



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
Vocational Nurse License Number 200409 §
issued to ERIC R LINDSEY § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board considered the matter of ERIC R LINDSEY, Vocational Nurse License Number 200409, 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 June 7, 2015.

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 vocational nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Tyler Junior College, Tyler, Texas, on August 4, 2005. Respondent was licensed to practice vocational nursing in the State of Texas on September 27, 2005.
5. Respondent's vocational nursing employment history includes:

10/2005 - 03/2008	LVN	Pinehurst Alzheimer Special Care Center Tyler, Texas
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Respondent's vocational nursing employment history continued:

03/2008 - 02/2014	LVN	East Texas Medical Center Tyler, Texas
2009 - 2010	LVN	Epic Home Health Tyler, Texas
2014 - Present	LVN	Briarcliff Nursing Home Tyler, Texas

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with East Texas Medical Center, Tyler, Texas, and had been in that position for approximately five (5) years and ten (10) months.
7. On or about January 1, 2014, through January 22, 2014, Respondent withdrew three (3) vials of Hydromorphone HCL 2mg from the Pyxis for patients, but failed to document, and/or completely and accurately document the administration of the medication in the patients' Medication Administration Records (MAR). Respondent's conduct was likely to injure the patient in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose. Additionally, Respondent's conduct placed the hospital in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
8. On or about January 1, 2014, through January 22, 2014, Respondent withdrew three (3) vials of Hydromorphone HCL 2mg from the Pyxis for patients, but failed to follow the facility's policy and procedure regarding wastage of any of the unused portions of the medication. Respondent's conduct left medications unaccounted for, was likely to deceive the hospital pharmacy and place them in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
9. On or about January 1, 2014, through January 22, 2014, while employed with East Texas Medical Center, Tyler, Texas, Respondent misappropriated Hydromorphone HCL 2mg belonging to the facility or patients thereof, or failed to take precautions to prevent such misappropriation. Additionally, Respondent was observed removing a sharps container and returning it with only half the container full. Respondent's conduct was likely to defraud the patient of the cost of the medication, and is a violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
10. On or about January 22, 2014, while employed with East Texas Medical Center, Tyler, Texas, Respondent removed two (2) vials of Hydromorphone HCL 2mg from the Pyxis for Patien Account #00045600566 in excess frequency/dosage of the physician's orders. Respondent's conduct was likely to injure the patients in that the administration of

medication in excess frequency/dosage of the physician's order could result in the patient suffering adverse reactions. Additionally, Respondent's conduct placed the hospital in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.

11. On or about January 23, 2014, while employed with East Texas Medical Center, Tyler, Texas, Respondent withdrew one (1) Morphine Sulfate 5mg for Patient Account #00045643699, but failed to document and/or completely and accurately document the administration of the medication in the patient's Medication Administration Record (MAR). Respondent's conduct was likely to injure the patient in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose. Additionally, Respondent's conduct placed the hospital in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
12. On or about January 23, 2014, while employed with East Texas Medical Center, Tyler, Texas, Respondent withdrew one (1) Morphine Sulfate 5mg for Patient Account #00045643699, but failed to follow the facility's policy and procedure regarding wastage of any of the unused portions of the medication. Respondent's conduct left medications unaccounted for, was likely to deceive the hospital pharmacy and place them in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
13. On or about January 23, 2014, while employed with East Texas Medical Center, Tyler, Texas, Respondent misappropriated Morphine Sulfate 5mg belonging to the facility or patients thereof, or failed to take precautions to prevent such misappropriation. Additionally, Respondent was observed removing a sharps container and returning it with only half the container full. Respondent's conduct was likely to defraud the patient of the cost of the medication, and is a violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
14. Respondent was evaluated by Dr. Emily Fallis on March 2, 2015, who states Respondent denied substance abuse; however, the objective test results suggest he was defensive and may not have been honest in the interview about substance abuse. Respondent would benefit from a refresher course in professional standards and ethics given his failure to document and his limited concern about this failure. Respondent has an unknown risk of engaging in behaviors which the Board of Nursing has identified as constituting unprofessional conduct.
15. 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)(B),(1)(C),(1)(D)&(2) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C),(4),(6)(G),(8),(10)(C),(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 Vocational Nurse License Number 200409, heretofore issued to ERIC R LINDSEY.

5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **WARNING 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.

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. 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.*

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 four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until four (4) 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. **Indirect Supervision:** 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.
- D. **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 four (4) quarters [one (1) year] 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 [1st 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 [2nd quarter] period, random screens shall be performed at least twice per month.
- For the next six (6) month period [3rd & 4th quarters], random screens shall be performed at least once per month.
- For the remainder of the stipulation/probation period, if any, 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)

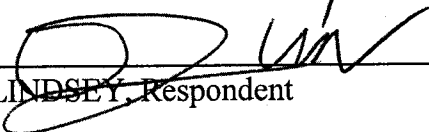
Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

RESPONDENT'S CERTIFICATION

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

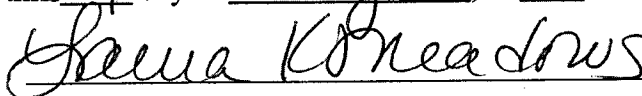
I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of 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 24 day of July, 2015.

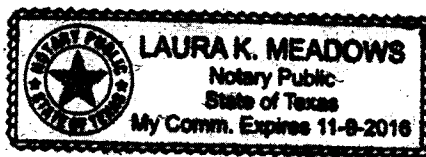

ERIC R LINDSEY, Respondent

Sworn to and subscribed before me this 24 day of July, 2015

SEAL



Notary Public in and for the State of 11.9.16



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 24th day of July, 2015, by ERIC R LINDSEY, Vocational Nurse License Number 200409, and said Order is final.

Effective this 8th day of September, 2015.



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