



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.  
*Katherine A. Thomas*  
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of § AGREED  
Registered Nurse License Number 648529 §  
issued to DONNA FALCON § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of DONNA FALCON, Registered Nurse License Number 648529, 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)(9),(10)&(13) and 301.453, Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on March 17, 2014, 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 informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received an Associate Degree in Nursing from Midland College, Midland, Texas, on December 1, 1997. Respondent was licensed to practice professional nursing in the State of Texas on February 17, 1998.
5. Respondent's professional nursing employment history includes:

03/98 - 03/09 Unknown

Respondent's professional nursing employment history continued:

04/09 - 03/10 RN The Hospital at Westlake Medical Center  
Austin, Texas

04/10 - 07/12 Unknown

08/12 - Unknown RN Desert Milagro Dialysis Center  
Odessa, Texas

08/13 - Present Charge Nurse Liberty Dialysis  
RN Brenham, Texas

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with The Hospital at Westlake Medical Center, Austin, Texas, and had been in this position for eleven (11) months.
7. On or about March 29, 2010, while employed with The Hospital at Westlake Medical Center, Austin, Texas, Respondent administered Soma 350 mg and Baclofen 30 mg to Patient Medical Record Number 880030016, and administered Reglan 10 mg IV to Patient Medical Record Number 880029887, without a physician's order, then documented verbal orders for the medications. Respondent's conduct was likely to injure the patients, in that the administration of medications without a valid physician's order could result in the patients suffering from adverse reactions, and Respondent's conduct placed the hospital in violation of Chapter 481 (Controlled Substances Act) and/or Chapter 483 (Dangerous Drugs Act) of the Texas Health and Safety Code.
8. On or about October 10, 2011, while employed with Nurse Finders and assigned to Scott and White Hospital, Brenham, Texas, Respondent engaged in the intemperate use of Cocaine and Morphine in that she produced a specimen for a pre-employment drug screen, which tested positive for Cocaine and Morphine. In addition, this positive drug test occurred while she was on duty. Unlawful possession of Cocaine and Morphine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Cocaine and Morphine 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.
9. On or about November 2, 2011, Respondent signed a Participation Agreement with the Texas Peer Assistance Program for Nurses (TPAPN). On April 17, 2012, Respondent tested positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), metabolites of alcohol, and subsequently admitted to drinking alcohol. As a result of the positive drug screen, on April

26, 2012, Respondent signed a second participation agreement with TPAPN. On June 15, 2012, Respondent tested positive for Ethyl Glucuronide (EtG), metabolite of alcohol, and subsequently admitted to drinking a weight loss product. As a result of the positive drug screen, Respondent was given a three (3) month extension in TPAPN. On January 29, 2013, Respondent tested positive for hydrocodone, and subsequently admitted to taking a friend's prescription cough medication containing codeine. As a result of the positive drug screen, Respondent's case was referred to the Texas Board of Nursing.

10. Regarding the conduct outlined in Finding of Fact Seven (7), Respondent states she called the Physician's Assistant and obtained an order for Baclofen. Respondent states that after making a second call to the doctor and not getting a call back, she informed her charge nurse of her patients' conditions, and informed her that she was going to give the patients their respective medications and marked the order so it could be signed in the morning. The charge nurse agreed to this, which was the normal procedure. Regarding the conduct outlined in Finding of Fact Eight (8), Respondent states she borrowed medication from someone when she had a toothache and did not have the financial means to obtain treatment from a dentist. Regarding the conduct outlined in Finding of Fact Number Nine (9), Respondent acknowledges she tested positive on three (3) different drug screens while participating in TPAPN and states the positive screen on January 29, 2013, was a result of using cough medication because she was unable to sleep due to coughing and congestion.
11. 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.
12. Formal Charges were filed on August 22, 2013.
13. Formal Charges were mailed to Respondent on August 23, 2013.
14. First Amended Formal Charges were filed on September 12, 2013.
15. First Amended Formal Charges were mailed to Respondent on September 17, 2013.

#### 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 §§217.11(1)(A),(1)(B),&(1)(D) and 217.12(1)(A),(1)(B),(4),(6)(A),(10)(A),

(10)(B)&(10)(D).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(9),(10)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 648529, heretofore issued to DONNA FALCON, 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 Registered Nurse License Number 648529, previously issued to DONNA FALCON, to practice nursing in Texas is/are hereby SUSPENDED for a period of two (2) years with the suspension STAYED and Respondent is hereby placed on PROBATION for two (2) years with the following agreed terms of probation:

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 the Respondent may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

(1) RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

(2) RESPONDENT SHALL, within one (1) year of entry of the suspension being stayed, 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>.*

(3) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete a course in nursing documentation. 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. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing

standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office 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>.

(4) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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 PROBATION CONDITIONS FOR TWO (2) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY**

**PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:**

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

(6) 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.

