

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of § AGREED  
Registered Nurse License Number 714194 §  
issued to HERMAN NICHOLAS BUENDTNER § ORDER



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

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of HERMAN NICHOLAS BUENDTNER, Registered Nurse License Number 714194, 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)(1) and (10), 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.

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 delinquent status.
4. Respondent received a Baccalaureate Degree in Nursing from the University of Central Arkansas, Conway, Arkansas, on May 1, 2004. Respondent was licensed to practice professional nursing in the State of Texas on March 4, 2005.
5. Respondent's nursing employment history includes:

3/05 - 3/08

Staff Nurse

Medical Center of Lancaster  
Lancaster, Texas

7/05 - 5/09

Staff Nurse

Renaissance Hospital of Dallas  
Dallas, Texas

Respondent's nursing employment history continued:

12/06 - Unknown	Staff Nurse	Quest Group Frisco, Texas
4/07 - 2/10	Staff Nurse	Advanced Imaging DeSoto, Texas
2/10 - 5/10	Staff Nurse	Baylor University Medical Center Dallas, Texas
6/10 - 6/12	Staff Nurse	Hickory Trail Hospital DeSoto, Texas
7/12 - present	Unknown	

6. On August 6, 2013, Respondent's license to practice professional nursing in the State of Texas was Suspended, with the suspension Stayed, and Respondent was placed on Probation for two (2) years. A copy of the August 6, 2013, Agreed Order, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this Order.
7. On or about September 23, 2013, Respondent failed to comply with the Agreed Order issued to him on August 6, 2013, by the Texas Board of Nursing. Noncompliance is the result of his failure to comply with Stipulation Number Six (6) of the Agreed Order which states, in pertinent part:

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(6) RESPONDENT SHALL pay a monetary fine in the amount of five hundred (\$500) dollars. RESPONDENT SHALL pay this fine within forty-five (45) days of the suspension being stayed....

8. On or about August 7, 2014, Respondent failed to comply with the Agreed Order issued to him on August 6, 2013, by the Texas Board of Nursing. Noncompliance is the result of his failure to comply with Stipulation Number Two (2) of the Agreed Order which states, in pertinent part:

(2) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete a course in Texas nursing jurisprudence and ethics....

9. On or about August 7, 2014, Respondent failed to comply with the Agreed Order issued to him on August 6, 2013, by the Texas Board of Nursing. Noncompliance is the result of his failure to comply with Stipulation Number Three (3) of the Agreed Order which states, in pertinent part:

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(3) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete a course in medication administration....

10. On or about August 7, 2014, Respondent failed to comply with the Agreed Order issued to him on August 6, 2013, by the Texas Board of Nursing. Noncompliance is the result of his failure to comply with Stipulation Number Four (4) of the Agreed Order which states, in pertinent part:

(4) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete a course in nursing documentation....

11. On or about August 7, 2014, Respondent failed to comply with the Agreed Order issued to him on August 6, 2014, by the Texas Board of Nursing. Noncompliance is the result of his failure to comply with Stipulation Number Five (5) of the Agreed Order which states, in pertinent part:

(5) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete the course "Sharpening Critical Thinking Skills,"...

12. 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.

13. Formal Charges were filed on June 5, 2014.

14. Formal Charges were mailed to Respondent on June 6, 2014.

#### 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(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1) and (10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 714194, heretofore issued to HERMAN NICHOLAS BUENDTNER, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

## TERMS OF ORDER

### I. SANCTION

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Registered Nurse License Number 714194, previously issued to HERMAN NICHOLAS BUENDTNER, to practice nursing in Texas is hereby **SUSPENDED** and said suspension is **ENFORCED** until Respondent:

- A. Pays a monetary fine in the amount of five hundred dollars (\$500.00).  
Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.
- B. Successfully completes 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.
- C. Successfully completes the didactic portion of a Board-approved course in medication administration of not less than six (6) hours. 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.
- D. Successfully completes 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.

- E. Successfully completes 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 the above 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).*

IT IS FURTHER AGREED, upon verification of successful completion of the above requirement(s), the Suspension will be **STAYED**, and RESPONDENT will be placed on **PROBATION**, in accordance with the terms of this Order, for a minimum of two (2) years **AND** until Respondent fulfills the additional requirements of this Order.

## II. COMPLIANCE WITH LAW AND APPLICABILITY

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.

- RESPONDENT SHALL pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.
- This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

- 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.

### III. SUPERCEDING ORDER

IT IS FURTHER AGREED and ORDERED that the sanction and conditions of this Order SHALL supercede all previous stipulations required by any Order entered by the Texas Board of Nursing.

### IV. 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 within one (1) year of the suspension being stayed, unless otherwise specifically indicated:

- A. The clinical component of a Board-approved course in medication administration of not less than twenty-four (24) hours. Both the didactic and clinical components be provided by the same Registered Nurse. 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.

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).*

V.

