

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 ORDER  
Registered Nurse License Number 819161 §  
issued to MELISSA CHARMAINE FORTIER §  
§

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MELISSA CHARMAINE FORTIER, Registered Nurse License Number 819161, 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), 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 March 9, 2020.

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 Alvin Community College, Alvin, Texas, on May 15, 2012. Respondent was licensed to practice professional nursing in the State of Texas on June 14, 2012.
5. Respondent's nursing employment history includes:

6/2012 – 1/2013	Registered Nurse	Gulf Coast Medical Center Wharton, Texas
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Respondent's nursing employment history continued:

1/2013 – 6/2016	Registered Nurse	Mainland Medical Center Texas City, Texas
5/2016 – 3/2017	Registered Nurse	UTMB Galveston, Texas
3/2017 – 6/2017	Unknown	
6/2017 – 1/2019	Registered Nurse	Clear Lake Regional Medical Center Webster, Texas
1/2019 – 2/2020	Unknown	
2/2020	Registered Nurse	Signature Care Emergency Center Houston, Texas
2/2020 – Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Clear Lake Regional Medical Center, Webster, Texas, and had been in that position for ten (10) months.
7. On or about April 3, 2018, September 8, 2018, and December 19, 2018, while employed as a Registered Nurse with Clear Lake Regional Medical Center, Webster, Texas, and assigned to the Emergency Department, Respondent withdrew one (1) capsule of Temazepam 15mg, one (1) vial of Morphine Sulfate 10mg, one (1) vial of Ondansetron 4mg, and one (1) vial of Morphine Sulfate 4mg from the medication dispensing system for Patient G00119375702, Patient G00120169823, and Patient G00120720683, but failed to document and/or completely and accurately document the administration of the medications in the 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 medication the patients which could result in an overdose. Additionally, Respondent's conduct placed the hospital in violation of Chapter 481 (Controlled Substances Act) and Chapter 483 (Dangerous Drugs Act) of the Texas Health and Safety Code.
8. On or about April 3, 2018, April 6, 2018, September 8, 2018, and December 19, 2018, while employed as a Registered Nurse with Clear Lake Regional Medical Center, Webster, Texas, and assigned to the Emergency Department, Respondent withdrew one (1) capsule of Temazepam 15mg, one (1) tablet of Hydrocodone/APAP 5/325, one (1) vial of Morphine Sulfate 10mg, one (1) vial of Ondansetron 4mg, and one (1) vial of Morphine Sulfate 4mg from the medication dispensing system for Patient G00119375702, Patient

G00119395312, Patient G00120169823, and Patient G00120720683, but failed to follow the facility's policy and procedures for wastage of the unused portions of the medications. Respondent's conduct left medications unaccounted for, was likely to deceive the hospital pharmacy, and placed the pharmacy in violation of Chapter 481 (Controlled Substances Act) and Chapter 483 (Dangerous Drugs Act) of the Texas Health and Safety Code.

9. On or about January 18, 2019, while employed as a Registered Nurse with Clear Lake Regional Medical Center, Webster, Texas, and assigned to the Emergency Department, Respondent lacked fitness to practice nursing in that she exhibited signs of impaired behavior while on duty, including, but not limited to: slurred speech and unsteady gait. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' condition, 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.
10. On or about January 18, 2019, while employed as a Registered Nurse with Clear Lake Regional Medical Center, Webster, Texas, and assigned to the Emergency Department, Respondent engaged in the intemperate and unlawful use of Morphine in that she produced a specimen for a reasonable suspicion drug screen that resulted positive for Morphine. Unlawful possession of Morphine is prohibited by Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code. The use of Morphine by a Registered Nurse while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in that 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 the patient in potential danger.
11. On or about February 27, 2020 through February 28, 2020, while employed as a Registered Nurse with Signature Care Emergency Center, Houston, Texas, Respondent misappropriated Hydromorphone, Midazolam, Ketamine, Fentanyl, Morphine, and Ativan in that she admitted to tampering with medication vials by withdrawing the medications, filling the empty vials with saline, and gluing the tops of the vials. In addition, sixty (60) vials were found to be tampered with. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications.
12. In response to Findings of Fact Numbers Seven (7) through Ten (10), Respondent denies the allegations.
13. Formal Charges were filed on January 27, 2020.
14. 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)&(1)(T) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C),(1)(E),(4),(5),(6)(G),(8),(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),(12)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 819161, heretofore issued to MELISSA CHARMAINE FORTIER.
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. SANCTION AND APPLICABILITY**

IT IS THEREFORE AGREED and ORDERED that Registered Nurse License Number 819161, previously issued to MELISSA CHARMAINE FORTIER, to practice nursing in the State of Texas is/are hereby **SUSPENDED** and said suspension is **ENFORCED** until RESPONDENT:

- A. **Applies to, is accepted into, and completes enrollment in the Texas Peer Assistance Program for Nurses (TPAPN), including payment of a non-refundable participation fee 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;**
- B. Is **cleared to safely practice as a nurse** based on a fitness evaluation, as may be required by TPAPN; and
- C. **Waives confidentiality and provides a copy of the fully executed TPAPN participation agreement to the Board.**

IT IS FURTHER AGREED, upon verification of successful completion of the above requirements, the Suspension will be **STAYED**, and RESPONDENT will be placed on **PROBATION** for such time as is required for RESPONDENT to successfully complete the TPAPN **AND** until RESPONDENT fulfills the additional requirements of this Order.

- D. 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.
- E. RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep all applicable licenses to practice nursing in the State of Texas in current status.
- F. RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.
- G. This Order SHALL apply to any and all future licenses issued to RESPONDENT to practice nursing in the State of Texas.
- H. This Order SHALL be applicable to RESPONDENT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- I. 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 suspension being stayed, 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. 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.

#### V. 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 31 day of July, 2020.

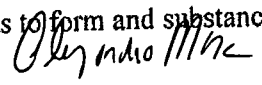
  
MELISSA CHARMAINE FORTIER, RESPONDENT

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.

  
Alejandro Mora, Attorney for Respondent

Signed this 31 day of July, 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 31st day of July, 2020, by MELISSA CHARMAINE FORTIER, Registered Nurse License Number 819161, and said Agreed Order is final.

Effective this 4th day of August, 2020.



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