

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of § REINSTATEMENT  
Registered Nurse License Number 610576 §  
issued to MICHELLE MOHUN OVERBEY § AGREED ORDER



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.  
*William A. Harman*  
Executive Director of the Board

On this day came to be considered by the Texas Board of Nursing, hereinafter referred to as the Board, the Petition for Reinstatement of Registered Nurse License Number 610576, held by MICHELLE MOHUN OVERBEY, hereinafter referred to as Petitioner.

An informal conference was held on October 22, 2013, at the office of the Texas Board of Nursing, in accordance with Section 301.464, Texas Occupations Code.

Petitioner appeared in person. Petitioner was notified of her right to be represented by legal counsel and elected to waive representation by counsel. In attendance were Kristin Benton, MSN, RN, Director of Nursing, Executive Director's Designee; Kyle Hensley, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Gary Sibert, RN, Investigator; and Diane E. Burell, Investigator.

FINDINGS OF FACT

1. Prior to institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Petitioner waived representation by counsel, notice and hearing, and consented to the entry of this Order.
3. Petitioner received a Baccalaureate Degree in Nursing from the University of Texas Health Science Center, Houston, Texas, on August 19, 1994. Petitioner was licensed to practice professional nursing in the State of Texas on October 18, 1994.
4. Petitioner's nursing employment history includes:

10/94 - 11/00	Staff Nurse	Park Plaza Hospital Houston, Texas
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Petitioner's nursing employment history continued:

11/00 - 6/02	Not employed in nursing	
6/02 - 10/06	Staff Nurse	Cypress Fairbanks Hospital Houston, Texas
11/06 - present	Not employed in nursing	

5. On March 30, 2011, Petitioner was issued an Agreed Order by the Texas Board of Nursing which required her to participate and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the March 30, 2011, Agreed Order, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this Order.
6. On September 23, 2011, the Board accepted the voluntary surrender of Petitioner's license to practice professional nursing in the State of Texas. A copy of the September 23, 2011, Agreed Order, Findings of Fact, and Conclusions of Law, is attached and incorporated, by reference, as a part of this Order.
7. On or about August 21, 2013, Petitioner submitted a Petition for Reinstatement of License to practice professional nursing in the State of Texas.
8. Petitioner presented the following in support of her petition:
  - 8.1. Letter, dated August 13, 2013, from Huy K. Nguyen, MD, stating Petitioner has been a patient under his care since 2005. She is currently undergoing treatment for depression and recovering alcohol dependence. Petitioner has maintained sobriety for approximately five (5) years and sustains a healthy lifestyle. Petitioner is prescribed Lexapro for her depression and is compliant with routine follow-up appointments to monitor her progress. She is doing very well.
  - 8.2. Letter of support, dated August 14, 2013, from Nicole Stevens, Tomball, Texas, stating she has known Petitioner since she started attending AA meetings. Ms. Stevens became Petitioner's sponsor in 2011. During the time Ms. Stevens has known and sponsored Petitioner, she has seen her grow tremendously. Petitioner is a willing and dedicated member of Alcoholics Anonymous. Petitioner has worked the 12 steps and continues daily in her recovery by helping others stay sober. She attends and also chairs meetings, sponsors other women, does service work and is an outstanding and valued member of her home group.
  - 8.3. Letter of support, dated August 17, 2013, from Sharon Thomas, Cypress, Texas, stating she has known Petitioner for over five (5) years and has worked with her very closely and professionally for the past three (3) and a half years. Petitioner possesses the character and skills to be a valuable and consistent contributor and a wonderful nurse to whatever organization she ends up working at.

- 8.4. Letter of support from Lee Epps, Cypress, Texas, stating he is a fellow member of Alcoholics Anonymous and has watched Petitioner grow and change over the last five (5) years as she recovered and began to actively participate in the program. Her responsibilities include leading meetings, sponsoring ladies and making and distributing newcomer packets. Petitioner takes the program very seriously and has made major changes in her life which will help her commitment to stay sober and help other members achieve permanent sobriety. Mr. Epps highly recommends Petitioner and supports her license being reinstated.
  - 8.5. Letter of support, dated December 12, 2012, from Steve Lewis, Professor of Human Services, Lone Star College, Conroe, Texas, stating Petitioner is a valued member of her academic class. She has demonstrated excellent leadership skills and commitment. She has proven to be a person of good moral and ethical character. She is open to, and actively seeks, feedback and constructive criticism from both staff and peers. She is held in high regard. She is determined to stay sober and to create a better future for herself and others.
  - 8.6. Documentation of support group attendance dating from August 2, 2012, through August 16, 2013.
  - 8.7. Verification of successful completion of the required Continuing Education Contact Hours for reinstatement.
9. Petitioner gives August 23, 2008, as her date of sobriety.

#### CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. 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.
3. Pursuant to Section 301.467, Texas Occupations Code, the Board may refuse to issue or renew a license, and may set a reasonable period that must lapse before reapplication. Pursuant to 22 TEX. ADMIN. CODE §213.26, the Board may impose reasonable conditions that a Petitioner must satisfy before reissuance of an unrestricted license.

#### ORDER

IT IS THEREFORE AGREED, subject to ratification by the Texas Board of Nursing, that the petition of MICHELLE MOHUN OVERBEY, Registered Nurse License Number 610576, to practice nursing in the state of Texas, be and the same is hereby GRANTED, AND SUBJECT TO THE FOLLOWING STIPULATIONS SO LONG AS THE PETITIONER complies 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 the stipulations contained in this Order:

IT IS FURTHER AGREED and ORDERED that, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Petitioner to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Petitioner's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Petitioner's license(s) is/are encumbered by this Order, Petitioner may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the State of Texas and the Board of Nursing in the party state where Petitioner wishes to work.

(1) PETITIONER SHALL NOT seek employment or practice nursing for compensation until she has completed the following pre-licensure conditions and obtained a license to practice professional nursing from the Board.

(2) PETITIONER SHALL apply for a "Six-Month Clinical Permit" for the limited purpose of completing a refresher course. PETITIONER SHALL NOT, in any way, attempt to use this clinical permit for any purpose other than attending this course.

(3) PETITIONER SHALL successfully complete a nursing refresher course prior to returning to the practice of professional nursing in the State of Texas. PETITIONER SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. The course content shall include: 1) the role of the professional nurse; 2) a review of the nursing process to include assessment, planning, implementation and evaluation; 3) Pharmacology review; 4) medication administration review for all standard route of administration; 5) documentation, quality assurance and

legal implications for nursing practice; and 6) current CPR certification. This course must contain a minimum 80-hour clinical component, providing direct patient care, which is to be supervised by another registered nurse.

(4) Upon completion of the refresher course, PETITIONER SHALL return the clinical permit to the office of the Board, and PETITIONER SHALL CAUSE the sponsoring institution to notify the Board, on a form provided by the Board, of Petitioner's successful completion of the refresher course, including the required clinical component.

(5) Upon verification of successful completion of the agreed pre-licensure probation conditions of reinstatement, as set out in this Order, PETITIONER SHALL pay all re-registration fees and be issued the applicable license(s) to practice nursing in the State of Texas, which shall be subject to the following agreed post-licensure probation conditions:

(6) PETITIONER SHALL pay a monitoring fee in the amount of five hundred (\$500.00) dollars. PETITIONER SHALL pay this fine within forty-five (45) days of relicensure. 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.

(7) PETITIONER SHALL, within one (1) year of relicensure, successfully complete a course in Texas nursing jurisprudence and ethics. PETITIONER SHALL obtain Board approval of the course prior to enrollment only if the course is not 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. PETITIONER 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 PETITIONER'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.texas.gov/disciplinaryaction/stipscourses.html>

(8) PETITIONER SHALL, within one (1) year of relicensure, 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, PETITIONER 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. *Board-approved courses may be*

*found at the following Board website address:*

<http://www.bon.texas.gov/disciplinaryaction/stipscourses.html>

**IT IS FURTHER AGREED, SHOULD PETITIONER CHOOSE TO WORK AS A NURSE IN TEXAS, PETITIONER 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 PROBATION CONDITIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:**

(9) PETITIONER SHALL notify all future employers in nursing of this Order of the Board and the stipulations on PETITIONER'S license(s). PETITIONER 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.

(10) PETITIONER SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the PETITIONER by the Board, to the Board's office within five (5) days of employment as a nurse.

(11) For the first year of employment as a Nurse under this Order, PETITIONER SHALL be directly supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse. Direct supervision requires another nurse, as applicable, to be working on the same unit as PETITIONER and immediately available to provide assistance and intervention. PETITIONER SHALL work only on regularly assigned, identified and predetermined unit(s). The PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(12) For the remainder of the stipulation period, PETITIONER SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse, who is on the premises. The supervising nurse is not required to be on the same unit or ward as PETITIONER, 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 PETITIONER is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency,

hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(13) PETITIONER 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 PETITIONER is regularly assigned for one (1) year of employment as a nurse.

(14) PETITIONER 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.

(15) PETITIONER SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, Propofol, or other synthetic opiates for one (1) year of employment as a nurse.

(16) PETITIONER SHALL CAUSE each employer to submit, on forms provided to the PETITIONER by the Board, periodic reports as to PETITIONER'S capability to practice nursing. These reports shall be completed by the nurse who supervises the PETITIONER. 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 two (2) year(s) of employment as a nurse.

