

BEFORE THE 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.
Katherine A. Thomas
Executive Director of the Board

In the Matter of Registered Nurse License Number § AGREED
588908 and Vocational Nurse License Number 108174 §
issued to DEBORAH ANN LUTIAN (FRAZIER) § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board considered the matter of DEBORAH ANN LUTIAN (FRAZIER), Registered Nurse License Number 588908, and Vocational Nurse License Number 108174, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on October 8, 2010, 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(s).
2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas. Respondent's license to practice vocational nursing in the State of Texas is currently in delinquent status.
4. Respondent received a Certificate in Vocational Nursing from Henderson County Junior College, Palestine, Texas on August 24, 1984. Respondent was licensed to practice vocational nursing in the State of Texas on December 17, 1984. Respondent received Associate Degree in Nursing from Excelsior College, Albany, New York on September 18,

1992. Respondent was licensed to practice professional nursing in the State of Texas on March 23, 1993.

5. Respondent's professional and vocational nursing employment history includes:

08/84 - 06/92 Unknown

07/92 - 2008 LVN/RN Dallas Regional Medical Center
 Mesquite, Texas

2009 - Present

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Dallas Regional Medical Center, Mesquite, Texas, and had been in this position for fifteen (15) years and ten (10) months.

7. On or about May 7, 2008 to May 21, 2008, while employed with Dallas Regional Medical Center, Mesquite, Texas, Respondent removed Fentanyl, Midazolam and Morphine from the facility medication dispensing system for patients but failed to document the administration of said medications in the patients' Medication Administration Records (MARs) as follows.

Date/Time	Patient Acct.#	Medication pulled & qty.	Physician's Order	MAR documentation	Wastage
5/7/08 0723	3228358	Fentanyl 250mcg amp (1)	None	None	None
5/7/08 0723	3228358	Midazolam 5ml amp (1)	None	None	None
5/7/08 0826	3228358	Fentanyl 250mcg amp (1)	None	None	None
5/7/08 0826	3228358	Midazolam 5ml amp (1)	None	None	None
5/7/08 0827	3228358	Midazolam 5ml amp (1)	None	None	None
5/7/08 0910	3228358	Demerol 25mg vial (1)	25mg IV Q4H prn	None	None

5/7/08 0911	3228358	Morphine 4mg syringe (1)	4mg Q4H prn	None	None
5/7/08 0939	3228358	Morphine 4mg syringe (1)	4mg Q4H prn	None	None
5/17/08 1648	3999348	Midazolam 5ml amp (1)	2-5 mg IV Q2-4H prn	None	None
5/17/08 1815	3999348	Midazolam 5ml amp (1)	2-5 mg IV Q2-4H prn	None	None
5/18/08 1358	3999348	Midazolam 5ml amp (1)	2-5 mg IV Q2-4H prn	None	None
5/20/08 0929	3229734	Fentanyl 250mcg amp (1)	None	None	None
5/20/08 0929	3229734	Fentanyl 100mcg amp (1)	None	None	None
5/20/08 0929	3229734	Midazolam 5ml amp (1)	None	None	None
5/20/08 0929	3229734	Midazolam 2ml amp (1)	None	None	None
5/20/08 0941	3229734	Fentanyl 250mcg amp (1)	None	None	None
5/21/08 0937	1035675	Fentanyl 250mcg amp (1)	None	None	None
5/21/08 1112	1035675	Fentanyl 250mcg amp (1)	None	None	None
5/21/08 1146	1035675	Fentanyl 250mcg amp (1)	None	None	None
5/21/08 1201	1035675	Morphine 4mg syringe (1)	None	None	None

5/21/08 1211	1035675	Morphine 4mg syringe (1)	None	None	None
5/21/08 1408	3229367	Midazolam 5ml amp (1)	None	None	None
5/21/08 1409	3229367	Midazolam 5ml amp (1)	None	None	None
5/21/08 1553	3229367	Midazolam 5ml amp (1)	None	None	None
5/21/08 1554	3229367	Midazolam 5ml amp (1)	None	None	None

Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose.

8. Regarding the conduct outlined in Finding of Fact Number Seven (7), Respondent states that separate Medication Administration Records (MAR) were not used for their medications, and that they relied on the monitoring staff to document it for them. She states that these documents can easily be altered by deleting the drugs or not recording them at all.
9. On or about May 7, 2008 to May 21, 2008, while employed with Dallas Regional Medical Center, Mesquite, Texas, Respondent removed Fentanyl, Midazolam and Morphine from the facility medication dispensing system for patients without valid physician's orders as follows.

