



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 § AGREED
License Number 529078 §
issued to DIANE FRANCES VIALE § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of DIANE FRANCES VIALE, Registered Nurse License Number 529078, 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)(3)&(10), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on December 20, 2011, 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 is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received a Baccalaureate Degree in Nursing from Duke University, Durham, North Carolina, on December 1, 1983. Respondent was licensed to practice professional nursing in the State of Texas on January 24, 1986.
5. Respondent's professional nursing employment history is unknown.

6. On April 21, 1998, Respondent's licence to practice professional nursing in the State of Texas was issued the sanction of a REPRIMAND WITH STIPULATIONS by the Board of Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated April 21, 1998, is attached and incorporated, by reference, as part of this Order.
7. On or about September 9, 2010, Respondent entered a plea of Guilty to POSSESSION OF A CONTROLLED SUBSTANCE, a 3rd Degree Felony offense committed on November 6, 2009, in the 362nd District Court, Denton County, Texas, under Cause No. F-2010-0936-D. As a result, the proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on community supervision for a period of three (3) years. Additionally, Respondent was ordered to pay a fine, court costs and restitution in the amount of one hundred forty dollars (\$140.00).
8. On or about September 9, 2010, Respondent entered a plea of Guilty to POSSESSION OF A CONTROLLED SUBSTANCE, a State Jail Felony offense committed on November 6, 2009, in the 362nd District Court, Denton County, Texas, under Cause No. F-2010-0938-D. As a result, the proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on community supervision for a period of three (3) years. Additionally, Respondent was ordered to pay restitution in the amount of one hundred forty dollars (\$140.00) and court costs.
9. Respondent is in full compliance with the requirements of her deferred adjudication.
10. Formals Charges were filed on October 27, 2011.
11. Formals Charges were mailed to Respondent on October 28, 2011.

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 §217.12(13).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(3)&(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 529078, heretofore issued to DIANE FRANCES VIALE, 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 LIMITED LICENSE 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 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) While under the terms of this Order, RESPONDENT SHALL NOT provide direct patient care. For the purposes of this Order, direct patient care involves a personal relationship between the Nurse and the client, and includes, but is not limited to: teaching, counseling, assessing the client's needs and strengths, and providing skilled nursing care.

(2) SHOULD RESPONDENT desire to return to a clinical practice setting, which would require her to provide direct patient care, RESPONDENT SHALL petition the Board for such approval.

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RESPONDENT'S CERTIFICATION

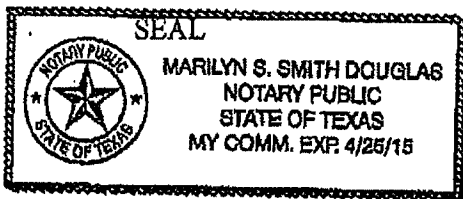
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order 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 16th day of November, 2012.

Diane F. Viale

DIANE FRANCES VIALE, Respondent

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



Marilyn S. Smith Douglas

Notary Public in and for the State of Texas

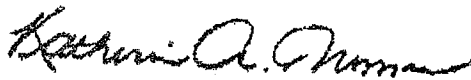
Approved as to form and substance.

Louis Leichter
LOUIS LEICHTER, Attorney for Respondent

Signed this 12 day of Nov, 2012

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 16 day of November, 2012, by DIANE FRANCES VIALE, Registered Nurse License Number 529078 and said Order is final.

Effective this 18 day of December, 2012.



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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Permanent Certificate §
Number 529078 issued to § AGREED ORDER
DIANE FRANCES VIALE §

An investigation by the Board produced evidence indicating that DIANE FRANCES VIALE, hereinafter referred to as Respondent, may have violated Article 4525(b)(9), Revised Civil Statutes of Texas, as amended.

An informal conference was held on May 13, 1997, at the office of the Board of Nurse Examiners, in accordance with Article 4524C, Revised Civil Statutes of Texas, as amended.

Respondent appeared in person. Respondent was notified of her right to be represented by legal counsel and elected to waive representation by counsel. In attendance were Katherine A. Thomas, MN, RN, Executive Director; Penny Puryear Burt, RN, J.D., Of Counsel; Anthony L. Diggs, Director of Investigations; and Diane E. Burell, Investigator.

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, notice and hearing, and consented to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in Texas.
4. Respondent received a Baccalaureate Degree in Nursing from Duke University, Durham, North Carolina, in December, 1983.

