BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS
****

TEXAS BOARD OF NURSING
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.
Executive Director of the Board

In the Matter of Vocational Nurse	§	
License Number 97145	§	AGREED ORDER
issued to NANCY JANE BURGER	§	

On this day the Board of Nurse Examiners for the State of Texas, hereinafter refer to as the Board, considered the matter of NANCY JANE BURGER, Vocational Nurse License Number 97145, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Sections 301.452(b)(10)and 302.402(a)(10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on October 12, 2006, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

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 representation by counsel, informal conference, notice and hearing, and agreed 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 Austin Community College, Austin, Texas on August 26, 1982. Respondent was licensed to practice vocational nursing in the State of Texas on December 13, 1982.

5. Respondent's complete vocational nursing employment history is unknown.

6. On September 15, 1995, Respondent's license to practice vocational nursing in the State of Texas was Suspended with the suspension stayed and Respondent was placed on probation for eighteen (18) months by the Board of Vocational Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law, and Agreed Board Order, is attached and incorporated by reference as part of this Order.

7. On or about March 23, 2003, while employed as a Staff Nurse with Walnut Hill Convalescent Center, Inc., Austin, Texas, Respondent misappropriated six (6) Vicodin (Hydrocodone) tablets and removed the Vicodin Control Sheet belonging to Resident Medical Record Number 575 and the facility thereof. Respondent conduct was likely to defraud the facility and patient of the cost of the medication.

8. On or about March 23, 2003, while employed as a Staff Nurse with Walnut Hill Convalescent Center, Inc., Austin, Texas, Respondent misappropriated six (6) Vicodin (Hydrocodone) tablets and removed the Vicodin Control Sheet belonging to Resident Medical Record Number 575 and the facility thereof. On or about August 24, 2005, Respondent plead "Guilty" to the charge of "Attempted Obtaining a Controlled Substance by Fraud," a 3rd Degree Felony, in the 331st Judicial District Court, Travis County, Texas, Cause Number 9030671. Respondent was issued a Deferred Adjudication and was placed on eighteen (18) months Community Supervision, assessed a fine in the amount of two hundred fifty dollars ($250), court costs in the amount of two hundred fifty dollars ($250); Crime Stoppers fee in the amount of thirty dollars ($30) and required to perform one hundred sixty (160) hours of community service restitution.

9. 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.

10. Charges were filed on June 2, 2006.

11. Charges were mailed to Respondent on June 2, 2006.

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 violations of Section 301.452(b)(10) and 302.402(a)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.12(13) and 239.11(1).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 97145, heretofore issued to NANCY JANE BURGER, including revocation of Respondent's license to practice vocational nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that Vocational Nurse License Number 97145, previously issued to NANCY JANE BURGER, to practice vocational nursing in Texas is hereby SUSPENDED for a period of two (2) years with the suspension STAYED and Respondent is hereby placed on PROBATION for two (2) 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 vocational nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this order the Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas 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, Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

(2) RESPONDENT SHALL deliver the wallet-sized license issued to NANCY JANE BURGER, to the office of the Board of Nurse Examiners within ten (10) days of the date of this Order for appropriate notation.

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence. 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, and documentation of care. 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 on the Board's website, www.bne.state.tx.us (under BNE events).*

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing 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. The course shall be a minimum of six (6) contact hours in length. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify RESPONDENT's successful completion of the course. This course is to be

taken in addition to any continuing education requirements the Board may have for relicensure. *Board approved courses may be found on the Board's website, www.bne.state.tx.us (under BNE events).*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A LICENSED VOCATIONAL NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(5) RESPONDENT SHALL notify each present employer in vocational 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 present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in vocational 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) RESPONDENT SHALL be supervised by a Registered Nurse or 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.

(8) 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 vocational nursing. These reports shall be completed by the Registered Nurse or Licensed Vocational 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 two (2) years of employment as a vocational nurse.

(9) 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.**

(10) 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 second three (3) 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.

(11) RESPONDENT SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. RESPONDENT SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT's progress in therapy, rehabilitation and capability to safely practice vocational nursing. The report must indicate whether or not the RESPONDENT's stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the probation period, or until RESPONDENT is dismissed from therapy.

