November 14, 1978, Respondent's license to practice professional nursing was SUSPENDED for a period of one (1) year by the Board of Nurse Examiners for the State of Texas. A copy of the November 14, 1978 Agreed Order, Findings of Fact and Conclusions of Law, is attached and incorporated, by reference, as part of this Order.

7. On or about July 18, 2004, Respondent was arrested by the Plano Police Department, Plano, Texas, and later charge under Cause No. 4-80835-06 for DRIVING WHILE INTOXICATED (a misdemeanor offense).

8. On or about July 13, 2006, Respondent entered a plea of Guilty or Nolo Contendere and you were convicted of DRIVING WHILE INTOXICATED (a Class B misdemeanor offense committed on July 18, 2004). As a result of the conviction, Respondent was sentenced to confinement in the Collin County Jail for sixty (60) days; however, the imposition of the sentence of confinement was suspended and Respondent was placed on community supervision for a period of twelve (12) months. Additionally, Respondent was ordered to pay a fine and court costs.

9. At the time of first the incidents, Respondent was employed as a Registered Nurse with Maxim Healthcare Agency, Dallas, Texas, and assigned at UT Southwestern Medical Center - University Hospital, Dallas, Texas, and had been in this position for three (3) months.

10. On or about July 17, 2007 through July 19, 2007, while employed as a Registered Nurse with Maxim Healthcare Agency, Plano, Texas, and assigned at UT Southwestern Medical Center - University Hospital, Dallas, Texas, Respondent withdrew eight (8) Vicodin tabs and ten (10) Ambien tabs from the medication dispensing system (Pyxis), for patients that were not assigned to her care. Respondent's conduct was likely to injure the patient, in that the administration of Vicodin and Ambien without a valid physician's order could result in the patient experiencing harmful effects and was in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

11. On or about July 17, 2007 through July 19, 2007, while employed as a Registered Nurse with Maxim Healthcare Agency, Plano, Texas, and assigned at UT Southwestern Medical Center - University Hospital, Dallas, Texas, Respondent withdrew two (2) Vicodin tabs and two (2) Ambien tabs from the medication dispensing system (Pyxis) for patients who had already been discharged home from the hospital. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications.

12. On or about July 17, 2007 through July 19, 2007, while employed as a Registered Nurse with Maxim Healthcare Agency, Plano, Texas, and assigned at UT Southwestern Medical Center - University Hospital, Dallas, Texas, Respondent withdrew two (2) Fioricet tab, one (1) Morphine Sulfate, and six (6) Vicodin tabs from the medication dispensing system (Pyxis) for patients who had no complaints of pain and no documented pain scores. Respondent's conduct was likely to injure the patients in that the administration of Fioricet, Morphine Sulfate, and Vicodin for patients who were without pain could result in the patient suffering from adverse reactions.

13. On or about July 18, 2007 through July 19, 2007, while employed as a Registered Nurse with Maxim Healthcare Agency, Plano, Texas, and assigned at UT Southwestern Medical Center - University Hospital, Dallas, Texas, Respondent withdrew eight (8) Vicodin tabs from the medication dispensing system (Pyxis) for patients in excess frequency of physicians' orders. Respondent's conduct was likely to injure the patients in that the administration of Vicodin in excess frequency of the physician's order could result in the patient suffering from adverse reactions and is in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

14. On or about July 17, 2007 through July 19, 2007, while employed as a Registered Nurse with Maxim Healthcare Agency, Plano, Texas, and assigned at UT Southwestern Medical Center - University Hospital, Dallas, Texas, Respondent withdrew four (4) Vicodin tabs from the medication dispensing system (Pyxis) for patients, and falsely documented in the patient's that the medications had been administered. Respondent's conduct was likely to deceive the pharmacy and possession of Vicodin through use of a fraudulent prescription as prohibited by chapiter 481 of the Texas Health and Safety Code (Controlled Substances Act).