(17) PETITIONER 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, PETITIONER 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 PETITIONER SHALL submit to a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.

(18) PETITIONER 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 stipulation 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 and their metabolites:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the PETITIONER'S place of employment at any time during the stipulation period and require PETITIONER 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. PETITIONER 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 or refusal to submit to a drug or alcohol screen may subject the nurse to further disciplinary action, including EMERGENCY

SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of PETITIONER's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas. Further, failure to report for a drug screen, excessive dilute specimens, or failure to call in for a drug screen may be considered the same as a positive result or refusal to submit to a drug or alcohol screen.

(19) PETITIONER 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. PETITIONER 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 PETITIONER. PETITIONER SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) month period. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from PETITIONER'S license(s) to practice nursing in the State of Texas and PETITIONER may be eligible for nurse licensure compact privileges, if any.

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PETITIONER'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Reinstatement Agreed Order. I waive representation by counsel. I certify that my past behavior, except as disclosed in my Petition for Reinstatement of Licensure, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of convictions, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

I have reviewed this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. 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 agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to reinstating my license to practice professional nursing in the state of Texas. I understand that if I fail to comply with all terms and conditions of this Order, my license(s) to practice nursing in the State of Texas will be revoked, as a consequence of my noncompliance.

Signed this 13 day of November, 2013.

Michelle Mohun Overbey  
MICHELLE MOHUN OVERBEY, Petitioner

Sworn to and subscribed before me this 13 day of Nov, 2013.



Rose G. Shaw  
Notary Public in and for the State of TEXAS

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 13th day of November, 2013, by MICHELLE MOHUN OVERBEY, Registered Nurse License Number 610576, and said Order is final.

Effective this 10th day of December, 2013.



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



6. On July 8, 2011, the Board received a notarized statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's notarized statement, dated July 8, 2011, is attached and incorporated herein by reference as part of this Order.
7. 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.
8. 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)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(11)(B).
4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

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ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 610576, heretofore issued to MICHELLE MOHUN OVERBEY, to practice professional nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title of "registered nurse" or the abbreviation "RN" or wear any insignia identifying herself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered 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 professional nursing in the State of Texas.

Effective this 23rd day of September, 2011.



TEXAS BOARD OF NURSING

By:



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

July 5, 2011

To Whom It May Concern –

I, Michelle Mohun Overbey, am volunteeringly  
surrendering my nursing license effective immediately.

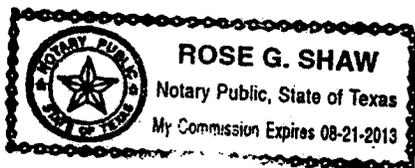
License # 610576

Michelle M. Overbey

*Michelle M. Overbey July 6, 2011*

*STATE OF TEXAS  
COUNTY OF HARRIS*

*Rose G. Shaw 7/6/2011*



BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse § AGREED  
License Number 610576 §  
issued to MICHELLE MOHUN OVERBEY § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MICHELLE MOHUN OVERBEY, Registered Nurse License Number 610576, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9)&(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 2, 2011, 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(s).
2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent holds a license to practice professional nursing in the State of Texas, which is currently in Delinquent status.
4. Respondent received a Baccalaureate Degree in Nursing from the University of Texas Health Science Center, Houston, Texas, on August 19, 1994. Respondent was licensed to practice professional nursing in the State of Texas on October 18, 1994.
5. Respondent's complete professional nursing employment history is unknown.

6. At the time of the incident, Respondent was employed as a Registered Nurse with Cypress Fairbanks Hospital, Houston, Texas, and had been in this position for approximately two (2) years.
7. On or about October 24, 2006, while employed as a Registered Nurse with Cypress Fairbanks Hospital, Houston, Texas, Respondent engaged in the intemperate use of Meperidine and Opiates in that she produced a specimen for a drug screen which resulted positive for Meperidine and Opiates. Possession of Meperidine and Opiates, without a valid prescription, is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Meperidine and Opiates 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.
8. On or about October 24, 2006, while employed as a Registered Nurse with Cypress Fairbanks Hospital, Houston, Texas, Respondent admitted that she misappropriated Demerol belonging to the facility and/or patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
9. In response to Findings of Fact Numbers Seven (7) and Eight (8), Respondent states: I admit full responsibility for my actions. This was a period of my life I deeply regret and understand that one of the consequences of my behavior is the questioning of my ability to practice nursing in a safe manner.
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. Formal Charges were filed on May 5, 2010.
13. Formal Charges were mailed to Respondent on May 6, 2010.
14. On August 18, 2010, Respondent's license was Revoked by Default by the Eligibility and Disciplinary Committee of the Board.

