STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF HEALTHCARE SYSTEMS

In re: Tomas Zouhar, L.P.N. Petition No. 2003-1231-011-053

CONSENT ORDER

WHEREAS, Tomas Zouhar, L.P.N. (hereinafter "respondent") of Middletown, Connecticut has been issued license number 027727 to practice as a licensed practical nurse by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 378 of the General Statutes of Connecticut, as amended; and,

WHEREAS, respondent hereby admits and acknowledges that:

1. In 2003 respondent, a nurse at Harbor Hill Health Care Center, diverted and consumed Vicodin, Percocet and Ativan from patient stock.
2. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, 20-99(b), including but not limited to 20-99(b)(2).

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the above allegations at a hearing in front of the Board of Examiners for Nursing (hereinafter "the Board"). Respondent further agrees that this Consent Order shall have the same effect as if ordered after a full hearing pursuant to §§19a-9, 19a-10, and 20-99(a) of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §19a-17 and §20-99(a) of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

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1. Respondent waives his right to a hearing on the merits of this matter.

2. Respondent shall comply with all federal and state statutes and regulations applicable to his profession.

3. Respondent's license number 027727 to practice as a licensed practical nurse in the State of Connecticut is hereby placed on probation for four years, subject to the following terms and conditions:

   A. At his own expense, he shall engage in therapy and counseling with a Connecticut licensed or certified therapist (hereinafter "therapist") approved by the Board and the Department for the entire probationary period.

      (1) He shall provide a copy of this Consent Order to his therapist.

      (2) His therapist shall furnish written confirmation to the Board and the Department of his engagement in that capacity and receipt of a copy of this Consent Order within fifteen (15) days of the effective date of this Consent Order.

      (3) If respondent's therapist determines that therapy is no longer necessary, that a reduction in frequency of therapy is warranted, or that respondent should be transferred to another therapist, he or she shall advise the Board and the Department. Said termination of therapy, reduction in frequency of therapy, and/or respondent's transfer to another therapist shall not occur until approved by the Board after consultation with the Department. However, if therapy is terminated with approval of the Board, respondent's therapist shall continue to monitor his alcohol and drug free status by monitoring and reviewing the observed random urine screens for drugs and alcohol as described in paragraph 3B below, and by providing the reports described in paragraph 3C below.

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(4) The therapist shall immediately notify the Board and the Department in writing if respondent discontinues therapy and/or terminates his services.

B. Respondent shall not obtain or use controlled substances, legend drugs or alcohol in any form unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications.

(1) At his own expense, he shall submit to observed random urine screens for drugs and alcohol, in accordance with Department Requirements for Drug and Alcohol Screens, attached hereto marked as ('Attachment A: Department Requirements for Drug and Alcohol Screens') at a testing facility approved by the Board, after consultation with the Department, as ordered by his therapist and/or personal physician. Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department by respondent's therapist or personal physician or by the testing laboratory. All such observed random drug and alcohol screens shall be legally defensible in that the specimen donor and chain of custody can be identified throughout the screening process. All laboratory reports shall indicate that the chain of custody procedure has been followed.

(2) Respondent shall be responsible for notifying the laboratory, his therapist, the Board, the Department and his prescribing practitioner of any drug(s) he is taking. For the prescription of a controlled substance(s) for more than two consecutive weeks, the respondent shall cause the provider prescribing the controlled substance(s) to submit quarterly reports until such time as the controlled

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substance(s) are not prescribed by the provider to the Board and the Department, documenting the following:

1. A list of controlled substances prescribed by this provider for the respondent;
2. A list of controlled substance(s) prescribed by other providers;
3. An evaluation of the respondent's need for the controlled substance;
4. An assessment of the respondent's continued need for the controlled substance(s).

(3) There must be at least one such observed random alcohol/drug screen and accompanying laboratory report every week for the first two years of probation; and, at least two such screens and reports every month for the remainder of the probationary period.

(4) All screens shall be negative for the presence of drugs and alcohol.

(5) All positive screen results shall be confirmed by gas chromatograph/mass spectrometer (GC/MS) testing.

(6) Respondent is hereby advised that the ingestion of poppy seeds and mouthwash has, from time to time, been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, respondent agrees to refrain from ingesting poppy seeds in any food substances or mouthwash during the term of this Consent Order. In the event respondent has a positive screen for morphine, opiates and/or alcohol, respondent agrees that the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such a screen.

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C. Respondent shall be responsible for the provision of written reports from his therapist directly to the Board and the Department monthly for the first and fourth years and quarterly for the second and third years of probation. Such reports shall include documentation of dates of treatment, an evaluation of respondent's progress in treatment and of his drug and alcohol free status as established by the observed random urine screens for drugs and alcohol, an evaluation of his ability to safely and competently practice nursing, and copies of all laboratory reports.