15. On or about July 17, 2007 through July 19, 2007, while employed as a Registered Nurse with Maxim Healthcare Agency, Plano, Texas, and assigned at UT Southwestern Medical Center - University Hospital, Dallas, Texas, Respondent withdrew fourteen (14) Vicodin tabs, eleven (11) Ambien tabs, one (1) Xanax tab, two (2) Fioricet tabs, and two (2) Norco tabs from the medication dispensing system (Pyxis) for patients, but failed to document, or accurately document the administration of the medications in the Medication Administration Records and/or Nurse's Notes for the patients. Respondent's conduct was likely to injure patients in that subsequent care givers would rely on her documentation to further medicate the patients which could result in an overdose and placed the hospital in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substance Act).

16. On or about July 17, 2007 through July 19, 2007, while employed as a Registered Nurse with Maxim Healthcare Agency, Plano, Texas, and assigned at UT Southwestern Medical Center - University Hospital, Dallas, Texas, Respondent withdrew fourteen (14) Vicodin tabs, eleven (11) Ambien tabs, one (1) Xanax tab, two (2) Fioricet tabs, and two (2) Norco tabs from the medication dispensing system (Pyxis) for patients, but failed to follow the facility's policy and procedure for wastage of any of the unused portions of the medications. 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 Substance Act).

17. On or about July 17, 2007 through July 19, 2007, while employed as a Registered Nurse with Maxim Healthcare Agency, Plano, Texas, and assigned at UT Southwestern Medical Center - University Hospital, Dallas, Texas, Respondent misappropriated medications from the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications.

18. At the time of first the incidents, Respondent was employed as a Registered Nurse with Pro Touch Staffing, Dallas, Texas, and assigned at Pine Creek Medical Center, Dallas, Texas, and had been in this position for three (3) months.

19. On or about November 28, 2007, while employed as a Registered Nurse with Pro Touch Staffing, and assigned at Pine Creek Medical Center, Dallas, Texas, Respondent lacked fitness to practice professional nursing, in that Respondent was late for your 7:00am- 7:00pm shift, and when Respondent was contacted by phone at 7:30am, Respondent stated she was on her way to work; but, Respondent was lost and needed help with directions to Pine Creek Medical Center, even though Respondent had worked there for the past few months.

20. On or about November 28, 2007, while employed as a Registered Nurse with Pro Touch Staffing, and assigned at Pine Creek Medical Center, Dallas, Texas, Respondent lacked fitness to practice professional nursing, in that when Respondent arrived for work at Pine Creek Medical Center, at approximately 7:45am, Respondent acted strange; Respondent exhibited signs of insecurity; Respondent's demeanor was cautious; and Respondent's physical appearance was disheveled with Respondent's hair partially covering their eyes.

21. On or about November 06, 2007 through November 22, 2007, while employed as a Registered Nurse with Pro Touch Staffing, and assigned at Pine Creek Medical Center, Dallas, Texas, Respondent withdrew eight (8) Zolpidem tabs from the medication dispensing system (Omnicell) for a patients that was not assigned to her. Respondent's conduct was likely to injure the patient, in that the administration of Zolpidem without a valid physician's order could result in the patient experiencing harmful effects and was in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

22. On or about November 22, 2007, while employed as a Registered Nurse with Pro Touch Staffing, and assigned at Pine Creek Medical Center, Dallas, Texas, Respondent withdrew eight (8) Zolpidem tabs from the medication dispensing system (Omnicell), who had already been discharged home from the hospital. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications. Respondent's conduct was likely

to defraud the facility and patients thereof of the cost of the medications. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications.

23. On or about November 06, 2007 through November 28, 2007 , while employed as a Registered Nurse with Pro Touch Staffing, and assigned at Pine Creek Medical Center, Dallas, Texas, Respondent withdrew thirty (30) Zolpidem tabs from the medication dispensing system (Omnicell) for patients, but failed to document, or accurately document the administration of the medications in the Medication Administration Records and/or Nursing Flow Records for the patients. Respondent's conduct was likely to injure patients in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose and placed the hospital in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substance Act).

