

# BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED ORDER
Registered Nurse License Number 887253	§	
issued to AUDREY BROWN	§	
	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of AUDREY BROWN, Registered Nurse License Number 887253, 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)&(13), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on October 24, 2019.

## 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 Agreed 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 Lone Star College Kingwood, Kingwood, Texas, on August 14, 2015. Respondent was licensed to practice professional nursing in the State of Texas on September 24, 2015.
5. Respondent's nursing employment history includes:

9/2015 – 2/2017	RN	Park Plaza Hospital Houston, Texas
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Respondent's nursing employment history continued:

3/2017 – 6/2017	RN	Kingwood Medical Center Kingwood, Texas
7/2017 – 11-2017	Unknown	
12/2017 – 1/2019	RN	Emergency Hospital Systems, Cleveland, Texas
2/2019 – Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Kingwood Medical Center, Kingwood, Texas, and had been in that position for three (3) months.
7. On or about June 1, 2017, through June 26, 2017, while employed as a Registered Nurse with Kingwood Medical Center, Kingwood, Texas, Respondent withdrew twenty-nine (29) Diphenhydramine (Benadryl) 50mg/ml vials from the medication dispensing system, during nine (9) remove/cancel transactions, for patients CD0215153999, CD0215193741, CD0215226906, CD0215167861, CD0215206687, CD0215239446, CD0215181277, CD021522775, and CD0215239888, but failed to document and/or accurately and completely document the administration of the medications in the patients' Medication Administration Record (MAR) and/or Nurses' Notes. Respondent's conduct was likely to injure the patients, in that subsequent care givers would rely on her documentation to further medicate the patients, which could result in an overdose. Additionally, Respondent's conduct placed the hospital in violation of Chapter 483 (Dangerous Drugs Act) of the Texas Health and Safety Code.
8. On or about June 1, 2017, through June 26, 2017, while employed as a Registered Nurse with Kingwood Medical Center, Kingwood, Texas, Respondent withdrew twenty-nine (29) Diphenhydramine (Benadryl) 50mg/ml vials from the medication dispensing system, during nine (9) remove/cancel transactions, for patients CD0215153999, CD0215193741, CD0215226906, CD0215167861, CD0215206687, CD0215239446, CD0215181277, CD021522775, and CD0215239888, but failed to waste the unused portions of the medications. Respondent's conduct left medications unaccounted for and was likely to deceive the hospital pharmacy and placed the pharmacy in violation of Chapter 483 (Dangerous Drugs Act) of the Texas Health and Safety Code.
9. On or about June 1, 2017, through June 26, 2017, while employed as a Registered Nurse with Kingwood Medical Center, Kingwood, Texas, Respondent withdrew twenty-nine (29) Diphenhydramine (Benadryl) 50mg/ml vials from the medication dispensing system, during nine (9) remove/cancel transactions, for patients CD0215153999, CD0215193741, CD0215226906, CD0215167861, CD0215206687, CD0215239446, CD0215181277,

CD021522775, and CD0215239888, without valid physicians' orders. Respondent's conduct was likely to injure the patients, in that the administration of the medications without a valid physician's order could result in the patients suffering from adverse reactions, and Respondent's conduct placed the hospital in violation of Chapter 483 (Dangerous Drugs Act) of the Texas Health and Safety Code.

