BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS
****

In the Matter of License Number 629587	§	AGREED
issued to JAMES LUCKEY	§	ORDER

On this day, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, accepted the voluntary surrender of License Number 629587, issued to JAMES LUCKEY, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c) of the Texas Occupations Code.

Respondent waived representation by counsel, informal conference and hearing, and agreed to the entry of this Order.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to 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, 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 Temple College, Temple, Texas in May 1996. Respondent was licensed to practice professional nursing in the State of Texas in June 1996.

5. Respondent's professional employment history includes:

6/96 - 5/00	Staff Nurse Emergency Room	Central Texas Veteran's Health Care System Temple, Texas
5/00 - 11/01	Staff Nurse Emergency Room	Richards Memorial Hospital Rockdale, Texas
11/02 - 12/02	Staff Nurse	Central Texas Hospital Cameron, Texas
12/02 - Present	Not employed in Nursing	

6. On December 17, 2002, Respondent was issued an Agreed Order by the Board of Nurse Examiners which required him to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated December 17, 2002, is attached and incorporated by reference as part of this Order.

7. On or about April 4, 2003, Respondent failed to comply with the Agreed Order issued to him by the Board of Nurse Examiners for the State of Texas on December 17, 2002. Non-compliance is the result of Respondent's withdrawal from TPAPN prior to completing and signing the participation contract, which constitutes a failure to apply to and be accepted into the Texas Peer Assistance Program for Nurses. Stipulation number one (1) of the Agreed Order dated December 17, 2002, states in pertinent part that:

> "RESPONDENT SHALL, within forty-five (45) days following the date of entry of this Order, apply to and be accepted into the TPAPN".

7. Respondent, by his signature to this Order, expresses his desire to voluntarily surrender his license to practice professional nursing in the State of Texas.

8. 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.

9. 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 a violation of Section 301.452(b)(1), Texas Occupations Code.

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against License Number 629587, heretofore issued to JAMES LUCKEY, including revocation of Respondent's professional license to practice nursing in the State of Texas.

5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.

6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.

7. Any subsequent reinstatement of this license will be controlled by Section 301.452(b), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of License Number 629587, heretofore issued to JAMES LUCKEY, to practice professional nursing in the State of Texas, is accepted by the Board of Nurse Examiners. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying himself 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 multistate privilege, if any, to practice professional 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 violation 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 becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 7th day of May, 2003

JAMES LUCKEY, Respondent

Sworn to and subscribed before me this 7th day of May, 2003

Billie Lou Burnett

Notary Public in and for the State of Texas

SEAL

BILLIE LOU BURNETT
NOTARY PUBLIC
STATE OF TEXAS
My Commission Expires 01-22-2004

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Board of Nurse Examiners for the State of Texas does hereby accept the voluntary surrender of License Number 629587, previously issued to JAMES LUCKEY.

Effective this **12th** day of **May**, **2003**.

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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS
****

In the Matter of License Number 629587	§	AGREED
issued to JAMES LUCKEY	§	ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of JAMES LUCKEY, License Number 629587, 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 conference, notice and hearing, and agreed to the entry of this Order offered on November 21, 2002, 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 an Associate Degree in Nursing from Temple College, Temple, Texas in May 1996. Respondent was licensed to practice professional nursing in the State of Texas in June 1996.

5. Respondent's professional employment history includes:

6/96 - 5/00	Staff Nurse Emergency Room	Central Texas Veteran's Health Care System Temple, Texas
5/00 - 11/01	Staff Nurse Emergency Room	Richards Memorial Hospital Rockdale, Texas
11/02 - present	Staff Nurse	Central Texas Hospital Cameron, Texas

6. At the time of the incident in Findings of Fact Numbers Seven (7) and Eight (8), Respondent was employed as a Staff Nurse in the Emergency Room with Central Texas Veteran's Health Care System, Temple, Texas and had been in this position for four (4) years and two (2) months.

7. In March 2000, while employed at Central Texas Veteran's Health Care System, Temple, Texas, Respondent engaged in the intemperate use of Demerol. Possession of Demerol is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Demerol 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. In March 2000, while employed at Central Texas Veteran's Health Care System, Temple, Texas, Respondent misappropriated Demerol from the facility and the patients thereof. Respondent's conduct defrauded the facility and the patients thereof of the cost of the medications.

9. At the time of the incidents in Findings of Fact Numbers Ten (10) through Thirteen (13), Respondent was employed as a Staff Nurse in the Emergency Room at Richards Memorial Hospital, Rockdale, Texas, and had been in this position for one (1) year and five (5) months.

10. On or about October 23, 2001, while employed as a staff nurse in the Emergency Room at Richards Memorial Hospital, Rockdale, Texas, Respondent delegated the administration of Rocephin IM injection for Patient #647190 to an Emergency Room Clerk. Respondent's conduct was likely to injure patients because an Emergency Room Clerk lacks the education, training and experience to recognize the signs and symptoms of adverse reactions to the medication administered to Patient #647190.

11. On or about October 28, 2001, while employed as a staff nurse in the Emergency Room at Richards Memorial Hospital, Rockdale, Texas, Respondent delegated the administration of Rocephin IM injection for Patient #647287 to an Emergency Room Clerk. Respondent's conduct was likely to injure patients because an Emergency Room Clerk lacks the education, training and experience to recognize the signs and symptoms of adverse reactions to the medication administered to Patient #647287.

12. On or about October 30, 2001, Respondent, while employed as a staff nurse in the Emergency Room at Richards Memorial Hospital, Rockdale, Texas, Respondent failed to admit a pediatric patient who had presented to the emergency room complaining of a headache subsequent to a fall from a trampoline. Respondent's conduct deprived the patient of a timely diagnosis and medical intervention for a potential head injury sustained from the fall.

13. Respondent gives his date of sobriety as March 2000.

14. The Respondent's conduct described in the preceding Finding of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.

15. 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.

16. Respondent's conduct described in Finding Numbers Seven (7) through Eight (8) resulted from Respondent's impairment by dependency on chemicals.

17. 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 violation of Section 301.452(b)(9) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1), (2), (9), (10) & (19).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against License Number 629587, heretofore issued to JAMES LUCKEY, including revocation of Respondent's professional 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, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of Remedial Education, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-size license issued to JAMES LUCKEY to the office of the Board of Nurse Examiners within three weeks of the date of ratification of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing jurisprudence. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include Registered Nurses. It shall be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, and documentation of care. 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.

IT IS FURTHER 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 and be accepted into the TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Board of Nurse Examiners.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

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 Professional 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 professional 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 State of Texas 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 professional 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. 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 Board of Nurse Examiners, 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 8th day of Dec, 2002.

James Luckey

JAMES LUCKEY, Respondent

Sworn to and subscribed before me this 8 day of Dec, 2002.

SEAL

JOE D. WHITE
NOTARY PUBLIC
STATE OF TEXAS
My Commission Expires 09-20-2004

Joe D. White

Notary Public in and for the State of TEXAS

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby accept and enter the Agreed Order that was signed on the 8th day of December, 2002, by JAMES LUCKEY, License Number 629587, and said Order is final.

Entered and effective this 17th day of December, 2002.

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