

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	AGREED ORDER
Registered Nurse License Number 794653	§	
issued to MELINDA LYNN FAY	§	
	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MELINDA LYNN FAY, Registered Nurse License Number 794653, 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 Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on October 1, 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 Hutchinson Community College, Hutchinson, Kansas, on May 15, 2010. Respondent was licensed to practice professional nursing in the State of Texas on December 23, 2010.
5. Respondent's nursing employment history includes:

12/2010 – 2/2011	Unknown
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Respondent's nursing employment history continued:

3/2011 – 5/2012	RN	Parkland Health and Hospital System Dallas, Texas
5/2012 – 9/2016	RN	Wise Health System Decatur, Texas
10/2016 – 4/2019	RN	City Hospital Emergency Care Center Fort Worth, Texas
5/2019 – Present	Unknown	

6. At the time of the incident, Respondent was employed as a Registered Nurse with City Hospital Emergency Care Center, Fort Worth, Texas, and had been in that position for two (2) years and five (5) months.
7. On or about March 6, 2019, while employed as a Registered Nurse with City Hospital Emergency Care Center, Fort Worth, Texas, Respondent failed to administer Ketamine-Pain IV/IO 0.2mg and Etomidate IVP 6mg, to Patient Medical Record Number 071355, as ordered by a physician. Furthermore, Respondent advised staff to stop the patient's drip because Respondent had mixed and administered an Etomidate drip instead of a Ketamine drip. Respondent's conduct was likely to injure the resident in that failure to administer tube feedings, treatments and medications as ordered by a physician could have resulted in non-efficacious treatment
8. On or about March 6, 2019, while employed as a Registered Nurse with City Hospital Emergency Care Center, Fort Worth, Texas, Respondent withdrew Ketamine-Pain IV/IO 0.2mg and Etomidate IVP 6mg from the medication dispensing system for Patient Medical Record Number 071355 but failed to document and/or accurately and completely document the administration of the medication in the patient's Medication Administration Record (MAR) and/or Nurses' Notes. Additionally, Respondent failed to document an error had occurred. 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.
9. On or about March 6, 2019, while employed as a Registered Nurse with City Hospital Emergency Care Center, Fort Worth, Texas, Respondent withdrew Ketamine-Pain IV/IO 0.2mg from the medication dispensing system for Patient Medical Record Number 071355, but failed to follow the facility's policy and procedure for wastage of the unused portion of the medication. 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) of the Texas Health and Safety Code.

10. In response to Findings of Fact Numbers Seven (7), Eight (8), and Nine (9), Respondent states the physician ordered the use of Ketamine and Etomidate and that she drew up the Ketamine, moved the patient into the procedure room, placed the patient on monitors, and then proceeded to administer what she thought was the Ketamine drip. Respondent states she left the room to pull the Etomidate and realized she had "made a huge mistake." Respondent states she immediately told staff to stop the drip and then assessed the patient. Respondent states "I had made a mistake and I am the first to admit it." Respondent relates that after the procedure, she charted all the vital signs and protocol charting for sedation under the appropriate template, but did not post a note in the chart about the incident or ask the physician to change the ordered dose of the Etomidate so she could chart what was given, because she was distracted and in a hurry. Respondent relates she and the physician wasted the remainder of both medications. Respondent declines she intentionally falsified a chart, but rather that she made a mistake, immediately reported it, and did not try to hide it.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B),(1)(C)&(1)(D) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C),(4),(10)(C)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 794653, heretofore issued to MELINDA LYNN FAY.
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. 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. UNDERSTANDING BOARD ORDERS

Within thirty (30) days of entry of this Order, RESPONDENT must successfully complete the Board's online course, "Understanding Board Orders", which can be accessed on the Board's website from the "Discipline & Complaints" drop-down menu or directly at: <http://www.bon.texas.gov/UnderstandingBoardOrders/index.asp>. Upon successful completion, RESPONDENT must submit the course verification at the conclusion of the course, which automatically transmits the verification to the Board.

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(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 and video programs will not be approved.

- B. **A Board-approved course in medication administration** with a didactic portion of not less than six (6) hours and a clinical component of not less than twenty-four (24) hours. Both the didactic and clinical components must be provided by the same Registered Nurse. The course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the six (6) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The clinical component SHALL focus on tasks of medication administration only. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. Successful completion of this course requires RESPONDENT to successfully complete both the didactic and clinical portions of the course.
- C. **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.*

V. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse in the State of Texas, providing direct patient care in a clinical 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. 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 of 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 individual who supervises the RESPONDENT and these reports shall be submitted by the supervising individual 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.

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

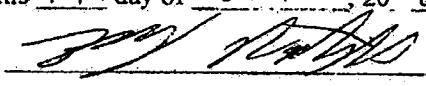
I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Texas Board of Nursing and a copy of this Order will be mailed to me once the Order becomes effective. 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) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

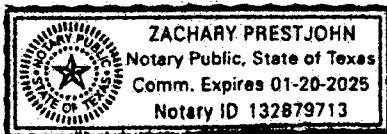
Signed this 15 day of June, 20 21.


MELINDA LYNN FAY RESPONDENT

Sworn to and subscribed before me this 15th day of June, 20 21.

SEAL


Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 15th day of June, 2021, by MELINDA LYNN FAY, Registered Nurse License Number 794653, and said Agreed Order is final.

Effective this 22nd day of July, 2021.

A handwritten signature in cursive script, reading "Katherine A. Thomas", written over a horizontal line.

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