24. On or about November 06, 2007 through November 28, 2007 , while employed as a Registered Nurse with Pro Touch Staffing, and assigned at Pine Creek Medical Center, Dallas, Texas, Respondent withdrew thirty (30) Zolipdem tabs from the medication dispensing system (Omnicell) for patients, but failed to follow the facility's policy and procedure for wastage of any of the unused portions of the medications. 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 Substance Act).

25. On or about November 06, 2007 through November 28, 2007, while employed as a Registered Nurse with Pro Touch Staffing, and assigned at Pine Creek Medical Center, Dallas, Texas, Respondent misappropriated Zolpidem from the facility and patients thereof, or Respondent failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications.

26. 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.

27. 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.

28. Respondent's conduct described in Findings of Fact Numbers Seven (7) through Twenty Five (25) resulted from Respondent's impairment by dependency on chemicals.

29. 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),(12)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(A)&(D). and 22 TEX. ADMIN. CODE §217.12 (1)(A)&(E),(5),(6)(G),(8),(10)(A),(B)&(C),(11)(B)&(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 222717, heretofore issued to MARY KAY HOLMES, including revocation of Respondent's license to practice professional 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 MARY KAY HOLMES, 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 five hundred dollars ($500) 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/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.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *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.

IT IS FURTHER AGREED, SHOULD RESPONDENT be convicted of the offense as outlined in Finding of Fact Number Seven (7), said judicial action will result in further disciplinary action including Revocation of Respondent's license to practice vocational nursing in the State of Texas.

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

Signed this 2nd day of Feb, 2009.

Mary Kay Holmes
MARY KAY HOLMES, Respondent

Sworn to and subscribed before me this 2 day of February, 2009

SEAL

RON L SPENRATH
My Commission Expires
August 22, 2010

Ron L. Spenrath
Notary Public in and for the State of Texas

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 2nd day of February, 2009, by MARY KAY HOLMES, Registered Nurse License Number 222717, and said Order is final.

Entered and effective this **10th** day of **February**, **2009**.

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

BEFORE THE BOARD OF NURSE EXAMINERS
IN AND FOR THE STATE OF TEXAS
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In the Matter of Permanent Certificate Number 2-22717 issued to MARY KAY HOLMES HEINTGES

ORDER OF THE BOARD

TO: Mary Kay Holmes Heintges
2912 Newport Circle
Plano, Texas 75075

The Board of Nurse Examiners in and for the State of Texas in a regularly scheduled meeting, having set a Hearing to be held on November 14, 1978, to determine whether cause exists under Article 4525a (5) & (6), V.A.T.S., to suspend or revoke License Number 2-22717, heretofore issued to MARY KAY HOLMES HEINTGES, pursuant to Texas law, which Hearing was held on the 14th day of November, 1978 pursuant to applicable Texas law.

At the Hearing, Mrs. Billie Bell, R.N., President of the Board presided and the following members were present:

Dr. Geddes McLaughlin, R.N.
Mrs. Mary Virginia Jacobs, R.N.
Sister Regis Maillian, R.N.
Mrs. June Murphy, R.N.
Dr. Barbara Woodard, R.N. Dr. Woodard did not participate in the discussion and abstained from voting.

The Board of Nurse Examiners for the State of Texas was represented by Ace Pickens, Counsel to the Board. The respondent was present at the Hearing and was represented by Mr. Hal Gillespie, Attorney at Law. Testimony and other evidence was received by the Board, and, as result thereof, the Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. That Sworn Complaint was filed with the Board of Nurse Examiners for the State of Texas in accordance with law.

2. That Notice of Hearing and Complaint were served upon MARY KAY HOLMES HEINTGES in accordance with law.

3. That evidence was submitted to prove the facts alleged in the sworn complaint file herein of such a nature to conclusively prove, in the opinion of the Board, that the nurse's activities were such that they endangered patients, and was, in the opinion of the Board, unprofessional conduct which injured the public.

CONCLUSIONS OF LAW

1. That pursuant to Article 4525, V.A.T.S., the Board of Nurse Examiners for the State of Texas has jurisdiction over this matter.

