



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.  
*Patricia R. Plummer*  
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of § AGREED  
Registered Nurse License Number 638962 §  
issued to KEVIN SCOTT LUTZ § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of KEVIN SCOTT LUTZ, Registered Nurse License Number 638962, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

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

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to 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 professional nursing in the State of Texas.
4. Respondent received a Diploma in Nursing from St. Lawrence College, Kingston, Canada on June 1, 1996. Respondent was licensed to practice professional nursing in the State of Texas on March 18, 1997.
5. Respondent's nursing employment history includes:

4/97-1/07	RN	West Houston Medical Center Houston, Texas
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Respondent's nursing employment history continued:

1/07-6/10	RN	CHRISTUS St. Catherine Houston, Texas
2/10-6/10	RN	Cypress Fairbanks Medical Center Houston, Texas
7/10-9/10	Unknown	
10/10-3/11	RN	Methodist Willowbrook Hospital Houston, Texas
4/11	Unknown	
5/11-7/11	RN	Intracare North Hospital Houston, Texas
8/11	Unknown	
9/11-4/12	RN	TaleMed Loveland, Ohio
5/12-Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a registered nurse with Cypress Fairbanks Medical Center, Houston, Texas, and had been in this position for approximately one (1) month.
7. On or about February 2010, through June 2010, while employed with Cypress Fairbanks Medical Center, Houston, Texas, Respondent made false entries in patients' medical records in that he documented the administration of Morphine and Dilaudid that had not been administered. Respondent's conduct was deceiving to subsequent caregivers who would rely on an inaccurate medical record to provide ongoing medical care.
8. On or about February 2010, through June 2010, while employed with Cypress Fairbanks Medical Center, Houston, Texas, Respondent withdrew Morphine and Dilaudid from the medication dispensing system for patients, but failed to completely and accurately document the administration of the medication including signs, symptoms and responses to the medication administered in the patient's Medication Administration Records (MARs) and/or Nurses Notes. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on his documentation to further medicate the patient which could result in an overdose.

9. On or about February 2010, through June 2010, while employed with Cypress Fairbanks Medical Center, Houston, Texas, Respondent withdrew Morphine and Dilaudid from the medication dispensing system for patients, but failed to follow the policy and procedure for the wastage of the unused portion of the medications. Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
10. On or about February 2010, through June 2010, while employed with Cypress Fairbanks Medical Center, Houston, Texas, Respondent misappropriated Morphine and Dilaudid from the facility and the patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
11. In response to Findings of Fact Numbers Seven (7), through Ten (10), Respondent stated that they are "basically true" and that he self-referred to Texas Peer Assistance Program for Nurses after the incidents and is doing everything he can to confront his addiction.
12. On or about February 2011, while employed with Methodist Willowbrook Hospital, Houston, Texas, Respondent withdrew Morphine, Hydromorphone and Hydrocodone from the medication dispensing system for patients, but failed to completely and accurately document the administration, including signs, symptoms and responses to the medication, in the patients' Medication Administration Records (MARs) and/or Nurses' Notes. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on his documentation to further medicate the patient which could result in an overdose.
13. On or about February 2011, while employed with Methodist Willowbrook Hospital, Houston, Texas, Respondent withdrew Morphine, Hydromorphone and Hydrocodone from the medication dispensing system for patients, but failed to waste the unused portions of the medication. Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
14. On or about February 2011, while employed with Methodist Willowbrook Hospital, Houston, Texas, Respondent misappropriated Morphine, Hydromorphone and Hydrocodone belonging to the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

15. On or about February 18, 2011, while employed with Methodist Willowbrook Hospital, Houston, Texas, Respondent engaged in the intemperate use of Morphine and Hydromorphone in that he submitted a specimen for drug screening which resulted positive for Morphine and Hydromorphone. Possession of Morphine and Hydromorphone without a valid prescription is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Morphine and Hydromorphone 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.
16. On or about February 21, 2011, while employed with Methodist Willowbrook Hospital, Houston, Texas, Respondent engaged in the intemperate use of Morphine in that he submitted a specimen for drug screening which resulted positive for Morphine. Possession of Morphine without a valid prescription is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of 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.
17. In response to Findings of Fact Numbers Twelve (12) through Sixteen (16), Respondent states when he began working for Methodist Willowbrook, he believed he would be monitored. He states he was left unsupervised with no monitoring and complete access to narcotics. Respondent states that he resisted the temptation for months but in a moment of weakness he succumbed to the temptation. Respondent states when he was confronted, he was 100% honest and took/continues to take responsibility for his actions.
18. On or about June 21, 2011, while employed with Intracare North Hospital, Houston, Texas Respondent engaged in the intemperate use of Hydromorphone in that he submitted a specimen for drug screening which resulted positive for Hydromorphone. Possession of Hydromorphone without a valid prescription is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Hydromorphone 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.