**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 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 a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse. Direct supervision requires another nurse, 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 a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational 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.
- E. No Night or Rotating Shifts, Overtime, or On-Call:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Respondent is regularly assigned.
- F. No Critical Care:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL NOT practice as a nurse in any critical care area. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.
- G. No Administration of Controlled Medications:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, Propofol, or other synthetic opiates.
- H. 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 who supervises the RESPONDENT and these reports shall be submitted by the supervising nurse 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.



## VI.

### 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 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 probation 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.

## **VII. FURTHER COMPLAINTS**

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

## **VIII. 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.

### RESPONDENT'S CERTIFICATION

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

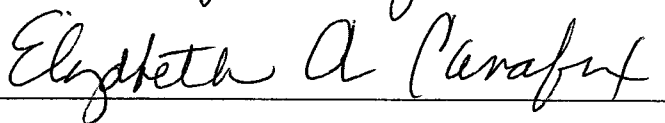
I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of 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 5<sup>th</sup> day of JANUARY, 2015.



HERMAN NICHOLAS BUENDTNER, Respondent

Sworn to and subscribed before me this 5 day of January, 2015.



Notary Public in and for the State of 11-14-2018



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 5th day of January, 2015, by HERMAN NICHOLAS BUENDTNER, Registered Nurse License Number 714194, and said Order is final.

Effective this 10th day of February, 2015.



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



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.

*Stephanie C. Thomas*  
Executive Director of the Board

**Executive Director of the Board**

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of § AGREED  
Registered Nurse License Number 714194 §  
issued to HERMAN NICHOLAS BUENDTNER § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of HERMAN NICHOLAS BUENDTNER, Registered Nurse License Number 714194, 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)&(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 April 1, 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 a Baccalaureate Degree in Nursing from University of Central Arkansas, Conway, Arkansas, on May 1, 2004. Respondent was licensed to practice professional nursing in the State of Texas on March 4, 2005.
5. Respondent's complete professional nursing employment history includes:

03/05-03/08

**.RN**

**Medical Center at Lancaster  
Lancaster, Texas**

Respondent's complete professional nursing employment history continued:

07/05-05/09	RN	Renaissance Hospital of Dallas Dallas, Texas
12/06-Present	RN	Quest Group Frisco, Texas
04/07-02/10	RN	Advanced Imaging DeSoto, Texas
02/10-05/10	RN	Baylor University Medical Center Dallas, Texas
06/10-06/12	RN	Hickory Trail Hospital DeSoto, Texas
07/12-Present	Unknown	

6. On or about May 1, 2010, through May 2, 2010, while employed as a Registered Nurse with Baylor University Medical Center, Dallas, Texas, Respondent withdrew Fentanyl, Lorazepam, and Morphine from the Medication Dispensing System for patients but failed to document, or completely and accurately document the administration of, including signs, symptoms and responses to the medications in the patients' Medication Administration Records and/or nurses 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.
7. On or about May 1, 2010, through May 2, 2010, while employed as a Registered Nurse with Baylor University Medical Center, Dallas, Texas, Respondent withdrew Fentanyl, Lorazepam, and Morphine from the Medication Dispensing System 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).
8. On or about April 24, 2010, while employed as a Registered Nurse with Baylor University Medical Center, Dallas, Respondent falsely documented that he had administered Morphine to patient C. C. in that there were not any medication withdraws associated with the dates and times documented as administered. Respondent's conduct was likely to injure the patient in that failure to administer medications as ordered by the physician could have resulted in nonefficacious treatment. Additionally, Respondent's conduct created an inaccurate medical record on which subsequent caregivers would rely on to provide ongoing medical care.

9. On or about April 24, 2010, through May 2, 2010, while employed as a Registered Nurse with Baylor University Medical Center, Dallas, Texas, Respondent misappropriated Fentanyl, Lorazepam, and Morphine from the facility or 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 the medications.
10. In response to Finding of Fact Numbers Six (6) through Nine (9), Respondent denies that he misappropriated or intentionally or inadvertently removed or ingested any medications belonging to someone other than the intended patient.
11. On or about May 2, 2010, while employed as a Registered Nurse with Baylor University Medical Center, Dallas, Texas, Respondent lacked fitness to practice nursing in that he showed signs of impaired behavior to include: making "strange statements unrelated to the circumstances", rambling, and making "no sense" when speaking. Respondent's condition could have affected his 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.
12. In response to Finding of Fact Number Eleven (11), Respondent states that at no time has he ever lacked fitness to practice nursing.
13. On or about May 2, 2010, while employed as a Registered Nurse with Baylor University Medical Center, Dallas, Texas, Respondent engaged in the intemperate use of alcohol in that he refused a urine drug screen stating he had been drinking the evening before. The use of Alcohol by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patients condition, 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.
14. In response to Finding of Fact Number thirteen (13), Respondent states that he did refuse the urine drug screen. Respondent states he had been out with friends the night before and had consumed alcohol. Respondent asserts that having never been in this situation before, he had no idea as to the presence of metabolites, therefore he refused to take the screen and explained his reasoning.
15. On or about April 9, 2012 through April 25, 2012, while employed as a Registered Nurse with Hickory Trail Hospital, Desoto, Texas, Respondent withdrew Hydrocodone from the medication dispensing system for patients but failed to document, or completely and accurately document the administration of, including signs, symptoms, and responses to the medications in the patients' Medication Administration Records and/or nurses 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.

