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

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

On this day came to be considered by the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, the Petition for Reinstatement of Registered Nurse License Number 629587, held by JAMES LUCKEY, hereinafter referred to as Petitioner.

An informal conference was held on December 19, 2006, at the office of the Board of Nurse Examiners, in accordance with Section 301.464, Texas Occupations Code.

Petitioner appeared in person. Petitioner was notified of his right to be represented by legal counsel and elected to waive representation by counsel. In attendance were Mary Beth Thomas, MSN, RN, Director of Nursing, Executive Director's Desginee; Vicki Cox, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director of Enforcement; Noemi Reyes, Investigator; Marcia Wilson, RN, Investigator; Laura Ferrel, RN, Investigator; Elise Dunham, 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.

2. Petitioner waived representation by counsel, notice and hearing, and consented to the entry of this Order.

3. Petitioner received an Associate Degree in Nursing from Temple College, Temple, Texas, on May 1, 1996. Petitioner was originally licensed to practice professional nursing in the State of Texas on June 19, 1996.

4. Petitioner's professional nursing 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
12/01 - 2/03	Staff Nurse	Central Texas Hospital Cameron, Texas
3/03 - present	Not employed in nursing	

5. On December 17, 2002, Petitioner was issued an Agreed Order which required that he apply to and be accepted into the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the December 17, 2002, Agreed Order, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this Order.

6. On May 12, 2003, the Board accepted the voluntary surrender of Petitioner's license to practice professional nursing in the State of Texas. A copy of the May 12, 2003, 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 September 13, 2006, 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 his petition:

   8.1. Letter dated January 30, 2006, from Scott Steiner, PhD, Clinical Psychologist, Austin, Texas, states Petitioner has been heavily involved in substance abuse treatment programs and has been exhibiting good progress. He was involved in a private treatment program for many months in 2004. When he had a relapse at the beginning of 2005, he went straight into the residential treatment program with the Temple Veterans Association (VA). While in this program, he also began receiving psychiatric care and was started on several medications (Wellbutrin and Trazodone). He also elected to take part in individual psychotherapy to address the depression and other concerns that were likely contributing to his patterns of substance abuse. After completing and leaving the residential treatment in August 2005, Petitioner had a brief relapse, and then voluntarily took advantage of individual and group psychotherapy through the Austin VA satellite Outpatient Clinic. Petitioner has been a motivated participant in group and individual therapy and seems genuinely eager to learn as much as possible to prevent future relapses. He has also continued to be

to learn as much as possible to prevent future relapses. He has also continued to be seen on an outpatient basis for medication management of his depression. Dr. Steiner recommends that Petitioner continue attendance of some type of treatment maintenance group, continue individual and/or group therapy, and continue to follow recommendations of his psychiatrist regarding psychotropic medications.

8.2. Letter, dated December 12, 2006, from Willie Lee Greene, MA, MCJ, LPC, LCDC, Addiction Therapist, Department of Veterans Affairs, Temple, Texas, states Petitioner has participated in the Aftercare Substance Abuse Treatment Program by attending relapse prevention group weekly since October 31, 2006.

8.3. Letter of support, dated December 11, 2006, from Bennie Peevy, Temple, Texas, states he has known Petitioner for approximately two (2) years and developed a relationship as his sponsor. He frequents local Alcoholics Anonymous (AA) meetings 2-3 times per week and makes himself available to help newcomers. Mr. Peevy and Petitioner have met weekly on an individual basis to work the steps of AA and read related literature. Petitioner illustrates the desire and behavior necessary to maintain long term sobriety. The fellowship of AA wishes him well as he continues his journey of recovery.

8.4. Letter of support, dated December 1, 2006, from Kelli Nelson, Temple, Texas, states she would like to extend her appreciation to Petitioner for his dedication to the La Hacienda Alumni Association of Temple, Texas. Petitioner is well liked by the group and his participation in the meetings adds to the overall quality. The weekly meetings, to include Big Book study of Alcoholics Anonymous, are becoming more and more successful. As the growth of recovery continues in Temple, Texas, Petitioner is strongly invited to continue his journey with them, providing an extended hand to the newcomers.

8.5. Letter of support from William Gilbreath, Holland, Texas, states he has known Petitioner for approximately seven (7) years and has worked by his side as a Nursing Supervisor and as a Staff Charge Nurse. Mr. Gilbreath has witnessed Petitioner's professional and personal demeanor, and believes he is a very skillful, talented, and compassionate medical care giver. Petitioner is an intelligent and personable person whom Mr. Gilbreath has complete confidence as a nurse. Mr. Gilbreath is aware that Petitioner has struggled with personal issues in the past and he has been very up front and forthcoming in regards to his described personal weaknesses. Mr. Gilbreath believes that Petitioner is in the position to take control of his life and return to the nursing profession.

