

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of § AGREED  
Vocational Nurse License Number 143924 §  
issued to KRISTINE ANNE MARTIN § ORDER

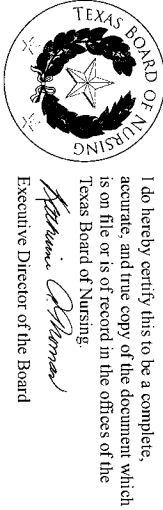
On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of KRISTINE ANNE MARTIN, Vocational Nurse License Number 143924, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(9),(10)&(12) and 301.453, Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on November 5, 2012.

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 Victoria College, Seguin, Texas, on August 20, 1993. Respondent was licensed to practice vocational nursing in the State of Texas on December 1, 1993.
5. Respondent's vocational nursing employment history includes:

1993 - 1997	LVN	Guadalupe Regional Medical Center Seguin, Texas
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Respondent's vocational nursing employment history continued:

1997 - 1999	LVN	Jerry Castilleja, M.D. Seguin, Texas
1999 - 2003	LVN	Long Term Care Seguin, Texas
2003 - 2007	LVN	Colonial Manor Care Center New Braunfels, Texas
2007 - 2009	LVN	Eden Home New Braunfels, Texas
2008 - 2010	LVN	Colonial Manor Care Center New Braunfels, Texas
04/10 - 05/10	LVN	Texan Nursing & Rehabilitation San Marcos, Texas
11/10 - 05/11	LVN	Normandy Terrace San Antonio, Texas
06/11 - 08/11	LVN	Chisholm Trail Center Lockhart, Texas
09/11 - Present	Not Working in Nursing	

6. On or about May 5, 2010, while employed with Texan Nursing & Rehabilitation, San Marcos, Texas, Respondent lacked fitness to practice vocational nursing in the State of Texas in that she was observed exhibiting impaired behavior, including but not limited to: having erratic behavior, being rude to other employees, and reaching into her purse and taking pills during the day. Respondent's conduct could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

7. In response to the incident in Finding of Fact Number Six (6), Respondent states:

"As of this point in time, I cannot recall what type of behavior I exhibited that day. However, if I was described as erratic, I'm reasonable sure it was an accurate description. I was rude to a co-worker that day, that I do remember. I did have a bottle of Excedrin in my work bag and assume that was what I was seen taking."

8. On or about May 5, 2010, while employed with Texan Nursing & Rehabilitation, San Marcos, Texas, Respondent engaged in the intemperate use of opiates in that she produced a specimen for a urine drug screen which resulted positive for opiates. Unlawful possession of opiates is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of opiates by a Licensed Vocational 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 patient in potential danger.
9. In response to Finding of Fact Number Eight (8), Respondent states:  
  
"Yes, I tested positive for opiates via a urine drug screening at random."
10. On or about May 21, 2011, while employed with Normandy Terrace, San Antonio, Texas, Respondent misappropriated, or failed to take precautions to prevent the misappropriation of, narcotics from the facility and patients thereof. Respondent's conduct was likely to deceive the facility and its patients of the cost of the medications.
11. In response to Finding of Fact Number ten (10), Respondent states:  
  
"I did not divert narcotics from Normandy Terrace....I want it noted that I passed two urine screens during the investigation process. I was asked if I had diverted any narcotics and told them no I did not."
12. On or about August 19, 2011, while employed with Chisholm Trail Nursing & Rehabilitation Center, Lockhart, Texas, Respondent lacked fitness to practice vocational nursing in the State of Texas in that she was observed exhibiting impaired behavior, including but not limited to having glassy eyes. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
13. In response to the incident in Finding of Fact Number Twelve (12), Respondent states:  
  
"If it was noted by others that my eyes were glassy, then I'm sure they were."
14. On or about August 19, 2011, while employed with Chisholm Trail Nursing & Rehabilitation Center, Lockhart, Texas, Respondent engaged in the intemperate use of Fentanyl in that she admitted to using a Fentanyl patch to the facility administrator. Unlawful possession of Fentanyl is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Fentanyl by a Licensed Vocational 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 patient in potential danger.

15. On or about August 19, 2011, while employed with Chisholm Trail Nursing & Rehabilitation, Lockhart, Texas, Respondent misappropriated a Fentanyl patch from the facility and patients thereof. Respondent's conduct deceived the facility and its patients of the cost of the medication.
16. In response to Findings of Fact Numbers Fourteen (14) and Fifteen (15), Respondent states:  
  
"I did tell the administrator that I had used a Fentanyl patch....I had found a Fentanyl patch on the floor several days prior to August 19, 2011. It had obviously been applied to patient as it was written on and the backing had been removed. I can only assume it fell off of a patient."
17. The Respondent's conduct as described in the preceding Finding(s) of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
18. 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.
19. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use disorder.
20. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

#### CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, 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 §217.12(4),(5),(6)(G),(8),(10)(A),(10)(D)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(9),(10)&(12), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 143924, heretofore issued to KRISTINE ANNE MARTIN, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep all applicable license(s) to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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 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 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, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in 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.

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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. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, 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.

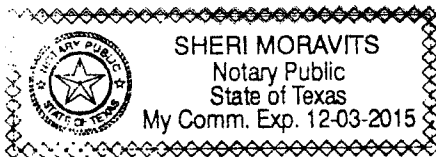
Signed this 28<sup>th</sup> day of November, 2012.

Kristine Anne Martin, RN  
KRISTINE ANNE MARTIN, RESPONDENT

Sworn to and subscribed before me this 28<sup>th</sup> day of November, 2012.

SEAL

Sheri Moravits



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 and enter the Agreed Order that was signed on the 28th day of November, 2012, by KRISTINE ANNE MARTIN, Vocational Nurse License Number 143924, and said Order is final.

Entered and effective this 5th day of December, 2012.



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