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Katherine A. Thomas
 Executive Director of the Board

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

In the Matter of License Number 540383 § **AGREED**
 issued to KATHY J. GRAY § **ORDER**

An investigation by the Board produced evidence indicating that KATHY J. GRAY, hereinafter referred to as Respondent, License Number 540383, may have violated Article 4525(b)(8)&(9), Revised Civil Statutes of Texas and Section 301.452(b)(10), Texas Occupations Code.

An informal conference was held on March 27, 2001, at the office of the Board of Nurse Examiners, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Kenneth D. Furlow, Attorney at Law. In attendance were Katherine A. Thomas, MN, RN, Executive Director; Phong Phan, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Cynthia Barber, Investigator; and Christopher Schroeder, Investigator.

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, represented by counsel, Kenneth D. Furlow, 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 Lamar University, Beaumont, Texas, in 1987. Respondent was licensed to practice professional nursing in the State of Texas on August 24, 1987.

5. Respondent's professional employment history includes:

1986 - 1987	Graduate Nurse	St. Elizabeth, now Christus St. Elizabeth Beaumont, Texas
1987 - 1989	Medical/ ICU Staff Nurse	St. Elizabeth, now Christus St. Elizabeth Beaumont, Texas
1987 - 1989	Staff Nurse	Various Hospitals in Texas
1989 - 1990	Trauma Nurse	Med-Link Helicopter of St. Elizabeth, now Christus St. Elizabeth Beaumont, Texas
1990 - 1992	Manager	The Care Group of Texas Beaumont, Texas
1992 - 1997	Owner	Universal Infusion Services Beaumont, Texas
1995 - 1997	Owner	Tri-Plex Industrial Medical Services Beaumont, Texas
January 1997 - May 1998	System Manager	Baptist Hospital of Southwest Texas Beaumont, Texas
June 1998 - July 1998	Not employed in Nursing	
August 1998 - April 1999	Cardiovascular/ ICU Staff Nurse	Christus St. Elizabeth Hospital Beaumont, Texas
May 1999 - July 1999	Triage Nurse	Kelsey Seybold Beaumont, Texas
August 1999 - September 1999	Not employed in Nursing	

October 1999 - September 2000	Private Duty Nurse	Horizon Healthcare Beaumont, Texas
November 1999 - February 2001	Equipment Contractor	Self-employed Beaumont, Texas
February 2001 - present	Utilization Review	Green Tree Administrators Beaumont, Texas

6. At the time of the incidents described in findings of fact number seven (7) through ten (10), Respondent was employed as a Cardiovascular/ICU Staff Nurse with Christus St. Elizabeth Hospital, Beaumont, Texas, beginning August 3, 1998.
7. Respondent, on or about December of 1998, while employed with Christus St. Elizabeth Hospital, Beaumont, Texas, had possession of a controlled substance, Versed. Possession of Versed is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). Respondent asserts that the 1mg/1 vial of Versed was in her possession as part of an expired, non-purchased inventory, licensed through the State Board of Pharmacy, stored in boxes with other expired antibiotic solutions and supplies prepared for disposal.
8. Respondent states that on or about March 17, 1999, she rendered a negative result on a drug screen. Respondent was suspended from Christus St. Elizabeth Hospital on March 22, 1999, because she did not have a drug screen form in her possession.
9. Respondent states (after she was suspended) she took Xanax for hives in doses as prescribed by her physician, but in violation of her contract with TPAPN.
10. Respondent, on or about April 2, 1999, while employed with the aforementioned facility but suspended, engaged in the intemperate use of Benzodiazepines as evidenced by a positive drug screen. Possession of Benzodiazepines is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Benzodiazepines by a Registered Nurse, affects the practice of professional nursing, or 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.
11. At the time of the incident described in finding of fact number twelve (12), Respondent was self-employed as an Equipment Contractor.
12. Respondent, on or about August 26, 2000, while self-employed in Beaumont, Texas, misappropriated Demerol from patient M.S. Respondent returned the medication to M.S. within minutes after M.S.'s wife called Respondent's cell phone and threatened to "call the law" unless she returned ten (10) missing pills. Respondent returned nine (9) pills and denies she ingested any pills. Respondent's conduct was likely to defraud the patient of the cost of the medication.

