



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

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In the Matter of § AGREED  
Registered Nurse License Number 717298 §  
issued to PHILIP DUANE TALLEY § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of PHILIP DUANE TALLEY, Registered Nurse License Number 717298, 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), Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on November 13, 2014.

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 notice and hearing and agreed to the entry of this Order.
3. Respondent's license to practice as a professional nurse in the State of Texas is in current status.
4. Respondent received an Associate Degree in Nursing from Odessa College, Odessa, Texas, on May 13, 2005. Respondent was licensed to practice professional nursing in the State of Texas on June 21, 2005. Respondent was licensed as a Certified Nurse Practitioner in the State of New Mexico on February 12, 2014.
5. Respondent's nursing employment history includes:

06/05-12/11	RN	Odessa Regional Medical Center Odessa, Texas
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01/12-Present	Unknown	
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6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Odessa Regional Medical Center, and had been in this position for approximately six (6) years and six (6) months .
7. On or about October 29, 2011, while employed as a Registered Nurse with Odessa Regional Medical Center, Odessa, Texas, Respondent withdrew Demerol fifty (50) milligrams from the Medication Dispensing System at 1115 for patient medical record number 130200023, but failed to document, or completely and accurately document the administration and waste of the Demerol, including signs, symptoms, and responses to the Demerol in the patients Medication Administration Records, Nurses Notes and/or Pharmacy records. Respondent's conduct was likely to injure the patient, in that subsequent care givers would rely on his documentation to further medicate the patients which could result in an overdose, and Respondent's conduct placed the hospital and pharmacy in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
8. On or about November 1, 2011, through November 26, 2011, while employed as a Registered Nurse with Odessa Regional Medical Center, Odessa, Texas, Respondent used the name and Drug Enforcement Administration (DEA) number of Bindu B. Nair, MD, and Billy Aguilar, Family Nurse Practitioner, to call in fraudulent unauthorized prescriptions for Hydrococone and Azithromycin. Respondent's conduct was likely to deceive the pharmacy and possession of Hydrocodone through the use of fraudulent unauthorized prescription is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
9. In response to Findings of Fact Numbers Seven (7) through Eight (8), Respondent states all medications were administered as ordered and communicated to attending staff during the course of patient care. Additionally, Respondent states that he had been treated by, and believed he had authorization to call in the prescription, but admits that he should not have called in these prescriptions himself.
10. On or about December 19, 2013, and January 21, 2014, Respondent completed a Chemical Dependency Evaluation with Alexander Howe, PhD. Dr. Howe states that the assessment of Respondent's thoughts, emotions, and behaviors as they relate to his usage of alcohol, street or illicit drugs, or non-prescribed medication for him does not currently define the presence of current abuse and/or dependence disorder. Additionally, Dr. Howe states, Respondent does not present as possessing either a major emotional disorder or psychotic disorder or enduring personality disorder; however, the allegations of his behavior in providing nursing care to patients within the confines of the Emergency Room (ER) does suggest the potential for concern within the ER milieu. Additionally, it appears that within that setting, there has been a lack of clearly defined lines of responsibility in providing appropriate medical care to the specific medical providers. Dr. Howe asserts, it also appears that there is a lack of clearly defined rules of maintaining responsible control of medications ordered, withdrawn, administered, documented, and possibly wasted. Dr. Howe concludes both the Board of Nursing, as well as the specific medical facility may consider either expanding the knowledge base of the Respondent or imposing greater standards of care to ensure the medical care of the patients is within their respective charge.

11. Formal Charges were filed on November 6, 2013.
12. Formal Charges were mailed to Respondent on November 6, 2013.

#### 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)(B),(1)(C)&(1)(D) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C),(4),(6)(A),(6)(G),(6)(H),(10)(B),(10)(E)&(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 717298, heretofore issued to PHILIP DUANE TALLEY, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

#### TERMS OF ORDER

##### I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **REPRIMAND WITH STIPULATIONS** in accordance with the terms of this Order.

- A. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- B. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work; however, **Respondent is authorized to practice in New Mexico under this Order, contingent upon approval from the New Mexico Board of Nursing. Further, should Respondent establish residency in New Mexico, Respondent SHALL apply for licensure within ninety (90) days of establishing residency, as required by provisions of the Nurse Licensure Compact, Chapter 304 of the Texas Occupations Code and 22 TAC §220.2(f).**

## II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to 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.

## III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) **within one (1) year of the effective date of this Order, unless otherwise specifically indicated:**

- A. **A Board-approved course in Texas nursing jurisprudence and ethics** that 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. Home study courses and video programs will not be approved.
- B. **A Board-approved course in medication administration** with a didactic portion of not less than six (6) hours and a clinical component of not less than twenty-four (24) hours. Both the didactic and clinical components be provided by the same Registered Nurse. The course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the six (6) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The clinical component SHALL focus on tasks of medication administration only. 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. Successful completion of this course requires RESPONDENT to successfully complete both the didactic and clinical portions of the course.

