



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 Registered Nurse License Number 632449 § AGREED
and Vocational Nurse License Number 157268 §
issued to JOHN CURBO § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Bo considered the matter of JOHN CURBO, Registered Nurse License Number 632449 _____ Vocational Nurse License Number 157268, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(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 March 17, 2009, by Katherine A. Thomas, MN, RN, 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.
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. Respondent's license to practice vocational nursing in the State of Texas is currently in inactive status.
4. Respondent received a Baccalaureate Degree in Nursing from The University of Texas at Tyler, Tyler, Texas, on May 1, 1996. Respondent was licensed to practice vocational nursing in the State of Texas on April 23, 1996, and was licensed to practice professional nursing in the State of Texas on July 23, 1996.

5. Respondent's professional & vocational nursing employment history includes:

04/1996 - 09/1996	LVN/RN	Mother Frances Hospital Tyler, Texas
09/1996 - 05/1997	RN	Bethel Home Health Agency
05/1997 - 08/1997	RN	Mother Frances Hospital Tyler, Texas
09/1997 - 07/1998	RN	Casha Resource Home Health Services Location unknown
05/1997 - 06/1998	RN	Life Line Home Health Services Tyler, Texas
06/1998 - 11/1998	RN	East Texas Medical Center Tyler, Texas
05/1998 - 11/1999	RN	Trinity Mother Frances Health Care System Tyler, Texas
11/1999 - 04/2005	RN	University of Texas Health Center Tyler, Texas
04/2005 - 08/2005	Employment History Unknown	
08/2005 - 07/2008	RN	East Texas Medical Center Behavioral Health Center Tyler, Texas
08/2008 - Present	RN	Rusk State Hospital Rusk, Texas

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with ETMC Behavioral Health, Jacksonville, Texas, and had been in this position for two (2) years and (5) months.

7. On or about January 5, 2008 through July 15, 2008, while employed as a Registered Nurse with ETMC Behavioral Health, Jacksonville, Texas, Respondent withdrew Toporol XL, Flexeril and Catapres from the Medication Dispensing System (Pyxis) for patients who were not assigned to his care, and without valid physicians' orders. Respondent's conduct was likely to injure the patients, in that the administration of Toporol XL, Flexeril and Catapres,

without a valid physician's order, could result in the patients experiencing respiratory depression and was in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

8. In response to Finding of Fact Number Seven (7), Respondent states that he was commonly asked to pull medications for co-workers and often asked co-workers to do the same. Respondent denies ever withdrawing Toporol XL, Flexeril and Catapres without an order from a physician and state the medications were listed under Cancel Removals. He states that the monitor screen on the Pyxis has a small touch screen and he has often hit the wrong medication or patient.
9. On or about January 5, 2008 through July 15, 2008, while employed as a Registered Nurse with ETMC Behavioral Health, Jacksonville, Texas, Respondent withdrew Toporol XL, Flexeril, Catapres, Percocet and Norco from the Medication Dispensing System (Pyxis) for patients, but failed to document, or accurately document the administration of the medications in the patients' Medication Administration Records and/or the nurse's notes. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on his documentation to further medicate the patients which could result in an overdose and placed the hospital in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substance Act).
10. In response to Finding of Fact Number Nine (9), Respondent states any lack of documentation was entirely possible. Any lack of documentation would have to be attributed to human error. He states that East Texas Medical Clinic is an acute psychiatric facility where the patients must be constantly monitored and their needs are very demanding and require much attention. Respondent states that documentation, though important, was not always his primary concern.
11. On or about January 5, 2008 through July 15, 2008, while employed as a Registered Nurse with ETMC Behavioral Health, Jacksonville, Texas, Respondent withdrew Norco from the Medication Dispensing System (Pyxis) for patients that had been previously discharged from the facility. Respondent's conduct was likely to defraud the facility and patients of the cost of medications.
12. In Response to Finding of Fact Number Eleven (11), Respondent states that the nurses at East Texas Medical Clinic chart by the clocks on the unit, not by the Pyxis clock and that he has seen a seven to twelve minute difference between the two clocks. He states that many times patients are scheduled or prepared to discharge at certain times and many times he would have a patient ready to go, but perhaps transportation was not available, or there would be an emergency that he would have to tend to. Respondent states that although they were discharged on paper, they were still present and he was still responsible for their medications. He adds that his only deficit is that he may not have documented when they physically left the facility.

13. On or about January 5, 2008 through July 15, 2008, while employed as a Registered Nurse with ETMC Behavioral Health, Jacksonville, Texas, Respondent withdrew Toporol XL, Flexeril, Catapres, Percocet, HCTZ and Norco from the Medication Dispensing System (Pyxis) for patients, but failed to follow the facility's policy and procedures for wastage of any of the unused portions 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).
14. In response to Finding of Fact Number Thirteen (13), Respondent states that if the medications were wasted, they were wasted using proper procedure. They would have been wasted with another licensed professional as witness. Respondent states that the only error he may have made was not reflecting the wastage on the Pyxis.
15. On or about January 5, 2008 through July 15, 2008, while employed as a Registered Nurse with ETMC Behavioral Health, Jacksonville, Texas, Respondent misappropriated Toporol XL, Flexeril, Catapres, Percocet and Norco from 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 medications.
16. In response to Finding of Fact Number Sixteen (16), Respondent states there was no such misappropriations.

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 violations of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(D) and 22 TEX. ADMIN. CODE §217.12(1)(B),(6)(G), (H),(10)(B),(C)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 632449 and Vocational Nurse License Number 157268, heretofore issued to JOHN CARBO, including revocation of Respondent's licenses to practice professional and vocational 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 WARINING WITH STIPULATIONS, 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 this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice professional and vocational nursing in compact states.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure 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 deliver the wallet-sized license issued to JOHN CARBO, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order.

(2) 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) contact 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.state.tx.us/disciplinaryaction/stipscourses.html>

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in medication administration. 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. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights

of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor 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.state.tx.us/disciplinaryaction/stipscourses.html>.

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, 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.state.tx.us/disciplinaryaction/stipscourses.html>.

(5) 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. *Information regarding this workshop may be found at the following web address:*
<http://www.learningext.com/products/generalce/critical/ctabout.asp>.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A REGISTERED OR LICENSED VOCATIONAL 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 ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION

PERIOD:

(6) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT's license. 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 conditions on RESPONDENT's license. 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.

(7) 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.

(8) RESPONDENT SHALL be supervised by a Registered 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) 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 Registered 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 one (1) year of employment as a nurse.

(10) 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.**

(11) 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. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis is 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 stipulation 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 stipulation period.

Any positive result for which the nurse does not have a valid prescription will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board. Failure to report for a drug screen may be considered the same as a positive result and may result in further disciplinary action by this Board.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional and vocational 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 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 to practice professional and vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 3 day of April, 2009.

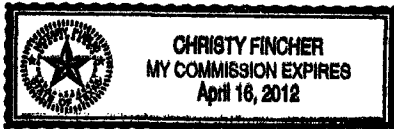
John Curbo
JOHN CURBO, Respondent

Sworn to and subscribed before me this 3 day of April, 2009.

SEAL

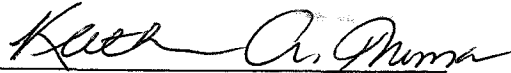
Christy Fincher

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 3rd day of April, 2009, by JOHN C URBO, Registered Nurse License Number 632449 and Vocational Nurse License Number 157268, and said Order is final.

Effective this 12th day of May, 2009.



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