15. On December 2, 2010, Respondent filed a Motion for Rehearing challenging the August 18, 2010 Default Order entered by the Board.
16. On February 9, 2010, the Order granting the Respondent's Motion for Rehearing was entered, which set aside the previously entered Default Order. Attached hereto and incorporated by reference is the Board's Order granting Respondent's Motion for Rehearing.
17. Respondent's conduct described in Findings of Fact Numbers Seven (7) and Eight (8) resulted from Respondent's impairment by dependency on chemicals.
18. 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)(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(A),(5),(6)(G),(10)(A),(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 610576, heretofore issued to MICHELLE MOHUN OVERBEY, including revocation of Respondent's license(s) 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 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, 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(s) is/are 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

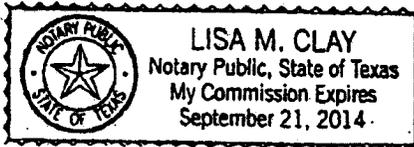
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 25 day of March, 2011.

Michelle Mohun Overbey  
MICHELLE MOHUN OVERBEY, Respondent

Sworn to and subscribed before me this 25<sup>th</sup> day of March, 2011.

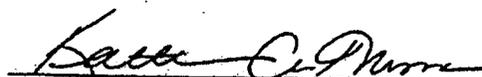
SEAL



Lisa M. Clay  
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 25th day of March, 20 11, by MICHELLE MOHUN OVERBEY, Registered Nurse License Number 610576, and said Order is final.

Entered and effective this 30th day of March, 20 11



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

In the Matter of Permanent License § BEFORE THE TEXAS  
Number 610576, Issued to §  
MICHELLE MOHUN OVERBEY, Respondent § BOARD OF NURSING

### FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MICHELLE MOHUN OVERBEY, is a Registered Nurse holding license number 610576, which is in Delinquent status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

#### CHARGE I.

On or about October 24, 2006, while employed as a Registered Nurse with Cypress Fairbanks Hospital, Houston, Texas, Respondent engaged in the intemperate use of Meperidine and Opiates in that she produced a specimen for a drug screen which resulted positive for Meperidine and Opiates. Possession of Meperidine and Opiates, without a valid prescription, is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Meperidine and Opiates 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.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(1)(A),(5),(10)(A)&(D)&(11)(B).

#### CHARGE II

On or about October 24, 2006, while employed as a Registered Nurse with Cypress Fairbanks Hospital, Houston, Texas, Respondent admitted that she misappropriated Demerol belonging to the facility and/or patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(1)(A),(B),(6)(G),(8)&(10)(E).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to § 301.461, TEX. OCC. CODE ANN. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

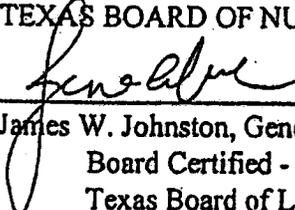
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder and for Fraud, Theft & Deception, which can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at [www.bon.state.tx.us/disciplinaryaction/discp-matrix.html](http://www.bon.state.tx.us/disciplinaryaction/discp-matrix.html).

Filed this 5th day of May, 20 16.

TEXAS BOARD OF NURSING

  
James W. Johnston, General Counsel

Board Certified - Administrative Law  
Texas Board of Legal Specialization  
State Bar No. 10838300

Jena Renee Koslan Abel, Assistant General Counsel  
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel  
State Bar No. 24066924

Robert Kyle Hensley, Assistant General Counsel  
State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel  
State Bar No. 24052269

John F. Legris, Assistant General Counsel  
State Bar No. 00785533

TEXAS BOARD OF NURSING

333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701

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IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 610576  
ISSUED TO  
MICHELLE MOHUN OVERBEY

§  
§  
§  
§  
§

BEFORE THE  
TEXAS BOARD  
OF NURSING

**ORDER OF THE BOARD**

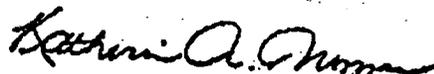
TO: Michelle Mohun Overbey  
13211 April Mist Ct.  
Cypress, TX 77429

During open meeting on February 8, 2011, in Austin, Texas, the Texas Board of Nursing considered the Motion for Rehearing filed in the above-styled matter. The Eligibility and Disciplinary Committee of the Board approved an Order on August 17, 2010, revoking professional nursing license number 610576 issued to MICHELLE MOHUN OVERBEY. Petitioner filed a Motion for Rehearing in this matter and after review and due consideration of the filed Motion, the Board *GRANTS* the Petitioner's Motion for Rehearing. The Order issued August 17, 2010, revoking professional nursing license number 610576, is set aside.

Entered this 9<sup>th</sup> day of February, 2011.

TEXAS BOARD OF NURSING

BY:



KATHERINE A. THOMAS, MN, RN  
EXECUTIVE DIRECTOR