

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse

License Number 221418

issued to TRICIA WHITMIRE EPPES

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AGREED

ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of TRICIA WHITMIRE EPPES, Vocational Nurse License Number 221418 hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(3),(9),(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on January 13, 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 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 Tyler County Hospital, Woodville, Texas, on December 19, 2008. Respondent was licensed to practice vocational nursing in the State of Texas on April 9, 2009.
5. Respondent's vocational nursing employment history includes:

04/09 - 06/09

unknown



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

Respondent's vocational nursing employment history continued:

07/09 - 06/10

LVN

Memorial Hermann Baptist Hospital
Beaumont, Texas

07/10 - Present

Unknown

6. On or about May 4, 2009, Respondent entered a plea of guilty to FRAUDULENT USE OF ID INFO, (a Class A Misdemeanor offense committed on January 25, 2006), in the 88th Judicial District Court of Hardin County, Texas, under Cause No. 19289. As a result of the guilty plea, the proceedings against Respondent were deferred, without entering an adjudication of guilt, and Respondent was placed on community supervision for a period of nine (9) months. Additionally, Respondent was ordered to pay a fine, court costs and restitution.
7. In response to Finding of Fact Number Six (6), Respondent states she was working at a hair salon and needed to pay her cell phone bill. Respondent went to the desk where her check book was, as well as the salon checkbook. Respondent states they looked the same and she was in a hurry so when the phone company representative asked for the routing numbers along the bottom of the check she accidentally gave the salon's checking account information. Respondent states the phone company informed her about it a few weeks later and she offered to pay the salon owners their money back. Respondent states the salon owners wouldn't speak to her, terminated her, then pressed charges.
8. On or about April 15, 2010, Respondent submitted her License Renewal Form to the Texas Board of Nursing and provided false, deceptive and/or misleading information in that she answered "No" to the question:

"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

...

C. pled nolo contendere, no contest, or guilty?

D. received deferred adjudication?

E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?

..."

On or about May 4, 2009, Respondent entered a plea of guilty to FRAUD USE/POSS OF IDENTIFYING INFO, (a Class A Misdemeanor offense committed on February 9, 2006), in the 88th District Court of Hardin County, Texas, under Cause No. 19289.

Respondent's conduct was deceiving and may have affected the Board decision to renew her license.

9. In response to Finding of Fact Number Eight (8), Respondent states that she did not answer 'yes' to the question because the arrest was reviewed at the time of her initial licensing process. At that time, Respondent adds, the arrest was unresolved and the court had not issued a final disposition.
10. On or about June 1, 2010 and June 12, 2010, while employed with Memorial Hermann Baptist Hospital of Southeast Texas, Beaumont, Texas, Respondent removed Dilaudid from the Acudose medication dispensing system for patients without a valid physician's order, as follows:

Date	Patient MR#	Physician's Order	Medication Dispensing System Record Time and Quantity	Medication Administration Record	Nurses Notes
6-1-10	1011142 [R.W.]	No Order	Hydromorphone 2mg/ml soln 2138 (1)	No Entry	No Entry
6-12-10	2225348 [A.M.]	No Order	Hydromorphone 2mg/ml soln 0114 (1)	No Entry	No Entry
6-12-10	2225529 [R.H.]	No Order	Hydromorphone 2mg/ml soln 2304 (1)	No Entry	No Entry

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 placed the hospital in violation of Chapter 481 (Controlled Substances Act) of the Texas Health & Safety Code.

11. On or about June 1, 2010 and June 12, 2010, while employed with Memorial Hermann Baptist Hospital of Southeast Texas, Beaumont, Texas, Respondent removed Dilaudid from the Acudose medication dispensing system for patients, but failed to accurately and/or completely document its administration, including signs, symptoms and responses to the medications, in the patients' medication administration records (MARs) and or nurse's notes, as follows:

Date	Patient MR#	Physician's Order	Medication Dispensing System Record Time and Quantity	Medication Administration Record	Nurses Notes
6-1-10	1011142 [R.W.]	No Order	Hydromorphone 2mg/ml soln 2138 (1)	No Entry	No Entry
6-12-10	2225348 [A.M.]	No Order	Hydromorphone 2mg/ml soln 0114 (1)	No Entry	No Entry
6-12-10	2225529 [R.H.]	No Order	Hydromorphone 2mg/ml soln 2304 (1)	No Entry	No Entry

Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patients which could result in an overdose.