- C. **A Board-approved course in nursing documentation** that shall be a minimum of six (6) hours in length. The course's content shall include: 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. Home study courses and video programs will not be approved.
- D. 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/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at [www.bon.texas.gov/compliance](http://www.bon.texas.gov/compliance).*

#### IV. **EMPLOYMENT REQUIREMENTS.**

In order to complete the terms of this Order, RESPONDENT must work as a nurse, providing direct patient care in a licensed healthcare setting, for a minimum of sixty-four (64) hours per month for eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) quarterly periods of employment as a nurse have elapsed. Any quarterly period without continuous employment with the same employer for all three (3) months will not count towards completion of this requirement. Periods of unemployment or of employment that do not require the use of an advanced practice registered nurse (APRN), a registered nurse (RN) or a vocational nurse (LVN) license, as appropriate, will not apply to this period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** RESPONDENT SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.

**B. Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.

**C. Direct Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by:

1. **An Advanced Practice Registered Nurse or Physician**, if licensed and working as an Advanced Practice Registered Nurse;
2. **A Registered Nurse**, if licensed and working as a Registered Nurse;
- or
3. **A Licensed Vocational Nurse or a Registered Nurse**, if licensed and working as a Licensed Vocational Nurse.

Direct supervision requires another nurse or physician, as applicable, to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on 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.

**D. Indirect Supervision:** For the remainder of the stipulation/probation period, RESPONDENT SHALL be supervised by:

1. **An Advanced Practice Registered Nurse or Physician who is on the premises**, if licensed and working as an Advanced Practice Registered Nurse;
2. **A Registered Nurse who is on the premises**, if licensed and working as a Registered Nurse; or
3. **A Licensed Vocational Nurse or a Registered Nurse who is on the premises**, if licensed and working as a Licensed Vocational Nurse.

The supervising nurse or physician, as applicable, 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 or physician, as applicable, 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.

**E. Nursing Performance Evaluations:** 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 or physician, as applicable, who supervises the RESPONDENT and these reports shall be submitted to the office of the Board at the end of each three (3) month quarterly period for eight (8) quarters [two (2) years] of employment as a nurse.

## V. DRUG AND ALCOHOL RELATED REQUIREMENTS

A. While under the terms of this Order, RESPONDENT SHALL abstain from the use of alcohol, tramadol and all 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.

B. While working as a nurse under the terms of this Order, RESPONDENT SHALL submit to random periodic screens for alcohol, tramadol, and controlled substances. The Board will provide instructions on how to enroll in the Board's drug and alcohol testing program following the entry of this Order and screening will begin when Respondent obtains employment and submits the Notification of Employment form to the Board.

- For the first three (3) month [1<sup>st</sup> quarter] period RESPONDENT works as a nurse under the terms of this Order, random screens shall be performed at least once per week.
- For the next three (3) month [2<sup>nd</sup> quarter] period, random screens shall be performed at least twice per month.
- For the next six (6) month period [3<sup>rd</sup> & 4<sup>th</sup> quarters], random screens shall be performed at least once per month.
- For the remainder of the stipulation/probation period, random screens shall be performed at least once every three (3) month quarterly period.

All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board. Any test result for a period of time in which the RESPONDENT is not working

as a nurse under the terms of this Order will not count towards satisfaction of this requirement. 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/probation period.

**Specimens shall be screened** for at least the following substances and their metabolites:

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.

**Consequences of Positive or Missed Screens.** Any positive result for which RESPONDENT does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject RESPONDENT to further disciplinary action, including TEMPORARY 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.

**VI. RESTORATION OF UNENCUMBERED LICENSE(S).**

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 may be eligible for nurse licensure compact privileges, if any.

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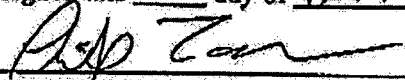


RESPONDENT'S CERTIFICATION

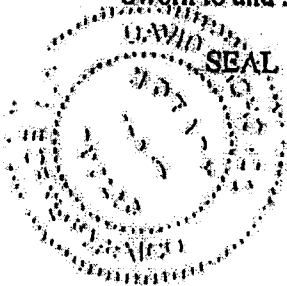
I understand that I have the right to legal counsel prior to signing this Agreed Order.

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 entry of this 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 when this Order becomes final and the terms of this Order become effective, 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 possible revocation of my license(s) to~~ practice nursing in the State of Texas, as a consequence of my noncompliance.

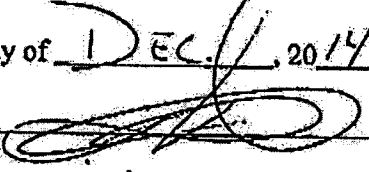
Signed this 4<sup>th</sup> day of December, 2014.

  
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 PHILIP DUANE TALLEY, Respondent

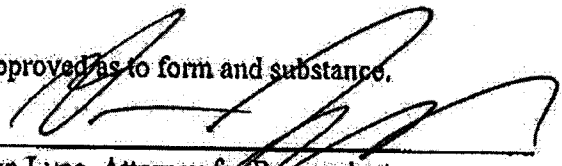
Sworn to and subscribed before me this 4<sup>th</sup> day of DEC., 2014.



David Anchondo  
 NOTARY PUBLIC  
 State of New Mexico  
 My Commission Expires 5/08/2017

  
 \_\_\_\_\_  
 Notary Public in and for the State of \_\_\_\_\_

Approved as to form and substance.

  
 \_\_\_\_\_  
 Dan Lype, Attorney for Respondent

Signed this 4<sup>th</sup> day of December, 2014.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 4<sup>th</sup> day of December, 2014, by PHILIP DUANE TALLEY, Registered Nurse License Number 717298, and said Order is final.

Effective this 22<sup>nd</sup> day of January, 2015.



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