5. Respondent's professional employment history includes:

- | | |
|-----------------|---|
| 1/84 - 9/85 | Staff Nurse-CCU
Durham VA Medical Center
Durham, North Carolina |
| 9/85 - 1/86 | Unknown |
| 1/86 - 2/87 | Staff Nurse-ICU/CCU
Methodist Hospital
Dallas, Texas |
| 2/87 - 1/90 | Staff Nurse-ICU/CCU
Angel Touch Nursing Services
Dallas, Texas |
| 9/87 - 3/89 | Charge/Staff Nurse-CCU
Parkland Memorial Hospital
Dallas, Texas |
| 4/89 - 2/92 | Charge/Staff Nurse-ICU
The Irving Healthcare System
Irving, Texas |
| 4/89 - 1/95 | Charge/Staff Nurse-ICU
HCA Lewisville Memorial Hospital
Lewisville, Texas |
| 4/95 - 12/95 | Charge/Staff Nurse-CCU
The Irving Healthcare System
Irving, Texas |
| 12/95 - present | Nurse Legal Assistant
Gwinn and Roby
Counselors of Law
Dallas, Texas |

6. At the time of the incident, Respondent was employed as a Charge/Staff Nurse with Irving Hospital, Irving Healthcare System, Irving, Texas, and had been in this position for eight (8) months.

7. Respondent, during December 1995, while employed with the aforementioned facility, failed to administer Demerol and Morphine in a responsible manner in that medications were administered more frequently than ordered by the patients' physicians. Respondent's excessive medication was likely to injure patients by causing the potential for respiratory distress.

DATE	PATIENT	DOCTORS ORDERS	CONTROLLED DRUG RECORD	MEDICATION ADMINISTRATION RECORD
12/3/95	10340628	Demerol 25 mg. IV q 2-4 hrs.	Demerol 25 mg.	0015
same	same	same	same	0100
same	same	same	same	0200
12/7/95	10344612	Morphine Sulfate 2-5 mg. IV q 1-2 hrs. prn pain	MS 4 mg. syringe	2310
same	same	same	same	2353
12/16/95	10347581	Morphine Sulfate 1-5 mg. IV q hr. prn	MS 4 mg. syringe	0635
same	same	same	same	0650

8. Respondent was assessed on September 23, 1997, by R. Eric Willingham, LCDC, for chemical dependency or abuse. The counselor concluded that Respondent did not fit the criteria for an abuser.

CONCLUSIONS OF LAW

1. Pursuant to Article 4525, Revised Civil Statutes of Texas, 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 Article 4525(b)(9), TEX. REV. CIV. STAT. ANN., and 22 TEX. ADMIN. CODE §217.13(3).
4. The evidence received is sufficient cause pursuant to Article 4525(b), TEX. REV. CIV. STAT. ANN., to take disciplinary action against license number 529078, heretofore issued to DIANE FRANCES VIALE.

AGREED SANCTIONS

IT IS THEREFORE AGREED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of a Reprimand with Stipulations, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Art. 4513 et. seq., the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 et. seq. and this Order.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-size license issued to FRANCES DIANE VIALE, to the office of the Board of Nurse Examiners within ten (10) days of the date of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing jurisprudence. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience must include registered nurses. It must be a minimum of six (6) contact hours in length. The course's content should include the Nursing Practice Act, standards of practice, and documentation of care. 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 is to be taken in addition to any continuing education requirements the Board may have for relicensure.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in assessment and management of patient pain. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home Study courses and video programs will not be approved. The course must be a minimum of six (6) contact hours in length. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify RESPONDENT'S successful completion of the course. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure.

IT IS FURTHER AGREED, SHOULD RESPONDENT CHOOSE TO PRACTICE AS A REGISTERED NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING, UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT:

(3) RESPONDENT SHALL notify each present employer in professional nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a copy of this Order to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all potential employers in professional nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a copy of this Order to each potential employer prior to employment.

(4) RESPONDENT SHALL CAUSE each present employer in professional nursing to submit the Notification of Employment form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each potential employer to submit the Notification of Employment form to the Board's office within five (5) days of employment as a professional nurse.

(5) RESPONDENT SHALL be supervised by a Registered Nurse who is on the premises. The supervising RN 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. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(6) RESPONDENT SHALL CAUSE each employer to submit, on forms provided by the Board, periodic reports as to RESPONDENT's capability to practice professional nursing. These reports shall be completed by the Registered Nurse who supervises the RESPONDENT. These reports shall be submitted to the office of the Board at the end of each three (3) months for one (1) year of employment as a professional nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license to practice professional nursing in the State of Texas.

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 alleged herein. By my signature on this Order, I agree and consent to the issuance of the Agreed Order, the Agreed Sanctions, and any condition stated in this Order to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that when this Order becomes final and the terms of this Order become effective, a copy will be mailed to me.

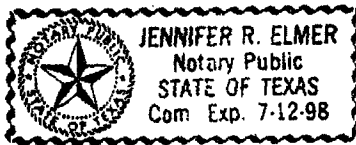
Signed this 13 day of March, 19 98.

Diane Frances Viale
DIANE FRANCES VIALE

Sworn to and subscribed before me this 13 day of March, 19 98.

SEAL

Jennifer Elmer
Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners
for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the
13th day of March, 1998, by DIANE FRANCES VIALE, license number
529078, and said Order is final.

Effective this 21 day of April, 1998.



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