19. In response to Findings of Fact Number Eighteen (18), Respondent states that he went back to treatment and got a job with Intracare North Hospital who genuinely seem to care about his situation. Respondent states he was shocked when he was told he had a positive screen and asserts that he called the lab and paid to have an investigation done. According to Respondent, he explained to the MD in charge that he had been sick and had taken an over the counter medication similar to Nyquil. Respondent adds that Intracare does not even stock Hydromorphone. Respondent states he was told they could not find any fault in the way the test was run, but reported that it could have been a false positive.
20. On or about September 22, 2011, through April 3, 2012, while employed with TaleMed, Loveland, Ohio, and working at Rehoboth McKinley Christian Hospital, Gallup, New Mexico, and utilizing his privilege to practice associated with his license to practice nursing in the State of Texas, Respondent withdrew Morphine & Dilaudid from the medication dispensing system for patients, but failed to completely and accurately document the administration of the medication including signs, symptoms and responses to the medication administered in the patient's Medication Administration Records (MARs) and/or Nurses Notes. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on his documentation to further medicate the patient which could result in an overdose.
21. On or about September 22, 2011, through April 3, 2012, while employed with TaleMed, Loveland, Ohio, and working at Rehoboth McKinley Christian Hospital, Gallup, New Mexico, and utilizing his privilege to practice associated with his license to practice nursing in the State of Texas, Respondent withdrew Morphine & Dilaudid from the medication dispensing system for patients, but failed to waste the unused portions of the medication. Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
22. On or about September 22, 2011, through April 3, 2012, while employed with TaleMed, Loveland, Ohio, and working at Rehoboth McKinley Christian Hospital, Gallup, New Mexico, and utilizing his privilege to practice associated with his license to practice nursing in the State of Texas, Respondent exceeded his scope of practice in that he wrote orders for Morphine and Dilaudid for patients without a physician's authorization. Respondent's conduct violated Chapter 481 of the Texas Health and Safety Code (Controlled Substance Act) and was likely to injure patients from medications administered without the benefit of a physician's expertise.
23. On or about September 22, 2011, through April 3, 2012, while employed with TaleMed, Loveland, Ohio, and working at Rehoboth McKinley Christian Hospital, Gallup, New Mexico, and utilizing his privilege to practice associated with his license to practice nursing in the State of Texas, Respondent withdrew Morphine and Dilaudid from the medication dispensing system for patients without a valid physician's order. Respondent's conduct was likely to injure the patients in that the administration of Morphine and Dilaudid without a

valid physician's order could result in the patient suffering from adverse reactions.

24. On or about September 22, 2011, through April 3, 2012, while employed with TaleMed, Loveland, Ohio, and working at Rehoboth McKinley Christian Hospital, Gallup, New Mexico, and utilizing his privilege to practice associated with his license to practice nursing in the State of Texas, Respondent misappropriated Morphine and Dilaudid belonging to the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
25. Respondent, by his signature to this Order, expresses his desire to voluntarily surrender his license(s) to practice nursing in the State of Texas.
26. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
27. 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 §217.11(1)(A),(B),(C)&(D) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C), (4),(5),(6)(A),(6)(G),(6)(H),(8),(10)(C),(10)(D),(10)(E)&(11)(B).
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 638962, heretofore issued to KEVIN SCOTT LUTZ, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.

7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Registered Nurse License Number 638962, heretofore issued to KEVIN SCOTT LUTZ, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying himself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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.

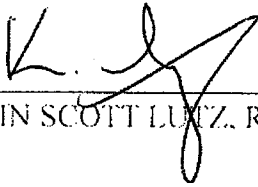
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RESPONDENT'S CERTIFICATION

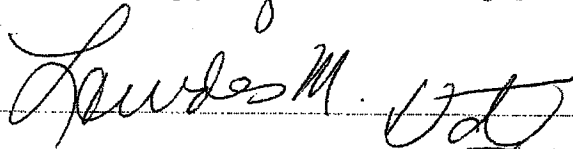
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and 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 becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 30 day of Aug, 2012.



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KEVIN SCOTT LUTZ, Respondent

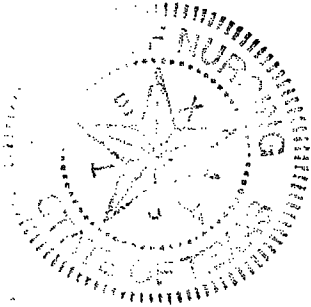
Sworn to and subscribed before me this 30<sup>th</sup> day of August, 2012.



Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Registered Nurse License Number 638962, previously issued to KEVIN SCOTT LUTZ.



Effective this 5th day of September, 2012.

A handwritten signature in cursive script, reading "Katherine A. Thomas".

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