8.6. Letter of support, dated March 12, 2006, from Vincent A. Boyle, states he has known Petitioner for about eight (8) months through their association with St. Paul's Catholic Church. Petitioner is compassionate, generous, patient, forthright and

(RICA) sessions and participates fully. Mr. Boyle highly recommends Petitioner as a man of character and professionalism who will represent the nursing profession with dignity and decorum.

8.7. Letter of support, dated March 7, 2006, from Mark Lundeen, states he is writing on behalf of his personal experience with Petitioner's involvement in Alcoholics Anonymous (AA). Petitioner attends AA regularly and has been willing to do the homework involved with the steps of AA and 12 step recovery. Mr. Lundeen has spent afternoons with Petitioner participating in his step work as he examines his past, becoming teachable, and subsequently open and willing to change. Petitioner is well liked at the AA group and many others wish him the best in his recovery.

8.8. Certificate of completion, dated March 8, 2006, for the workshop entitled "Nursing in Texas: A Regulatory Foundation of Safe Practice."

8.9. Documentation of monthly, negative random drug screens collected from October 2005 through November 2006.

8.10. Documentation of twenty-one (21) Type I Continuing Education contact hours.

9. Petitioner gives September 4, 2005, as his 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 Board of Nurse Examiners, that the petition of JAMES LUCKEY, Registered Nurse License Number 629587, to practice professional nursing in the state of Texas, be and the same is hereby GRANTED SUBJECT TO THE FOLLOWING CONDITIONS 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 §211.01 et. seq. and the stipulations contained in this Order:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Petitioner's multistate licensure privilege, if any, to practice professional nursing in the State of Texas

IT IS FURTHER AGREED and ORDERED that while Petitioner's license is encumbered by this Order, Petitioner 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 Petitioner wishes to work.

(1) PETITIONER SHALL NOT seek employment or practice nursing for compensation until he has paid all re-registration fees and is issued a license to practice professional nursing in the State of Texas, which shall bear the appropriate notation. Said license issued to JAMES LUCKEY, shall be subject to the following agreed post-licensure stipulations:

(2) PETITIONER SHALL pay a monetary fine in the amount of five hundred ($500.00) dollars. PETITIONER SHALL pay this fine within forty-five (45) days of entry of this Order. Payment is to be made directly to the Board of Nurse Examiners in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(3) PETITIONER SHALL, within one (1) year of relicensure, successfully complete a course in nursing jurisprudence. PETITIONER 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 must include registered nurses. It must 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. 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 is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Board-approved courses can be found on the Board's website www.bne.state.tx.us (under BNE events).*

(4) PETITIONER SHALL, within one (1) year of relicensure, successfully complete a course in nursing 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. The course shall be a minimum of six (6) contact hours in length. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. PETITIONER SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify PETITIONER's successful completion of the course. 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 on the Board's website, www.bne.state.tx.us (under BNE events).*

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 STIPULATIONS FOR THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) 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 STIPULATION PERIOD:

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

(6) 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.

(7) For the first year of employment as a Registered Nurse under this Order, PETITIONER SHALL be directly supervised by a Registered Nurse. Direct supervision requires another professional nurse 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.

(8) For the remainder of the stipulation period, PETITIONER 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 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.

(9) PETITIONER SHALL NOT practice as a professional 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 professional nurse.

(10) PETITIONER SHALL NOT practice as a professional nurse in any critical care area for one (1) year of employment as a professional 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.

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

(12) 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 Registered 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) months for three (3) year(s) of employment as a nurse.

(13) 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 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.**

(14) 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 second three (3) 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.

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 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 will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board. Failure to report for a drug screen may be considered the same as a positive result and may result in further disciplinary action by this Board.

(15) PETITIONER SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. PETITIONER SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the PETITIONER's progress in therapy, rehabilitation and capability to safely practice professional nursing. The report must indicate whether or not the PETITIONER's stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the stipulation period, or until PETITIONER is dismissed from therapy.

(16) PETITIONER SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and 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) months. 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, PETITIONER SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

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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 to practice professional nursing in the State of Texas will be revoked, as a consequence of my noncompliance.

Signed this 26th day of January, 2007

James L. Luckey

JAMES LUCKEY, Petitioner

Sworn to and subscribed before me this 26th day of January, 2007.

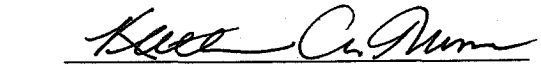
SEAL
LAURA J. DICKEY
Notary Public, State of Texas
My Commission Expires
JULY 05, 2009
Notary without Bond

Laura J. Dickey

Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 26th day of January, 20 07, by JAMES LUCKEY, Registered Nurse License Number 629587, and said Order is final.

Effective this 13th day of February, 20 07.



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, 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

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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS
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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