(7) **With the exception of Respondent's current employment as a Charge Nurse with Liberty Dialysis, Brenham, Texas, for the first year of employment as a Nurse under this Order, RESPONDENT SHALL be directly 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. Direct supervision requires another nurse, as applicable, to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). The 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.

(8) With the exception of Respondent's current employment as a Charge Nurse with Liberty Dialysis, Brenham, Texas, for the remainder of the probation period, 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.

(9) With the exception of Respondent's current employment as a Charge Nurse with Liberty Dialysis, Brenham, Texas, RESPONDENT SHALL NOT practice as a 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 Respondent is regularly assigned for



one (1) year of employment as a nurse.

(10) RESPONDENT SHALL NOT practice as a nurse in any critical care area for one (1) year of employment as a 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) RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, Propofol, or other synthetic opiates for one (1) year of employment as a nurse.

(12) 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.

(13) 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.**

(14) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the probation period, random screens shall be performed at least once every three (3) months. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board.

Specimens shall be screened for at least the following substances and their metabolites:

|                                 |               |
|---------------------------------|---------------|
| Amphetamines                    | Meperidine    |
| Barbiturates                    | Methadone     |
| Benzodiazepines                 | Methaqualone  |
| Cannabinoids                    | Opiates       |
| Cocaine                         | Phencyclidine |
| Ethanol                         | Propoxyphene  |
| tramadol hydrochloride (Ultram) |               |

A Board representative may appear at the RESPONDENT'S place of employment at any time during the probation period and require RESPONDENT to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the probation period.

Any positive result for which the nurse does not have a valid prescription or 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.

(15) RESPONDENT SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. RESPONDENT SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT'S progress in therapy, rehabilitation and capability to safely practice nursing. The report must indicate whether or not the RESPONDENT'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 beyond the initial three (3) months, the reports shall then be required at the end of each three (3) month period for the remainder of the probation period, or until RESPONDENT is dismissed from therapy.

(16) RESPONDENT SHALL, within forty-five (45) days of entry of this Order, undergo a pain management evaluation that meets the requirements specified by the Board in its adopted Guidelines for Physical and Psychological Evaluations, which may be found at the following link: <http://www.bon.texas.gov/disciplinaryaction/pdfs/eval-guidelines.pdf>. RESPONDENT SHALL CAUSE the performing evaluator to send a report of the evaluation to the Board office. If the evaluation states that Respondent lacks fitness to practice nursing, RESPONDENT SHALL cease to provide direct patient care until such time that the same evaluator deems Respondent safe to return

to direct patient care. Direct patient care involves a personal relationship between the Nurse and the client, and includes, but is not limited to: teaching; counseling; assessing the client's needs and strengths; and providing skilled nursing care. If the results of the evaluation reveal further violations of the Nursing Practice Act, further disciplinary action may be taken, including revocation of Respondent's license to practice nursing in the State of Texas.

RESPONDENT SHALL comply with the recommendations for pain management and/or other follow-ups. If pain management therapy is recommended, RESPONDENT SHALL participate in pain management therapy with a Board approved Medical Doctor or Doctor of Osteopathy, licensed by the Texas Medical Board, and certified as a Diplomat with the American Board of Pain Medicine. RESPONDENT SHALL CAUSE the physician to submit written reports to the Board, which shall include, at a minimum, the clinical indications and rationale for the chronic use of controlled substances, RESPONDENT'S progress and compliance with pain management therapy, and a prognosis as to RESPONDENT'S ability to safely practice nursing in a direct patient care setting. 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 probation period, or until RESPONDENT no longer requires the use of addictive, mood-altering, and/or controlled substances.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order,

all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

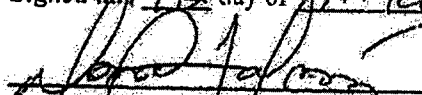
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RESPONDENT'S CERTIFICATION

I understood 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(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 12 day of March, 2014.

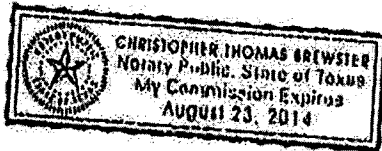
  
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DONNA FALCON, RESPONDENT

Sworn to and subscribe before me this 12<sup>th</sup> day of March, 2014.

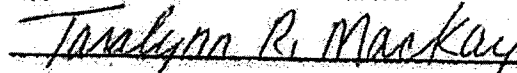
SEAL

  
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Notary Public in and for the State of TX



Approved as to form and substance.

  
\_\_\_\_\_  
Taralynn R. Mackay, Attorney for Respondent

Signed this 12<sup>th</sup> day of March, 2014.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 12<sup>th</sup> day of March, 2014, by DONNA FALCON, Registered Nurse License Number 648529, and said Order is final.

Effective this 16<sup>th</sup> day of April, 2014.

  
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Katherine A. Thomas, MN, RN, FAAN

Executive Director on behalf

of said Board.