13. 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)(8)&(9), TEX. REV. CIV. STAT. ANN., and 22 TEX. ADMIN. CODE §217.13(1) and Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(19).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against License Number 540383, heretofore issued to KATHY J. GRAY, including revocation of Respondent's professional license to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that License Number 540383, previously issued to KATHY J. GRAY, to practice professional nursing in Texas is hereby LIMITED as outlined in this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, 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 the 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.

(1) 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.

(2) RESPONDENT SHALL deliver the wallet-size license issued to KATHY J. GRAY, to the office of the Board of Nurse Examiners within ten (10) days of the date of this Order for appropriate notation.

(3) 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 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. 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 is to be taken in addition to any continuing education requirements the Board may have for relicensure.

RESPONDENT'S LICENSE TO PRACTICE PROFESSIONAL NURSING IS LIMITED AS OUTLINED BY THE FOLLOWING: WHILE UNDER THE TERMS OF THIS ORDER, RESPONDENT SHALL NOT PROVIDE DIRECT PATIENT CARE. FOR THE PURPOSE OF THIS ORDER, DIRECT PATIENT CARE INVOLVES A PERSONAL

RELATIONSHIP BETWEEN THE RN AND THE PATIENT, AND INCLUDES, BUT IS NOT LIMITED TO: TEACHING PATIENTS; COUNSELING PATIENTS; ASSESSING PATIENTS' NEEDS AND STRENGTHS; AND PROVIDING SKILLED NURSING CARE TO PATIENTS.

(4) Should RESPONDENT desire to return to the practice of professional nursing, providing direct patient care, RESPONDENT SHALL petition the Board for such approval and Respondent's petition shall be evaluated pursuant to criteria outlined in 22 TEX. ADMIN. CODE §213.26.

IT IS FURTHER AGREED, SHOULD RESPONDENT CHOOSE TO PRACTICE AS A REGISTERED NURSE IN THE STATE OF TEXAS, RESPONDENT SHALL PRACTICE UNDER THE FOLLOWING STIPULATIONS FOR THREE (3) YEARS OF EMPLOYMENT:

(5) RESPONDENT SHALL notify each present employer in professional nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a copy of this Order to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in professional nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a copy of this Order to each future employer prior to accepting an offer of employment.

(6) RESPONDENT SHALL CAUSE each present employer in professional nursing to submit the Notification of Employment form, which is provided 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 to the Board's office within five (5) days

of employment as a professional nurse.

(7) RESPONDENT SHALL CAUSE each employer to submit, on forms provided by the Board, periodic reports as to RESPONDENT's capability to practice professional nursing. These reports shall be completed by the Registered Nurse who supervises the RESPONDENT. These reports shall be submitted to the office of the Board at the end of each three (3) months for three (3) years of employment as a professional nurse. **Respondent is not subject to the preceding RN supervision requirement while employed with Green Tree Administrators, Beaumont, Texas, and is under a non-nurse supervisor.** Reports as to RESPONDENT's capability to practice professional nursing shall be submitted to the office of the Board by Respondent's immediate supervisor at the end of each three (3) months for three (3) years of employment as a professional nurse.

(8) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgun, 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.

(9) RESPONDENT SHALL submit to random periodic screens for controlled substances 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

A Board representative may appear at the RESPONDENT's place of employment at any time during the stipulation 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 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.

(10) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and RESPONDENT 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 RESPONDENT. RESPONDENT 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.

RESPONDENT'S CERTIFICATION

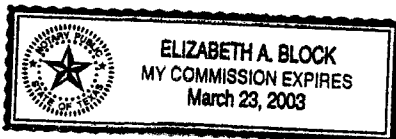
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid 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 19th day of December, 2001.

Kathy J. Gray
KATHY J. GRAY, Respondent

Sworn to and subscribed before me this 19 day of December, 2001.

SEAL



Elizabeth A. Block
Notary Public in and for the State of TEXAS

Approved as to form and substance.

Kenneth D. Furlow
Kenneth D. Furlow, Attorney for Respondent

Signed this 19th day of December, 2001.

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 19th day of December, 2001, by KATHY J. GRAY, License Number 540383, and said Order is final.

Effective this 24th day of January, 2002.



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