



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

In the Matter of Vocational Nurse § AGREED
License Number 107638 §
issued to KELLIE KAY FREEMAN § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of KELLIE KAY FREEMAN, Vocational Nurse License Number 107638, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(3)&(10), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on April 6, 2012, by Katherine A. Thomas, MN, RN, FAAN, Executive Director, 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 holds a license to practice vocational nursing in the State of Texas which is in inactive status.
4. Respondent received a Certificate in Vocational Nursing from Lamar School of Vocational Nursing, Port Arthur, Texas, on May 11, 1984. Respondent was licensed to practice vocational nursing in the State of Texas on December 17, 1984.
5. Respondent's vocational nursing employment history includes:

06/84 - 08/91	LVN	St. Elizabeth Hospital
		Beaumont, Texas

Respondent vocational nursing employment history continued:

08/91 - 09/03	LVN	Beaumont Oncology Associates Beaumont, Texas
09/03 - 03/10	LVN	Texas Oncology Beaumont, Texas
04/10 - Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a licensed vocational nurse with Texas Oncology, Beaumont, Texas, and had been in this position for six (6) years and six (6) months.
7. On or about January 6, 2011 to March 3, 2011, while employed with Texas Oncology, Beaumont, Texas, Respondent obtained Xanax from the Kroger Pharmacy, Orange, Texas, under her own name, through the use of a fraudulent oral and/or telephonically communicated prescription, using the name and Drug Enforcement Agency (DEA) number assigned to Jay Schachner, M.D. Respondent's conduct was likely to deceive the pharmacy, and possession of Xanax through the use of a falsified, unauthorized, fraudulent telephonically communicated prescription is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
8. In response to Finding of Fact Number Seven (7), Respondent, through her attorney, states:

“As she had done for years, [Respondent] went through the offices of Texas Oncology to have her prescription refill called in. On or about March 1 or 2, 2011, she called and left a message via voice mail at Texas Oncology providing her relevant information and requesting that her prescription refill be called in to Kroger; however, she did not actually speak with anyone at Texas Oncology. A few days later on March 4, 2011, she called the pharmacy to ask if her refill was ready to be picked up and was told that it was. Clearly, someone from Texas Oncology had called the pharmacy authorizing the refill, but it is not known who and it was not [Respondent]. The next day, [Respondent] went to the pharmacy to pick up and pay for her refill. While at the pharmacy, there appeared to have been some slight confusion and delay as if there was nothing under her name. She asked if she should return later and was told no and that it would only be another moment. Shortly thereafter, [Respondent] received and paid for her medication and began to leave the store whereupon she was met by officers from the Orange Police Department asking for her identification. The officers escorted her back to the pharmacy where the officers then spoke with some of its employees. [Respondent] and the police also each called the on-call physician, but neither was able to be helped with the situation. In any event, [Respondent] surrendered the medication and was allowed to leave without further incident. On or about Friday, March 11, 2011, [Respondent] came home to find information left on her front door requesting that she contact the Orange

Police Department. She called and was asked to come in so that she could provide a statement regarding the incident. Upon the advice of criminal counsel, Elizabeth Matthews, [Respondent] voluntarily went to the police station to give her statement on or about March 15, 2011, and was again allowed by the police to leave.”

9. On or about December 2, 2011, Respondent entered a plea of guilty to the LESSER INCLUDED OFFENSE OF FORGERY OF PRESCRIPTION, (a Class A Misdemeanor offense committed on March 3, 2011), in the 128th District Court of Orange County, Texas, under Cause No. A110529-R. As a result of the guilty plea, the proceedings against Respondent were deferred, without entering an adjudication of guilt, and Respondent was placed on probation for a period of one (1) year. Additionally, Respondent was ordered to pay a fine and court costs.

10. In response to Finding of Fact Number Nine (9), Respondent, through her attorney, states:

“Despite relinquishing the medication at the pharmacy on March 5, 2011, an indictment was handed down in August 2011 by the Orange County grand jury for fraudulent possession of a controlled substance - a schedule IV prescription - which is a third degree felony offense. Again, upon Ms. Matthew’s advice, [Respondent] agreed to cooperate and surrender at the Orange County Sheriff’s Office where she was quickly processed, then later arraigned and released on bail by the magistrate. It is worth noting that while the district attorney’s office was adamant in pursuing charges; neither Dr. Schachner - under whose ostensible authorization the prescription was refilled - nor Kroger wished to have charges filed against [Respondent]. Regardless, as detailed below, [Respondent] was no longer working for Texas Oncology and had limited financial resources with which to engage Ms. Mathews in costly and lengthy defense representation. Remember too, that she was raising her grandson Lane at her own expense without financial contributions from the biological father. Therefore, as a practical matter, [Respondent] had no choice but to reach some kind of settlement that removed any potential for incarceration and also minimized her financial outlay. Rather than her risking the uncertainties inherent in every trial and incurring substantial legal fees, Ms. Mathews arranged a compromise with the district attorney and made a plea bargain wherein [Respondent] pled to a lesser included misdemeanor offense with its adjudication being deferred for one year while she was under community supervision.”

11. On or about February 7, 2009 to March 14, 2010, while employed with Texas Oncology, Beaumont, Texas, Respondent submitted fraudulent time sheets/time cards and received payment for hours she did not actually work during weekend rounds with Dr. Scott McKenney. Respondent's conduct was deceptive and was likely to defraud Texas Oncology of monies for hours that Respondent did not actually work.

12. In response to Finding of Fact Number Eleven (11), Respondent, through her attorney, states:

“This allegation is technically correct, at least on one occasion (in which she billed time for work on a weekend day when the clinic was actually closed due to lack of water). However, in general, the total hours billed by [Respondent] closely approximates, though does not exceed, the total hours worked. In essence, [Respondent] re-allocated time worked during the week to the weekends, so that she was compensated for all hours that she actually spent on the institution’s work.”

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 of Section 301.452(b)(3)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(A),(6)(H),(10)(B),(10)(E),(11)(B) &(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 107638, heretofore issued to KELLIE KAY FREEMAN, 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 a REPRIMAND WITH STIPULATIONS AND A FINE, 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>.

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

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:

(4) 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.

(5) 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.

(6) 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.

(7) For the remainder of the stipulation 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.

(8) 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.

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.

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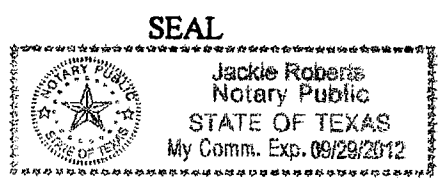
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RESPONDENT'S CERTIFICATION

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

Signed this 16 day of April, 2012.
Kellie Kay Freeman
KELLIE KAY FREEMAN, Respondent

Sworn to and subscribed before me this 16th day of April, 2012.



Jackie Roberts
Notary Public in and for the State of TEXAS

Approved as to form and substance.
[Signature]
Christopher Malish, Attorney for Respondent

Signed this 19 day of April, 2012.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 16th day of April, 2012, by KELLIE KAY FREEMAN, Vocational Nurse License Number 107638, and said Order is final.

Effective this 7th day of May, 2012.



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

