BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse	§	
License Number 570014	§	AGREED
issued to THOMAS KIPLINGER WILEY	§	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 Boar considered the matter of THOMAS KIPLINGER WILEY, Registered Nurse License Number 570014, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Article 4525(b)(9), Revised Civil Statutes of Texas, (eff. 9/1/1995), as amended, Article 4525(b)(9), Revised Civil Statutes of Texas, (eff. 9/1/1997), as amended, and Section 301.452(b)(10), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on February 26, 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 informal proceedings, 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 an Associate Degree in Nursing from Northwestern Michigan College, Traverse City, Michigan, on June 7, 1987. Respondent was licensed to practice professional nursing in the State of Texas on June 25, 1991.

5. Respondent's professional nursing employment history is unknown.

6. On or about February 2, 1998, Respondent was issued the sanction of a REPRIMAND WITH STIPULATIONS by the Board of Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated February 2, 1998, is attached and incorporated, by reference, as part of this Order.

7. On or about August 1, 2000, Respondent was issued the sanction of a FINE by the Board of Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated August 1, 2000, is attached and incorporated, by reference, as part of this Order.

8. On or about June 9, 1997, Respondent entered a plea of Nolo Contendere and was convicted of DRIVING WHILE INTOXICATED (a Class B misdemeanor offense committed on January 2, 1997), in the County Court at Law No. 3, Travis County, Texas, under Cause No. 472573. As a result of the conviction, Respondent was sentenced to confinement in the Travis County Jail for a period of ninety (90) days; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay a fine and court costs. On or about June 3, 1999, a Motion to Revoke Community Supervision and an Order to show cause for non-revocation was entered in the County Court at Law No. 3 of Travis County, Texas. On or about August 4, 1999, An Order Continuing Defendant on Community Supervision was entered in the County Court at Law No. 3 of Travis County, Texas, subjecting Respondent to the following conditions: Continue and Discharge.

9. In response to Finding of Fact Number Eight (8), Respondent states these offenses were related to his past alcohol abuse.

10. On or about June 3, 1999, Respondent entered a plea of Nolo Contendere to ASSAULT-FAMILY VIOLENCE (a Class A misdemeanor offense committed on April 6, 1999), in the County Court at Law of Hays County, Texas, under Cause No. 55,097. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of one (1) year. Additionally, Respondent was ordered to pay a fine and court costs. On or about June 8, 2000, Respondent was discharged from probation.

11. In response to Finding of Fact Number Nine (9), Respondent states the 1999 assault involved a minor incident between him and his wife. Even though his wife did not wish to press charges the prosecutor went forward and Respondent entered a plea, was placed on deferred adjudication, paid a fine, and was ordered to attend an anger management class.

12. On or about January 18, 2000, Respondent entered a plea of Guilty and was convicted of OUIL/OWI-2ND OFFENSE (a misdemeanor offense committed on December 26, 1999), in

the 86th District Court, Grand Traverse County, Michigan, under Cause No. 99-3406-SD-1. As a result of the conviction, Respondent was sentenced to confinement in the Grand Traverse County Jail for a period of ninety (90) days; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of twelve (12) months. Additionally, Respondent was ordered to pay a fine and court costs.

13. In response to Finding of Fact Number Eleven (11), Respondent states these offenses were related to his past alcohol abuse.

14. On or about April 30, 2001, Respondent entered a plea of Nolo Contendere to FALSE REPORT TO A PEACE OFFICER (a Class B misdemeanor offense committed on September 5, 2000), in the County Court at Law No. 7, Travis County, Texas, under Cause No. 572245. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on probation for a period of eighteen (18) months. Additionally, Respondent was ordered to pay a fine and court costs. On or about November 25, 2002, Respondent was discharged from probation.

15. In response to Finding of Fact Number Thirteen (13), Respondent states his arrest for misdemeanor False Report to a Police Office occurred after he filed a report with the police that his car had been stolen when he genuinely could not find it the morning after he had parked. Subsequently, it was discovered parked where Respondent had left it and he was arrested by an angered Austin Police Department for what they felt was a frivolous report. This resulted in a no contest plea by Respondent, his placement on community supervision, and the payment of a fine.

16. 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 Article 4525(b)(9), Revised Civil Statutes of Texas, as amended, (eff. 9/1/1995), Article 4525(b)(9), Revised Civil Statutes of Texas, as amended, (eff. 9/1/1997), and Section 301.452(b)(10), Texas Occupations Code, (eff. 9/1/1999), and 22 TEX. ADMIN. CODE §217.13(1), (eff. 9/1/95), and 22 TEX. ADMIN. CODE §217.12(1) (eff. 9/1/1999).

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 570014, heretofore issued to THOMAS KIPLINGER WILEY, 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 Registered Nurse License Number 570014, previously issued to THOMAS KIPLINGER WILEY, to practice professional nursing in Texas is hereby SUSPENDED for a period of one (1) year with the suspension STAYED and Respondent is hereby placed on PROBATION for one (1) year with the following agreed terms of probation:

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 the Respondent may not work outside the State of Texas pursuant to a nurse licensure compact 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.

(1) 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.

(2) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars ($250). 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.

(3) 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 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. 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.*

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 AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR ONE (1) YEAR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY 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) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

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

(7) 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 two (2) years of employment as a nurse.

(8) 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.**

(9) 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. For the remainder of the probation 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:

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 probation 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 probation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to 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.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license,

the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

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 16th day of July, 2010.

Tom Wiley

THOMAS KIPLINGER WILEY, Respondent

Sworn to and subscribed before me this ~~16th~~ 19th day of July, 2010.

SEAL

Pinkie Henderson

PINKIE D. HENDERSON
Notary Public, State of Texas
My Commission Expires
SEPT. 9, 2011

Notary Public in and for the State of Texas

Approved as to form and substance.

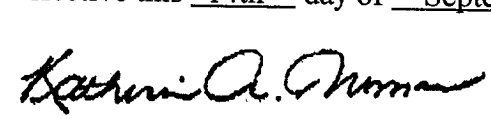
Dan Lyle

~~Louis Leichter~~, Attorney for Respondent

Signed this 19 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 16th day of July, 2010, by THOMAS KIPLINGER WILEY, Registered Nurse License Number 570014, and said Order is final.

Effective this 14th day of September, 2010.



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