

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse §
License Number 129996 § AGREED
issued to LEE ANN RILEY § 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.
Patricia A. Thomas
Executive Director of the Board

An investigation by the Texas Board of Nursing, hereinafter referred to as the Bo produced evidence indicating that LEE ANN RILEY, hereinafter referred to as Respond Vocational Nurse License Number 129996, may have violated Article 4528(c), sec. 10(a)(9), TEX. REV. CIV. STAT. ANN., and Section 301.452(b) (3),(9),(10),(12)&(13), Texas Occupations Code.

An informal conference was held on August 26, 2008, at the office of the Texas Board of Nursing, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Craig A. Greening, Attorney at Law. In attendance were Katherine A. Thomas, MN, RN, Executive Director; John Legris, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Jesse Thibodeau, Investigator; and Erin Menefee, Investigator.

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.
2. Respondent waived notice and hearing, and consented to the entry of this Order.
3. Respondent is currently licensed to practice vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Wharton Junior College, Wharton, Texas, on August 17, 1990. Respondent was licensed to practice vocational nursing in the State of Texas on November 28, 1990.

5. Respondent's vocational nursing employment history includes:

1990-1991	LVN	Gulf Coast Medical Center Wharton, Texas
1992-2004	LVN	Matagorda General Hospital Bay City, Texas
1995-1999	LVN	Maternal Child Health Care Services Houston, Texas
2004-unknown	LVN (part time)	Women's Health Center Bay City, Texas
08/04-01/05	LVN	Texas State Healthcare Services Missouri City, Texas
02/05-10/05	Unknown	
11/05-03/06	LVN	University Pediatric Association College Station, Texas
04/06-12/06	LVN	Hope Cancer Center College Station, Texas
01/07-02/07	LVN	Choice Home Care Bryan, Texas
03/07-05/07	Not Employed in Nursing	
06/07-11/07	LVN	Village on the Creek Clute, Texas
12/07-01/08	Unknown	
02/08-04/08	LVN	Sheridan on Anderson College Station, Texas
05/08-Present	LVN	Sherwood Health Care Bryan, Texas

6. On or about May 11, 1986, Respondent was arrested by the Brazoria Police Department, Brazoria, Texas, and subsequently charged under Cause No. 48,446, for "Making Alcoholic Beverage Avail. to Minor," a misdemeanor offense.

On July 18, 1986, Cause No. 48446 was dismissed in the County Court of Brazoria County, Texas, because Respondent was convicted in a Justice of the Peace Court for "Minor in Possession of Alcohol," a misdemeanor offense. As a result of the conviction, Respondent was ordered to pay a fine.

7. On or about September 28, 1989, Respondent entered a plea of Guilty to "Possession of a Controlled Substance," a felony offense committed on March 23, 1989, in the 130th Judicial District Court of Matagorda County, Texas, under Cause No. 7657. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay court costs.

On or about September 30, 1991, an Order Amending Terms of Probation was entered in the 130th Judicial District Court of Matagorda County, Texas, under Cause No. 7657. The Order extended Respondent's term of probation for one (1) year, from September 28, 1991 to September 28, 1992. Furthermore, Respondent was ordered to enroll, attend, and successfully complete Drug Counseling and submit to random urinalysis testing.

8. On or about March 13, 2006, Respondent entered a plea of Guilty and was convicted of "Hindering Apprehension or Prosecution," a Class A misdemeanor offense committed on February 12, 2005, in the County Court at Law No. 3 of Brazoria County, Texas, under Cause No. 142613. As a result of the conviction, Respondent was sentenced to confinement in the County Jail for three (3) days (with three (3) days credit for time already served). Additionally, Respondent was ordered to pay a fine and court costs.

9. On or about August 14, 2006 through September 18, 2006, Respondent obtained Hydrocodone from two Walgreens Pharmacies in Bryan, Texas, under the name of Robert Lemm, through the use of fraudulent oral or telephonically communicated prescriptions, using the name and Drug Enforcement Agency (DEA) number assigned to Dr. Usha Venkatraj. Respondent's conduct was likely to deceive the pharmacy and possession of Hydrocodone through the use of a fraudulent telephonically communicated prescription is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

10. During late January 2007, while employed as a Licensed Vocational Nurse with Choice Home Care, Bryan, Texas, Respondent misappropriated 400mg of Seroquel belonging to Patient DM. Respondent's conduct was likely to defraud the patient of the cost of the medication.

11. On or about February 19, 2007, while employed as a Licensed Vocational Nurse with Choice Home Care, Bryan, Texas, Respondent misappropriated eight (8) Vicodin belonging to Patient DM. Respondent's conduct was likely to defraud the patient of the cost of the medications.
12. On or about February 19, 2007 through February 22, 2007, while employed as a Licensed Vocational Nurse with Choice Home Care, Bryan, Texas, Respondent lacked fitness to practice vocational nursing, in that she had tremors and slurred speech; she kept repeating herself; she was forgetful; and she was aggressive. Respondent's condition could have affected her 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.
13. On March 13, 2007 through September 4, 2007, Respondent may have lacked fitness to practice vocational nursing, in that Respondent was admitted to the Brazoria County Alcoholic Recovery Center, Inc. (Brazos Place), Freeport, Texas, for inpatient treatment and diagnosed with Opioid Dependence.

