



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 § AGREED
Registered Nurse License Number 672539 §
issued to KATHY RENAE HESTER § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of KATHY RENAE HESTER, Registered Nurse License Number 672539, 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)(10) & (13) and 301.453, 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 March 29, 2013, 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 an Associate Degree in Nursing from Mississippi Gulf Coast Community College, Gautier, Mississippi, on December 1, 1989. Respondent was licensed to practice vocational nursing in the State of Texas on September 6, 2000.
- 5. Respondent's professional nursing employment history includes:

10/07 - 5/09	ICU RN	Ocean Springs Hospital Ocean Springs, Mississippi
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Respondent's professional nursing employment history continued:

7/09 - present	PRN RN	Advanced Temporaries Tyler, Texas
7/09 - present	Private Duty Pedi Nurse	East Texas Care Team Longview, Texas
8/09 - 1/10	RN	Good Shepherd Medical Center Longview, Texas
6/11 - 7/12	Staff RN	Select Specialty Hospital Longview, Texas
8/12 - present	ICU RN	Longview Regional Medical Center Longview, Texas

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Select Specialty Hospital, Longview, Texas, and had been in this position for approximately one (1) year and one (1) month.
7. On or about June 22, 2012, while employed with Select Specialty Hospital, Longview, Texas, Respondent withdrew two (2) Hydrocodone tablets from the Pyxis Medication Dispensing System for Patient B.D. 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 Record (MAR) and/or Nurses Notes and failed to follow facility policy and procedure regarding the proper wastage of the unused portions of the medication. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose and 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).
8. On or about September 17, 2012 through September 21, 2012, while employed as a Registered Nurse with Longview Regional Medical Center, Longview, Texas, Respondent withdrew one (1) Hydrocodone tablet each from the facility medication dispensing system for Patient R.E. and Patient M.S. 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 and failed to follow facility policy and procedure regarding the proper wastage of the unused portions of the medication. Respondent misappropriated Hydrocodone belonging to the facility and patient's thereof or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose and 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). Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

9. While employed as a Registered Nurse with Select Specialty Hospital, Longview, Texas, Respondent produced negative drug screens for the following dates: July 3, 2012, June 29, 2012, May 31, 2012, May 10, 2012 and May 9, 2012 while employed as a Registered Nurse with Longview Regional Medical Center, Longview, Texas, Respondent produced a negative drug screen.
10. In response to the conduct outlined in Findings of Fact Numbers Seven (7) through twelve (12), Respondent states that there was no diversion and there was no misappropriation of medications. Respondent states that after reviewing the medical records she did fail to document the three medications above. Respondent points out for patient RE at Longview, the medication administration was documented in the nurses notes by another nurse who was apparently helping with the patient since the nurse documents in other areas of the medical record and based on the record it appears that the nurse failed to document the administration of the medication. However, Respondent states since she was the nurse who removed the medication from the medication system, she should have ensured the medication was documented.
11. 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) & (1)(C) and 22 TEX. ADMIN. CODE §217.12(1)(A), (4), (10)(C) & (11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10) & (13), Texas Occupations Code, to take disciplinary action against , Registered Nurse License Number 672539, heretofore issued to KATHY RENAE HESTER, 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 WARNING 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, 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, 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) 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) 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>

(2) 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.texas.gov/disciplinaryaction/stipscourses.html>*

(3) 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. *Board-approved courses may be found at the following Board website address:*

<http://www.bon.texas.gov/disciplinaryaction/stipscourses.html>.

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 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 A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:

(4) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations 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 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 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) RESPONDENT SHALL CAUSE each employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.

(7) 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) month period for one (1) year(s) of employment as a nurse.

(8) 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 a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a**

written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.

(9) 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 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 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 or refusal to submit to a drug or alcohol screen 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. Further, failure to report for a drug screen, excessive dilute specimens, or failure to call in for a drug screen may be considered the same as a positive result or refusal to submit to a drug or alcohol screen.

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 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 17th day of May, 2013.

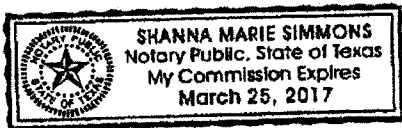
Kathy Renae Hester
KATHY RENAE HESTER, RESPONDENT

Sworn to and subscribed before me this 17th day of May, 2013.

SEAL

Shanna M. Simmons

Notary Public in and for the State of Texas



Approved as to form and substance.

Taralynn R. Mackay
Taralynn Mackay, Attorney for Respondent

Signed this 20th day of May, 2013.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 17th day of May, 2013, by KATHY RENAE HESTER, Registered Nurse License Number 672539, and said Order is final.

Effective this 11th day of June, 2013.



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