Texas Board of Nursing

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Katherine A. Thomas, MN, RN, FAAN
Executive Director

January 8, 2014

Certified Mail No: 91 7199 9991 7031 5305 6596
Return Receipt Requested

Tammy Waller
1316 38th St
Wichita Falls, Texas 76302

Dear Tammy Waller:

We have reviewed and evaluated your Petition for Declaratory Order and the supporting information related to your eligibility for licensure under the Nursing Practice Act and the Board's Rules and Regulations Relating to Nurse Education, Licensure, and Practice.

It has been determined that, upon meeting the requirements for graduation and payment of any required fees, you will be eligible to sit for the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination).

As you will recall on March 19, 2013 , you were issued an Order by the Board affecting your vocational nursing license. Our records indicate that you have not yet successfully completed the terms of that Order. Therefore, although you will be eligible to receive a professional nursing license upon successful completion of the NCLEX-RN® Examination, the remaining terms of your prior Order will be applied to any professional nursing license issued to you by the Board. As a result, both your vocational and professional nursing licenses will be subject to the remaining requirements of the Order, a copy of which is attached hereto for your reference.

A new Order will not be issued to you. However, your prior Order and this correspondence is public information. The encumbrances from your prior Order that will be applied to your professional nursing license will be forwarded to the National Council of State Boards of Nursing, Inc. and the National Practitioner Data Bank (NPDB).

Please be aware that, pursuant to Section 301.4551, Texas Occupations Code, the Board shall temporarily suspend the license(s) of a nurse who is under a Board Order which prohibits the use of alcohol or drugs, or which requires participation in a peer assistance program, when the nurse tests positive for alcohol or a prohibited drug, refuses to comply with drug or alcohol testing requirements, or fails to participate in the peer assistance program.

THIS LETTER DOES NOT SERVE AS YOUR AUTHORIZATION TO SIT FOR THE NCLEX-RN EXAMINATION. Written authorization to sit for the NCLEX-RN EXAMINATION will be issued by Pearson Vue within ten business days of the Board receiving the Affidavit of Graduation from your school of nursing.

Sincerely,

Mark W Majek, Operations Director

Enclosure: March 19, 2013

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

Members of the Board

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Austin, *President*

Deborah Bell, CLU, ChFC Abilene; **Patricia Clapp, BA** Dallas; **Tamara Cowen, MSN, RN** Harlingen; **Sheri Crosby, JD, SPHR** Dallas; **Marilyn Davis, BSN, RN, MPA** Sugar Land; **Richard Gibbs, LVN** Mesquite; **Kathy Leader-Horn, LVN** Granbury; **Mary M. LeBeck, MSN, RN** Weatherford; **Josefina Lujan, PhD, RN** El Paso; **Beverley Jean Nutall, LVN** Bryan; **Kathleen Shipp, MSN, RN, FNP** Lubbock

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED
Vocational Nurse License Number 164163	§	
issued to TAMMY KAYE WALLER	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of TAMMY KAYE WALLER, Vocational Nurse License Number 164163, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(10) and 301.453, Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on September 12, 2012, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).

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

3. Respondent is currently licensed to practice vocational nursing in the State of Texas.

4. Respondent received a Certificate in Vocational Nursing from Vernon Regional Junior College, Wichita Falls, Texas, on August 14, 1997. Respondent was licensed to practice vocational nursing in the State of Texas on September 18, 1997.

5. Respondent's nursing employment history is unknown.

6. On or about September 5, 2009, Respondent was arrested by the Greenup Sheriff's Office, Greenup, Kentucky, and subsequently charged under Case No. 09-F-00265 for Charge 1: TAMPERING WITH PHYSICAL EVIDENCE, and for Charge 2: TRAF CONT SUB, 1ST OFFENSE - DRUG UNSPECIFIED, a 1st Degree misdemeanor offense.

On or about September 9, 2009, Charge 1: TAMPERING WITH PHYSICAL EVIDENCE was dismissed in District Court of Greenup County, Kentucky. Charge 2: TRAF CONT SUB, 1ST OFFENSE - DRUG UNSPECIFIED, a 1st Degree misdemeanor offense, was amended to POSS CONT SUB, 1ST OFFENSE - DRUG UNSPECIFIED, a 3rd Degree misdemeanor offense.

On or about September 10, 2009, Respondent pled Guilty to Charge 2: POSS CONT SUB, 1ST OFFENSE - DRUG UNSPECIFIED, a 3rd Degree misdemeanor offense, in the District Court of Greenup County, Kentucky, under Case No. 09-F-00265. As a result of the plea, Respondent was sentenced to two (2) years conditional discharge and ordered to pay a fine.

7. In response to Finding of Fact Number Six (6), Respondent states that she was not aware of the medications being in the vehicle. She left her husband after he failed to keep his promise to stay sober, and she moved to Texas. She has worked at Monterey Care Center for the last year, and she has been moved to the day shift, which shows her ability to handle responsibility and her good work ethic. She has never failed a drug test at any time in her life. She has never been accused of impropriety with medications and she has never had any disciplinary actions against her license in any state. She has taken the steps to make sure these things don't happen to her again. In Greenup, KY, they offered her a deal and asked that she plead to a misdemeanor possession charge and stay out of Greenup County for two years. She has not returned there. She has completed all her requirements of her plea with the court.

8. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.

2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.12(13).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 164163, heretofore issued to TAMMY KAYE WALLER, including revocation of Respondent's license(s) 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 RESPONDENT SHALL receive the sanction of REPRIMAND WITH STIPULATIONS, and 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.

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

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

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a 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.

IT IS FURTHER AGREED that:

(1) 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.texas.gov/disciplinaryaction/stipscourses.html.*

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Board-approved courses may be found at the following Board website address: http://www.bon.texas.gov/disciplinaryaction/stipscourses.html.*

IT IS FURTHER AGREED, SHOULD 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 STIPULATIONS FOR TWO (2) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE

THE USE OF A REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:

(3) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S license(s). 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 stipulations on RESPONDENT'S license(s). 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.

(4) 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.

(5) RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse, who is on the premises. The supervising nurse is not required to be on the same unit or ward as 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.

(6) 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 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) year(s) of employment as a nurse.

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

(8) 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 stipulation period, random screens shall be performed at least once every three (3) months. All random screens

SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

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

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

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(s) 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 06 day of February, 2013.

Tammy Kaye Waller

TAMMY KAYE WALLER, RESPONDENT

Sworn to and subscribed before me this 06 day of February, 2013.

SEAL

CORIE GILBERT NOTARY PUBLIC STATE OF TEXAS EXPIRES 9/24/2016

Corie Gilbert

Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 6th day of February, 20 13, by TAMMY KAYE WALLER, Vocational Nurse License Number 164163, and said Order is final.

Effective this 19th day of March, 20 13.

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