Respondent participated in outpatient treatment with the Brazoria County Alcoholic Recovery Center, Inc. (Brazos Place), Freeport, Texas. Respondent's condition could have affected her 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.

14. On September 2, 2008, Respondent entered a plea of Guilty to "Fraud Possession of a Controlled Substance Prescription Drug Schedule III/IV," a 3rd Degree felony offense committed on September 2, 2006, in the 361st Judicial District Court of Brazos County, Texas, under Cause No. 07-02698-CRF-461-1. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on community supervision for a period of three (3) years. Additionally, Respondent was ordered to serve sixty (60) days in the Brazos County Jail, and pay a fine and court costs.
15. On September 2, 2008, Respondent entered a plea of Guilty to "Fraud Possession of a Controlled Substance Prescription Drug Schedule III/IV," a 3rd Degree felony offense committed on September 18, 2006, in the 361st Judicial District Court of Brazos County, Texas, under Cause No. 07-02698-CRF-461-2. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on community supervision for a period of three (3) years. Additionally, Respondent was ordered to pay court costs.

16. Debbie Batten, Senior Community Supervision Officer II, for the Brazos County Community Supervision and Corrections Department, Bryan, Texas, submitted a letter to the Board dated September 25, 2008, stating that Respondent was placed on bond supervision on July 25, 2007, and as a condition of her bond supervision, she was required to report at least monthly and submit to random urinalysis. The Respondent reported as directed and submitted to urinalysis on August 28, 2007, September 28, 2007, February 15, 2008, March 20, 2008, April 29, 2008, and July 21, 2008, all with negative results.
17. 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.
18. Formal Charges were filed on July 30, 2008.
19. Formal Charges were mailed to Respondent on July 31, 2008.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violations of Article 4528(c), sec. 10(a)(9), TEX. REV. CIV. STAT. ANN., and Section 301.452(b)(3),(9),(10),(12)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(A)&(J), and 22 TEX. ADMIN. CODE §217.12(1)(A)&(B),(5),(6)(D)(G)&(H),(10)(A)&(E),(11)(B)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational License Number 129996, heretofore issued to LEE ANN RILEY, including revocation of Respondent's license 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 Vocational License Number 129996, previously issued to LEE ANN RILEY, to practice nursing in Texas is hereby SUSPENDED for a period of three (3) years with the said

suspension STAYED and Respondent is hereby placed on PROBATION for three (3) years with the following agreed terms of probation:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate privilege, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this order, Respondent may not work outside the State of Texas pursuant to a multistate licensure 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 deliver the wallet-sized license issued to LEE ANN RILEY, to the office of the Texas Board of Nursing within ten (10) days of the date of this Order.

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, 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) contact 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.state.tx.us/about/stipscourses.html>

(4) RESPONDENT SHALL pay a monetary fine in the amount of three hundred fifty dollars (\$350). RESPONDENT SHALL pay this fine within forty-five (45) days of entry of this Order. 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 A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE A THE USE OF A VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD.

(5) RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the probation conditions on RESPONDENT's license. 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.

(6) 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.

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

(8) For the remainder of the probation period, RESPONDENT SHALL be supervised by a Registered Nurse or by 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.

(9) 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.

(10) 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.

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

(12) 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) months for three (3) years of employment as a nurse.

(13) 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 an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.**

(14) 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.

Specimens shall be screened for at least the following substances:

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.

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 will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board. Failure to report for a drug screen may be considered the same as a positive result and may result in further disciplinary action by this Board.

(15) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and RESPONDENT SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least; the date of each meeting, the name of each group attended, and the signature and printed name of the chairperson of each group attended by RESPONDENT. RESPONDENT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) months. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

(16) RESPONDENT SHALL CAUSE her probation officer to submit written reports on forms provided to the Respondent by the Board. The reports shall indicate the RESPONDENT's compliance with the court ordered probation. The reports shall be furnished each and every three (3) month period until RESPONDENT is released from probation.

IT IS FURTHER AGREED, SHOULD RESPONDENT be convicted of the offense(s) as outlined in Findings of Fact Numbers FOURTEEN (14) and FIFTEEN (15), said judicial action will result in further disciplinary action including Revocation of Respondent's license to practice vocational nursing in the State of Texas.

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, 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, RESPONDENT SHALL be issued an unencumbered license to practice nursing in the State of Texas.

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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 violations 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 to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 25 day of November, 2008.

Lee Ann Riley
LEE ANN RILEY, Respondent

Sworn to and subscribed before me this 25 day of November, 2008.



Seamy Martinez
Notary Public in and for the State of TX

Approved as to form and substance.

Craig A. Greening
CRAIG A. GREENING, Attorney for Respondent

Signed this 26 day of NOVEMBER, 2008.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 25th day of November, 2008, by LEE ANN RILEY, License Number 129996, and said Order is final.

Effective this 22nd day of January, 2009.



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