2. That the evidence presented constitutes sufficient cause pursuant to Article 4525a (5) & (6), V.A.T.S., to suspend License Number 2-22717 heretofore issued to MARY KAY HOLMES HEINTGES, to practice professional nursing in the State of Texas.

ORDER

NOW, THEREFORE, IT IS ORDERED that License No. 2-22717, heretofore issued to MARY KAY HOLMES HEINTGES, to practice professional nursing in the State of Texas be and the same is hereby suspended for the period of one (1) year from the date of this Order.

IT IS FURTHER ORDERED that the said license issued to MARY KAY HOLMES HEINTGES, when this decision becomes final, be immediately delivered to the office of the Board of Nurse Examiners for the State of Texas.

IT IS FURTHER ORDERED that MARY KAY HOLMES HEINTGES, in accordance with Article 4525c, V.A.T.S., shall not be eligible to practice professional nursing or have her license reinstated by the State of Texas until one year from the effective date of this Order and further as a condition to suspension and automatic reinstatement MARY KAY HOLMES HEINTGES is ordered to furnish to the Board at the end of each and every three (3) months during the suspension period written reports on forms furnished by the Board the required information as to her progress in her therapy.

rehabilitation and/or capability of practicing professional nursing. It is further ordered that upon the reinstatement of the above license that for a period of one (1) year thereafter that at the end of each and every three (3) month period, should the nurse become engaged in the practice of professional nursing, furnish on forms provided by the Board, the required information from her employer as to her performance and capability of practicing professional nursing.

IT IS FURTHER ORDERED AND THE BOARD SO FINDS, in accordance with Article 6252-13a, 16(c), V.A.T.S., that an imminent peril to the public health, safety, or welfare requires immediate effect to this order and the same shall be effective on the date herein below rendered and the same may not be stayed except on proper application to a District Court in accordance with Article 4525c, V.A.T.S.

Entered this 14th day of November, 1978.

Certific[illegible] Order [illegible] Board
In the ma[illegible] of Per[illegible]
Certifica[illegible] No. 2-22[illegible]
issued to [illegible] HEINTGES

The aforementioned Finding[illegible] of Fact, [illegible]usions of Law and Order of the Board represent a final decision [illegible] order [illegible]ade by the Board of Nurse Examiners in and for the State of Tex[illegible] this th[illegible]h day of November, 1978.

Barbara Woodard R.N. Ed.D. — T[illegible]ry Virginia Jacobs, R.N.

June Murphy R.N. M.[illegible] — [illegible] Laughlin, R.N.

Sister Aigis Maillian, [illegible] — [illegible] Bell, R.N.
President

No. 27164
OFFICIAL USE ONLY

This is your annual registration to practi[illegible] Professional Nursing in the State of Tex[illegible] The number above is for office use [illegible] (auditing purposes) and is not a renew[illegible] number. Your permanent registration numb[illegible] is printed on the card above your name. A [illegible]rent Texas license is necessary to practi[illegible] nursing in the State of Texas.

Should any registered nurse continue to practice professional nursing and carin[illegible] for the sick beyond the time for which [illegible] or she is registered or re-registered, [illegible] or she shall be deemed to be an illega[illegible] practitioner and his or her license may be suspended or revoked by the Board. (Vernon's Civil Statutes)

Please notify the office of the Board of Nurse Examiners of name and address changes. Address changes during renewal period slow down the mailing of licenses. No name changes made January thru March.

BOAR[illegible] NURSE EXAMINERS FOR THE [illegible]TATE OF TEXAS

[illegible] DRIVE, SUITE [illegible] AUSTIN, TEXAS 70752

A CERTIFICATE [illegible]STRATION TO PRACTICE PROFESSIONAL NURSING ISSUED BY THE BOARD [illegible] EXAMINERS FOR THE STATE OF TEXAS TO

LICENSE NO. [illegible] EXPIRATION DATE

2-227[illegible] MARCH 31, 1979

MARY [illegible] HOLMES HEINTGES

[illegible] R.N. Mary Kay Heintges