(12) 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.

(13) IT IS FURTHER AGREED, SHOULD RESPONDENT be convicted of or receive a deferred order for the offense(s) as outlined in Finding of Fact Number Twelve (12), 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, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice vocational 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 waive representation by counsel. 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 22 day of November, 2006

Nancy Jane Burger

NANCY JANE BURGER, Respondent

Sworn to and subscribed before me this _____ day of _____, 20____.

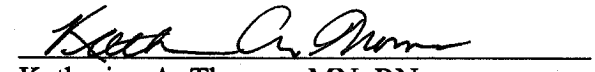
SEAL

_____

Notary Public in and for the State of _____

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 22nd day of November, 2006, by NANCY JANE BURGER, Vocational Nurse License Number 97145, and said Order is final.

Effective this **19th** day of **February**, **2007**.



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

BOARD OF VOCATIONAL NURSE EXAMINERS	*	STATE OF TEXAS
	*	
VS.	*	
	*	
NANCY JANE BURGER	*	COUNTY OF TRAVIS

AGREED BOARD ORDER

On this day came to be considered by the Board of Vocational Nurse Examiners the matter of vocational nurse license number 097145, held by NANCY JANE BURGER, hereinafter called Respondent.

By letter, the Board of Vocational Nurse Examiners sent preliminary notice to Respondent of its intent to take disciplinary action with respect to said license held by Respondent, as a result of a complaint and subsequent investigation. Said investigation produced evidence indicating that Respondent has engaged in unprofessional or dishonorable conduct that, in the opinion of the Board, is likely to deceive, defraud, or injure the public, in violation of Article 4528c, Section 10 (a) (9), Revised Civil Statutes of Texas in the following manner:

a. On or about May 8, 1995, the Board of Vocational Nurse Examiners for the state of Texas received a written referral from the Texas Peer Assistance Program for Nurses (TPAPN), referring Respondent to the Board for investigation, as Respondent had declined participation with TPAPN.

b. Respondent was employed as a Licensed Vocational Nurse at Austin Manor Nursing Home from about March 12, 1995 through about April 14, 1995.

c. While so employed on the 11:00 p.m. to 7:00 a.m. shift on or about April 11-12, 1995, Respondent documented that she medicated two (2) residents with Vicodin, twice each. Respondent documented medicating a third patient at about 11:45 p.m., and signed out for Vicodin for said third resident at about 5:00 a.m., but wasted said 5:00 a.m. dose of Vicodin without a witness.

d. On or about April 12, 1995, at about 8:00 a.m., Vicodin levels were drawn on the three residents, with negative results on all.

By Respondent's signature on this Order, Respondent neither admits nor denies the truth of the matters previously set out in this Order with respect to the above mentioned investigation. By Respondent's signature on this Order, Respondent acknowledges that they have read and understood this Order and have approved it for consideration by the Board.

By their notarized signature on this Order, Respondent does hereby waive the right to a formal Complaint, Notice of Hearing and a Public Hearing held before an Administrative Law Judge with the State Office of Administrative Hearings, and to judicial review of this disciplinary action. Notice of this disciplinary action will appear in the Board's newsletter sent to Texas employers.

ORDER OF THE BOARD

NOW THEREFORE, IT IS ORDERED that license number 097145, heretofore issued to NANCY JANE BURGER, to practice vocational nursing in the State of Texas be, and the same is hereby suspended, with said suspension stayed and placed on probation for a period eighteen (18) months.

The probation of said license is subject to the following stipulations, to wit:

1. That if Respondent's place of employment, name, address or telephone number changes, Respondent is to notify the Board office immediately, or no later than ten (10) days after said change has occurred. Said notification shall be in the form of a written letter or report.

2. That Respondent shall comply with Federal, State, and local laws, and all the provisions of the Vocational Nurse Act and Rules and Regulations of the Board.

3. That by copy of this Board Order, Respondent shall provide notice of Board disciplinary action to her nursing employer(s) throughout the term of probation.