Date/Time	Patient Acct.#	Medication pulled & qty.	Physician's Order	MAR documentation	Wastage
5/7/08 0723	3228358	Fentanyl 250mcg amp (1)	None	None	None
5/7/08 0723	3228358	Midazolam 5ml amp (1)	None	None	None
5/7/08 0826	3228358	Fentanyl 250mcg amp (1)	None	None	None
5/7/08 0826	3228358	Midazolam 5ml amp (1)	None	None	None
5/7/08 0827	3228358	Midazolam 5ml amp (1)	None	None	None

5/20/08 0929	3229734	Fentanyl 250mcg amp (1)	None	None	None
5/20/08 0929	3229734	Fentanyl 100mcg amp (1)	None	None	None
5/20/08 0929	3229734	Midazolam 5ml amp (1)	None	None	None
5/20/08 0929	3229734	Midazolam 2ml amp (1)	None	None	None
5/20/08 0941	3229734	Fentanyl 250mcg amp (1)	None	None	None
5/21/08 0937	1035675	Fentanyl 250mcg amp (1)	None	None	None
5/21/08 1112	1035675	Fentanyl 250mcg amp (1)	None	None	None
5/21/08 1146	1035675	Fentanyl 250mcg amp (1)	None	None	None
5/21/08 1201	1035675	Morphine 4mg syringe (1)	None	None	None
5/21/08 1211	1035675	Morphine 4mg syringe (1)	None	None	None
5/21/08 1408	3229367	Midazolam 5ml amp (1)	None	None	None
5/21/08 1409	3229367	Midazolam 5ml amp (1)	None	None	None
5/21/08 1553	3229367	Midazolam 5ml amp (1)	None	None	None
5/21/08 1554	3229367	Midazolam 5ml amp (1)	None	None	None

Respondent's conduct was likely to injure the patients in that the administration of Fentanyl, Midazolam and Morphine without valid physician's order could result in the patient suffering from adverse reactions.

10. Regarding the conduct outlined in Finding of Fact Number Nine (9), Respondent states that medications were administered with the physician in the room, and he could then sign the cath report which served as their order, MAR and notes. She states that most physicians would dictate the administration amounts in the notes.
11. On or about May 7, 2008 to May 21, 2008, while employed with Dallas Regional Medical Center, Mesquite, Texas, Respondent removed Fentanyl, Midazolam and Morphine from the facility medication dispensing system for patients but failed to follow facility policy and procedure in place for the wastage of the unused portions of the Fentanyl, Midazolam and Morphine. Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
12. Regarding the conduct outlined in Finding of Fact Number Eleven (11), Respondent states that all drugs she removed were either given to the patient or wasted properly. She states that at night she would call the house supervisor to the lab and witness the wastage or she would take them to nursing floor and have the accepting nurse witness it with her, and they would both sign the cath report with the proper documentation of the wastage and the amount. She also states that when cases were cancelled after they set up for them, she would document the wastage and method on a nurse's progress note and have another nurse co-sign with her.
13. On or about May 7, 2008 to May 21, 2008, while employed with Dallas Regional Medical Center, Mesquite, Texas, Respondent misappropriated Fentanyl, Midazolam and Morphine belonging to the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
14. Regarding the conduct outlined in Finding of Fact Number Thirteen (13), Respondent states that she never defrauded a patient's financial account or the institution and proper documentation was made to show wastage and disposal of the drugs. Respondent adds that due to the severely hostile environment she was working in and the heavy work load, any error that was made regarding documentation was unconsciously and without malice or harm to anyone. Respondent states that she requested a drug test to clear any suspicions regarding herself but was denied.
15. 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.
16. Formal Charges were filed on September 9, 2010.
17. Formal Charges were mailed to Respondent on September 13, 2010.

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)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(B)(D), and 22 TEX. ADMIN. CODE §217.12(1)(A),(4),(6)(G),(10)(C)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 588908 and Vocational Nurse License Number 108174, heretofore issued to DEBORAH ANN LUTIAN (FRAZIER), including revocation of Respondent's licenses 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 RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and 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.

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

IT IS FURTHER AGREED and ORDERED that while Respondent's licenses are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse licensure compact 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.

IT IS FURTHER AGREED that:

- (1) 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) 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/disciplinaryaction/stipscourses.html>.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. 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) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation.

RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office 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/disciplinaryaction/stipscourses.html>

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete 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 program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address: <http://ncsbn.hivelive.com/hives/a0f6f3e8a0/summary>.*

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 AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR VOCATIONAL NURSE (LVN) LICENSE

WILL NOT APPLY TO THIS STIPULATION PERIOD:

(4) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations 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 nursing of this Order of the Board and the stipulations 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.

(5) 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.

(6) RESPONDENT SHALL be supervised by a Registered 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.

(7) 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 Registered 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) month period for one (1) year of employment as a nurse.

(8) 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.**

(9) 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. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by

the Board.

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 stipulation 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 stipulation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's licenses and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S licenses to practice nursing in the State of Texas and RESPONDENT shall 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 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 licenses to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 31 day of July, 2010.

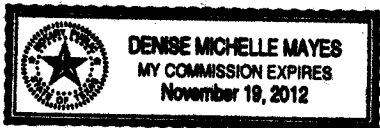
Deborah Ann Lutian
DEBORAH ANN LUTIAN (FRAZIER), Respondent

Sworn to and subscribed before me this 31 day of December, 2010.

SEAL

Denise Michelle Mayes

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 31st day of July, 2010, by DEBORAH ANN LUTIAN (FRAZIER), Registered Nurse License Number 588908, and Vocational Nurse License Number 108174, and said Order is final.

Effective this 8th day of February, 2011.



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