10. On or about June 27, 2017, while employed as a Registered Nurse with Kingwood Medical Center, Kingwood, Texas, Respondent engaged in the intemperate use of Benzodiazepines and Opiates in that she produced a specimen for a reasonable suspicion/cause drug screen that resulted positive for Lorazepam and Morphine. Unlawful possession of Benzodiazepines and Opiates is prohibited by Chapter 481 (Controlled Substances Act) of the Texas Health & Safety Code. The use of Benzodiazepines and Opiates by a Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms, or changes in a patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing a patient in potential danger.
11. On or about July 26, 2017, Respondent was referred to the Texas Peer Assistance Program for Nurses (TPAPN) for diversion, and subsequently signed a Participation Agreement. On January 7, 2019, while employed as a Registered Nurse with Emergency Hospital Systems, Cleveland, Texas, Respondent admitted to staff that she diverted multiple Phenergan vials belonging to the facility and the patients thereof. Consequently, on or about January 14, 2019, TPAPN closed Respondent's case due to behavior inconsistent with recovery and referred her to the Texas Board of Nursing. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications.
12. On or about March 28, 2018, Respondent entered a plea of Guilty and was convicted of POSSESSION OF CONTROLLED SUBSTANCE, a Class A misdemeanor, committed on June 25, 2017, in the 359th District Court of Montgomery County, Texas, under Cause No. 17-11-13364. As a result of the conviction, Respondent was sentenced to confinement in the Montgomery County Jail facility for a period of one hundred and eighty (180) days, probated for two (2) years; five hundred dollar (\$500.00) fine; substance abuse counseling and ordered to pay court costs.
13. In response to Findings of Fact Numbers Seven (7), Eight (8) and Nine (9), Respondent states she did withdraw vials of Benadryl from the medication dispensing system and failed to document the administration of the medications. Further, Respondent relates she did administer small doses of Benadryl to patients. Respondent denies keeping any Benadryl for her personal use. In response to Finding of Fact Number Ten (10), Respondent states she produced a specimen for a drug screen that resulted positive for Lorazepam and Morphine; however, she denies that she engaged in the intemperate use of Benzodiazepines and Opiates in that there is no evidence that she was actually impaired by Benzodiazepines or Opiates while on duty. In response to Finding of Fact Number Eleven (11), Respondent states she took one Phenergan 25mg vial, but denies she exhibited behavior inconsistent with recovery.

14. Formal Charges were filed on July 16, 2019.
15. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

#### 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)&(3) and 22 TEX. ADMIN. CODE §217.12 (1)(A),(1)(B),(1)(C),(4),(5),(6)(G),(8),(9),(10)(A),(10)(C),(10)(D),(10)(E)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(9),(10)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 887253, heretofore issued to AUDREY BROWN.
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.
6. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

#### TERMS OF ORDER

##### **I. PEER ASSISTANCE PROGRAM REQUIREMENTS**

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the **Texas Peer Assistance Program for Nurses (TPAPN)**:

- A. Within forty-five (45) days following the effective date of this Order, RESPONDENT SHALL apply to TPAPN.

- B. Within ninety (90) days following the effective date of this Order, RESPONDENT SHALL sign and execute the TPAPN participation agreement and complete the enrollment process, which SHALL include payment of a non-refundable participation fee payable to TPAPN in the amount of five hundred dollars (\$500.00), if licensed as a registered nurse, or in the amount of three hundred fifty dollars (\$350.00), if licensed as a vocational nurse.
- C. Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.
- D. RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep all applicable license(s) to practice nursing in the State of Texas in current status.
- E. RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.
- F. This Order SHALL apply to any and all future licenses issued to RESPONDENT to practice nursing in the State of Texas.
- G. This Order SHALL be applicable to RESPONDENT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- H. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" and Respondent may not work outside the State of Texas in another nurse licensure compact party state.

## **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 Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Agreed 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 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 and video programs will not be approved.

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. SUBSEQUENT CRIMINAL PROCEEDINGS

IT IS FURTHER AGREED, should the RESPONDENT'S conduct, as outlined in the findings of fact of this Agreed Order, result in subsequent judicial action, including a deferred disposition, RESPONDENT may be subject to further disciplinary action, up to, and including, revocation of RESPONDENT'S license(s) to practice nursing in the State of Texas.

#### V. EFFECT OF NONCOMPLIANCE

SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in 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.

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

Upon full compliance with the terms of this Agreed Order, all encumbrances will be removed from RESPONDENT'S license(s) and/or privilege(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, 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 Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the entry of this Order and all conditions of said Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing 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 TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, and/or possible revocation of my license(s) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 20th day of March, 2020.

  
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AUDREY BROWN, RESPONDENT

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

SEAL

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

Approved as to form and substance.

  
\_\_\_\_\_  
Marc Meyer, Attorney for Respondent

Signed this 24th day of March, 2020.



WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 20th day of March, 2020, by AUDREY BROWN, Registered Nurse License Number 887253, and said Agreed Order is final.

Effective this 26th day of March, 2020.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas".

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