16. On or about April 9, 2012 through April 25, 2012, while employed as a Registered Nurse with Hickory Trail Hospital, Desoto, Texas, Respondent withdrew Hydrocodone from the medication dispensing system for patients in excess frequency/dosage of the physician's orders. Respondent's conduct was likely to injure the patients in that the administration of Hydrocodone in excess frequency and/or dosage of the physician's order could result in the patients suffering from adverse reactions.
17. On or about April 9, 2012 through April 25, 2012, while employed as a Registered Nurse with Hickory Trail Hospital, Desoto, Texas, Respondent withdrew Hydrocodone from the medication dispensing system for patients and 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).
18. On or about April 9, 2012 through April 25, 2012, while employed as a Registered Nurse with Hickory Trail Hospital, Desoto, Texas, Respondent misappropriated Hydrocodone from the facility or 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 the medications.
19. In response to Finding of Fact Numbers Fifteen (15) through Eighteen (18), Respondent states that he takes full responsibility for his actions and accepts the result of the consequences. Respondent states he temporarily succumbed to maladaptive behaviors as a result of stressors and is taking actions to ensure that he reinforces positive coping behaviors so that he will never respond to stressors in the same manner.
20. On or about May 1, 2012, Respondent completed a chemical dependency evaluation performed by Dr. Larry L. Hanselka. Dr. Hanselka states based on the results of the assessment, there is no evidence that Respondent has any current impairment for an alcohol or substance use disorder that would prevent him from practicing nursing with reasonable skill and safety.
21. 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),(B),(C),(D)&(T) and 22 TEX. ADMIN. CODE § 217.12(1)(A),(B),(C)&(E),(4),(5),(6)(A),(G)&(H),(10)(A),(B)&(C) and (11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(9),(10),(12)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 714194, heretofore issued to HERMAN NICHOLAS BUENDTNER, 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, Registered Nurse License Number 714194, previously issued to HERMAN NICHOLAS BUENDTNER, to practice nursing in Texas is/are hereby SUSPENDED for a period of two (2) years, with the suspension STAYED and Respondent is hereby placed on PROBATION for two (2) years with the following agreed terms of probation:

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 the 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.

(1) 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.

(2) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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>.

(3) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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.texas.gov/disciplinaryaction/stipscourses.html>.

(4) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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>.

(5) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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>.

(6) RESPONDENT SHALL pay a monetary fine in the amount of five-hundred (\$500) dollars. RESPONDENT SHALL pay this fine within forty-five (45) days of the suspension being stayed. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

**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 PROBATION CONDITIONS FOR TWO (2) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY**

PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) 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:

(7) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the probation conditions 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 probation conditions 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.

(8) 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.

(9) For the first year of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse. Direct supervision requires another nurse, 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). The 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.

(10) For the remainder of the stipulation/probation period, RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational 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.

(11) RESPONDENT SHALL NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Respondent is regularly assigned for one (1) year of employment as a nurse.

(12) RESPONDENT SHALL NOT practice as a nurse in any critical care area for one (1) year of employment as a nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(13) RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, Propofol, or other synthetic opiates for one (1) year of employment as a nurse.

(14) 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.

(15) 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. For the remainder of the probation period, random screens shall be performed at least once every three (3) months. 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  
Barbiturates  
Benzodiazepines

Meperidine  
Methadone  
Methaqualone

Cannabinoids  
Cocaine  
Ethanol  
tramadol hydrochloride (Ultram)

Opiates  
Phencyclidine  
Propoxyphene.

A Board representative may appear at the RESPONDENT'S place of employment at any time during the probation 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 probation 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.

(16) 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 two (2) year(s) of employment as a nurse.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.



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

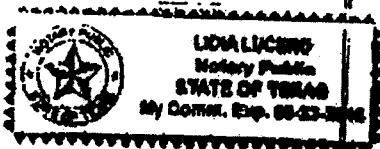
I understand that I have the right to legal counsel prior to signing this Agreed Order.

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 19<sup>th</sup> day of JUNE, 2013.

H. Nicholas Buendtner  
HERMAN NICHOLAS BUENDTNER, Respondent

Sworn to and subscribed before me this 19 day of JUNE, 2013.



Lisa Lucas  
Notary Public in and for the State of TEXAS

Approved as to form and substance.

Nancy Roper Wilson  
NANCY ROPER WILSON, Attorney for Respondent

Signed this 21<sup>st</sup> day of June, 2013

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 19<sup>th</sup> day of June, 2013, by HERMAN NICHOLAS BUENDTNER, Registered Nurse License Number 714194, and said Order is final.

Effective this 6th day of August, 2013.



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