4. That Respondent shall cause her nursing employer(s) to submit satisfactory reports directly to the Board office on a monthly basis for the first six (6) months of probation. Thereafter, and throughout the remainder of said probation, Respondent shall cause her nursing employer(s) to submit satisfactory reports directly to the Board office on a quarterly basis.

5. That any period(s) of unemployment must be documented in writing by Respondent and submitted to the Board office, as provided in Stipulation No. 4.

6. That Respondent shall work only under the direct supervision of a licensed medical professional throughout the term of probation.

7. That Respondent shall not be the only licensed medical professional in the facility.

8. That Respondent shall and hereby agrees to remain free of alcohol and all unprescribed controlled substances. Any controlled or legend medication must be prescribed by a physician knowledgeable about the disease of addiction, as well as Respondent's history, and it is incumbent upon Respondent to insure such physician knowledge. In all such cases, the prescribed drugs must be verified in writing to the Board by the prescribing physician.

9. That Respondent shall submit to random periodic blood alcohol and urine drug screen(s) upon demand of the Board staff throughout the term of probation. Said screen(s) shall be properly monitored with adherence to chain of custody procedures. The results of said screen(s) shall be submitted directly to the Board office by the laboratory. The expense of said screen(s) shall be borne by Respondent.

10. That Respondent shall provide the Board a telephone number by which Respondent may be contacted between the hours of 8:00 a.m. and 5:00 p.m. on weekdays. Respondent must maintain with the Board, during the term of this probation, a current telephone number in order for the Board to request random blood alcohol and urine drug screens, as provided in Stipulation No 9.

11. That Respondent shall successfully complete nursing program course(s) encompassing the following areas of study: Legal Aspects of Nursing (to include Charting, & Patient Confidentiality), and submit documentation of successful course completion to the Board office prior to the end of probation. Respondent shall be responsible for locating said course(s) and obtaining approval of Board staff prior to committing to said course(s). Said course(s) shall be correspondence (through a recognized provider), in-house at a community college, university or nursing program, and/or tutored by a state approved, licensed nursing program faculty member. The expense of said course(s) shall be borne by Respondent.

This Agreed Order shall not be effective or take effect and become enforceable in accordance with its terms until endorsed by a majority of the Board present and voting, at its next regularly called session.

Dated this the 27 day of June 1995.

Nancy Jane Burger
Signature of Respondent

PO Box 175
Current Address

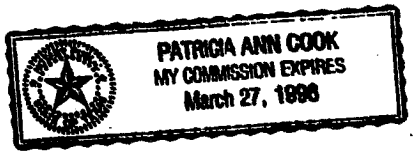
Liberty Hill Tx 78642
City, State and Zip

512, 515-5807
Area Code and Telephone Number

The State of Texas
County of Travis

Before me, the undersigned authority, on this day personally appeared NANCY JANE BURGER, who being duly sworn by me stated that he or she executed the above for the purpose therein contained, and that he or she understood same.

SWORN TO AND SUBSCRIBED before me on this the 27th day of June, 1995.



Patricia Ann Cook
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My Commission Expires 3-27-98

Marjorie A. Bronk, RN
Marjorie A. Bronk, R.N.
Agent for the Board of
Vocational Nurse Examiners

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the 29th day of June, 1995.

Linda Rae Kent
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

ENDORSEMENT OF THE BOARD
To The Agreed Board Order
in the matter of Vocational Nurse
License No. 097145
Issued to Nancy Jane Burger

At its regularly called session, on the 12th day of September 1995, came on to be considered the indicated Agreed Board Order pertaining to Nancy Jane Burger. The Board having reviewed the contents of said Order, the Order should be, and is hereby, endorsed as an Order of the Board and made an official act of the Board of Vocational Nurse Examiners for the State of Texas.

Said Order is rendered on this the 12th day of September, 1995.

Carrie McCall

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of September 1995, a true and correct copy of the foregoing Order was served by placement in the U.S. Mail, first class, and addressed to the following person(s):

NANCY BURGER
P.O. BOX 175
LIBERTY HILL, TX 78642

Marjorie A. Bronk, RN

Marjorie A. Bronk, RN
Executive Director
Agent for the Board of Vocational Nurse Examiners