D. Notwithstanding the foregoing, respondent's therapist shall immediately report to the Board and the Department any confirmed positive alcohol/drug screen and any conduct or condition on respondent's part which does or may violate any federal or state statute or regulation applicable to his profession.

E. Respondent shall provide a copy of this Consent Order to all current and future employers for the duration of his probation.

F. Respondent shall not be employed as a nurse for a personnel provider service, assisted living services agency, homemaker - home health aide agency, or home health care agency, and shall not be self-employed as a nurse for the period of his probation.

G. Respondent shall not administer, count, or have access to narcotics or other controlled substances, or have responsibility for such activities in the course of his nursing duties for the first year after returning to work as a nurse.

H. Respondent shall be responsible for the provision of written reports directly to the Board and the Department from his nursing supervisor (i.e., Director of Nursing) monthly for the first and fourth years and quarterly for the second and third years of probation. Respondent shall provide a copy of this Consent Order to any and all employers if

employed as a nurse during the probationary period. The Board and the Department shall be notified in writing by any employer(s) within fifteen (15) days of the commencement of employment as to the receipt of a copy of this Consent Order. Employer reports shall include documentation of respondent's ability to safely and competently practice nursing, and shall be issued to the Board and the Department at the address cited in paragraph 3M below.

I. Respondent shall notify the Board and the Department in writing of any change of employment within fifteen (15) days of such change.

J. Respondent shall notify the Board and the Department of any change in his home or business address within fifteen (15) days of such change.

K. If respondent pursues further training or is engaged at the time of the implementation of the Consent Order, in an educational program in any subject area that is regulated by the Department, respondent shall provide a copy of this Consent Order to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department of receipt of the Consent Order within fifteen (15) days of receipt.

L. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.

M. All correspondence and reports shall be addressed to:

Bonnie Pinkerton
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

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4. Any violation of the terms of this Consent Order without prior written approval by the Board shall constitute grounds for the Department to seek revocation of respondent's nursing license following notice and an opportunity to be heard.

5. Any extension of time or grace period for reporting granted by the Board shall not be a waiver or preclude the Board's right to take action at a later time. The Board shall not be required to grant future extensions of time or grace periods.

6. Legal notice of any action shall be deemed sufficient if sent to respondent's last known address of record reported to the Office of Practitioner Licensing and Certification of the Bureau of Healthcare Systems of the Department.

7. This Consent Order is effective on the first day of the month immediately following the month in which this Consent Order is approved and accepted by the Board.

8. Respondent understands this Consent Order is a matter of public record.

9. Respondent understands this Consent Order may be considered as evidence of the above admitted violations in any proceeding before the Board in which (1) his compliance with this same Consent Order is at issue, or (2) his compliance with §20-99(b) of the General Statutes of Connecticut, as amended, is at issue.

10. In the event respondent violates a term of this Consent Order, respondent agrees immediately to refrain from practicing as a licensed nurse, upon request by the Department, with notice to the Board, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric or psychological evaluation, if requested to do so by the Department; and, that the results of the evaluation shall be submitted directly to the Department and the Respondent. Respondent further agrees that failure to cooperate with the Department in its

investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that failure to cooperate with the Department's investigation shall be considered by the Board and shall be given due weight by the Board in determining whether respondent's conduct constitutes a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c). The Department and respondent understand that the Board has complete and final discretion as to whether a summary suspension is ordered.

11. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of respondent's license before the Board.

12. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Consent Order is not subject to appeal or review under the provisions of Chapters 54 and 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any other rights that respondent may have under the laws of the State of Connecticut or of the United States.

13. Respondent permits a representative of the Department and my attorney to present this Consent Order and the factual basis for this Consent Order to the Board. The Department and respondent understand that the Board has complete and final discretion as to whether an executed Consent Order is approved or accepted.

14. Respondent has had the opportunity to consult with an attorney prior to signing this document.

15. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau.

I, Tomas Zouhar, L.P.N., have read the above Consent Order, and I agree to the terms set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Tomas Zouhar, L.P.N.

Subscribed and sworn to before me this 29th day of March, 2004.

~~Notary Public~~ or person authorized
by law to administer an oath or affirmation
MARILYN CLARK PELLETT

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 1st day of April, 2004, it is hereby accepted.

Marianne Horn, Director,
Division of Health Systems Regulation
Bureau of Healthcare Systems

The above Consent Order having been presented to the duly appointed agent of the Connecticut Board of Examiners for Nursing on the 21st day of APRIL, 2004, it is hereby ordered and accepted.

BY: Joan Dollins CRNA, APRN
Connecticut Board of Examiners for Nursing

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