12. On or about June 1, 2010, June 2, 2010 and June 12, 2010, while employed with Memorial Hermann Baptist Hospital of Southeast Texas, Beaumont, Texas, Respondent removed medications from the Acudose medication dispensing system for patients, but failed to follow the facility's policy and procedure for wastage of the unused portions of the medications, as follows:

Date	Patient MR#	Physician's Order	Medication Dispensing System Record Time and Quantity	Medication Administration Record	Nurses Notes	Wastage
6-1-10	1011142 [R.W.]	No Order	Hydromorphone 2mg/ml soln 2138 (1)	No Entry	No Entry	Not Documented
6-1-10	1020155 [M.G.]	Ativan 0.5mg IVP Now x 1	Lorazepam 2mg/ml soln 2352 (1)	2356 - 0.5mg IVP	0037 - No adverse reaction	Not Documented
6-2-10	1058405 [C.W.]	Dilaudid 0.5mg IVP Now x 1	Hydromorphone 2mg/ml soln 2257 (1)	2320 - Dilaudid 0.5mg IVP	0051 - no adverse reaction	Not Documented
6-12-10	2225348 [A.M.]	No Order	Hydromorphone 2mg/ml soln 0114 (1)	No Entry	No Entry	Not Documented
6-12-10	2225336 [J.F.]	Morphine 2-5mg IVP titrate to pain	Morphine Sulfate 5mg vial 0328 (1)	0334 - Morphine 2mg IVP	Pain is decreased	Not Documented
6-12-10	2225529 [R.H.]	No Order	Hydromorphone 2mg/ml soln 2304 (1)	No Entry	No Entry	Not Documented

Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 (Controlled Substances Act) of the Texas Health & Safety Code.

13. On or about June 1, 2010, June 2, 2010 and June 12, 2010, while employed with Memorial Hermann Baptist Hospital of Southeast Texas, Beaumont, Texas, Respondent misappropriated, or failed to take precautions to prevent the misappropriation of, medications from the facility and patients thereof. Respondent's conduct was likely to defraud the facility and the patients of the cost of the medications.
14. On or about June 18, 2010, while employed with Memorial Hermann Baptist Hospital of Southeast Texas, Beaumont, Texas, Respondent engaged in the intemperate use of amphetamines and opiates in that she produced a specimen for a reasonable suspicion urine drug screen which resulted positive for amphetamine, morphine, hydrocodone and hydromorphone. Unlawful possession of amphetamines and opiates is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of amphetamines and opiates 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 patients' conditions, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

15. In response to Findings of Fact Numbers Ten (10) to Fourteen (14), Respondent states that she used wasted medications (Dilaudid) to self manage pains for a dental procedure that consisted of all upper teeth extraction, oral surgery to remove a tooth from her palate and dentures placed the same day. Upon returning to work, within a week, Respondent states her oral pain medications weren't helping and she used the Dilaudid to self manage her pain after she was off her shift. Respondent states she never took those medications while on duty, and only took her prescribed ones.
- Respondent states that she reported herself to the Board of Nursing and to the Texas Peer Assistance Program for Nurses (TPAPN), where she was instructed to undergo a chemical dependency assessment at The Right Step. Respondent states she didn't follow up with the recommended treatment and classes due to the fact that she felt she couldn't afford to complete all the requirements of the TPAPN participation agreement and did not want to be classified as a drug abuser.
16. 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 a violation of Section 301.452(b)(2),(3),(9),(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(A),(B),(C)&(D) and 217.12(1)(A),(1)(B),(4),(5),(6)(G),(6)(H),(6)(I),(8),(10)(A),(10)(B),(10)(C),(10)(D),(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 221418, heretofore issued to TRICIA WHITMIRE EPPES, 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 Vocational Nurse License Number 221418, previously issued to TRICIA WHITMIRE EPPES, to practice vocational nursing in Texas is hereby SUSPENDED for a period of three (3) years with the suspension STAYED and Respondent is hereby placed on PROBATION

for three (3) 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 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 pay a monetary fine in the amount of six hundred dollars (\$600). RESPONDENT SHALL pay this fine within forty-five (45) days of the suspension being stayed. 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 PROBATION CONDITIONS FOR THREE (3) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) 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 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.

(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 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 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.

(8) 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.

(9) 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.

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

(11) 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) months for three (3) years of employment as a nurse.

(12) 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 an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.**

(13) 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:

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 failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and 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.

(14) 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 professional 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 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 is dismissed from therapy.

(15) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board.

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.

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 shall be eligible for nurse licensure compact privileges, if any.

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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 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.

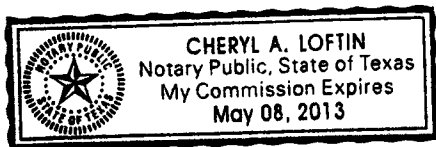
Signed this 30 day of January, 2012.

Tricia Whitmire Eppes
TRICIA WHITMIRE EPPES, Respondent

Sworn to and subscribed before me this 30 day of January, 2012.

SEAL

Cheryl A. Loftin
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 30th day of January, 2012, by TRICIA WHITMIRE EPPES, Vocational Nurse License Number 221418, and said Order is final.

Effective this 20th day of March, 2012.



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