BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse	§	AGREED
License Number 646989	§	
and Vocational Nurse	§	
License Number 86721	§	
issued to NANCY LODICO	§	ORDER

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

An investigation by the Texas Board of Nursing, hereinafter referred to as the Boa produced evidence indicating that NANCY LODICO, hereinafter referred to as Respondent, Registered Nurse License Number 646989 and Vocational Nurse License Number 86721, may have violated Section 301.452(b)(10)&(13), Texas Occupations Code.

An informal conference was held on November 17, 2009, 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 notified of her right to be represented by legal counsel. Respondent was represented by Jeffrey B. McClure, Attorney at Law. In attendance were Katherine A. Thomas, MN, RN, Executive Director; Kyle Hensley, Assistant General Counsel; Ron Simpson, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; and Nancy Krause, RN, 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 licenses.

2. Respondent waived notice and hearing, and consented 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 Willoughby Eastlake School of Practical Nursing, Willoughby, Ohio, on September 9, 1977, and received an Associate Degree in Nursing from Houston Community College, Houston, Texas, on May 1, 1997. Respondent was licensed to practice vocational nursing in the State of Texas on October 20, 1980, and was licensed to practice professional nursing in the State of Texas on December 16, 1997.

5. Respondent's nursing employment history includes:

1980 - 1992	Staff Nurse	Sharpstown Hospital Houston, Texas
1992 - 2003	Staff Nurse	Bellaire Medical Center Houston, Texas
7/2003 - 5/2007	Staff Nurse	Bayou Anesthesia and Pain Services Houston, Texas
2007 - Present	Staff Nurse	Med Center Ambulatory Surgery Houston, Texas
Unknown - Present	Staff Nurse	Physician Endoscopy Center Houston, Texas

6. At the time of the incident in Findings of Fact Numbers Seven (7) and Eight (8), Respondent was employed as a Staff Nurse with Bayou Anesthesia and Pain Services, Houston, Texas, and had been in this position for three (3) years and nine (9) months.

7. On or about April 28, 2007, while employed as a Staff Nurse with Bayou Anesthesia and Pain Services, Houston, Texas, Respondent told T.B. to come to Twelve Oaks Medical Center (TOMC), Houston, Texas, where Respondent administered Ropivicaine to T.B. without a physician's order, and without obtaining a consent for treatment. Additionally, Respondent also gave T.B. a new pain pump, without a physician's order. Since T.B. was not a patient at TOMC, Respondent's conduct was likely to defraud the facility of the cost of the equipment, services, and medication. Furthermore, Respondent's conduct was also likely to injure T.B. because there were no physician's orders to refer to in the event of an acute reaction to the medication.

8. In response to the incident in Finding of Fact Number Seven (7), Respondent states she assisted an anesthesiologist with Bayou Anesthesia in providing anesthesia and pain management services to the patient in connection with a hand surgery that was performed at the patient's surgeon's office on April 26, 2007. At this time, the physician obtained the consent for intra-operative anesthesia and post operative pain management and instructed Respondent to provide the patient with a replacement pump on Saturday April 28, 2007 at the office of Bayou Anesthesia at TOMC. Respondent asserts that the physician instructed

her to provide T.B. a refilled pump containing Ropivicaine on April 28, 2007, and specified he wanted the same bolus amount and dose amount and rate settings as used at the time of the surgery. Because the offices of Bayou Anesthesia were closed on April 28, 2007, Respondent states that the patient was asked to come to Bayou Anesthesia's office at TOMC where she administered the bolus and connected the replacement pump containing Ropivicaine. Respondent states she charged the Ropivicaine to the patient's pre-operative patient number from the admission for pre-operative testing done earlier in the week and provided the patient with a pump that was the property of Bayou Anesthesia. Respondent also states that a Bayou Anesthesia anesthesiologist was at TOMC on Saturday, aware of his partner's order to Respondent and available to respond to any acute reaction to the medication.

9. On or about March 28, 2007, through May 3, 2007, while employed as a Staff Nurse with Bayou Anesthesia and Pain Services, Houston, Texas, and working at TOMC, Houston, Texas, Respondent withdrew the following medications from the medication dispensing system for Patient 012286415 which she administered to other patients:

Medication:	Date Removed:	Type of Medication
Sublimaze	4/9/2007	opioid - controlled substance
Anectine	4/5/2007	neuromuscular blocker
Propofol	3/30/2007	anesthesia induction
Naropin	4/28/2007	local regional anesthesia
Rocephin	4/28/2007	antibiotic
Decadron	4/28/2007	steroid
Xylocaine	4/17/2007 & 4/28/2007	antiarrhythmic
Vancomycin	4/3/2007	antibiotic

Respondent's conduct may have resulted in inaccurate billing to the patient whose account was billed for medications the patient did not receive, and may have created an inaccurate medical record on which subsequent care givers would rely to provide ongoing medical care.

10. In response to the incident in Finding of Fact Number Nine (9), Respondent states that she must have entered this patient's account number because she did not have immediate access to the correct patient number and needed the medications for patients of Bayou Anesthesiology, pursuant to orders or instructions from one or more of the physicians in that group. Respondent also presented evidence that patient billing was performed using the anesthesia record, not the data in the drug dispensing system. Therefore, the use of a different patient name to withdraw medication from the drug dispensing system would not cause an inaccurate bill to be rendered to the patient whose name was used and would not cause any issue with the hospital's ability to bill the correct patient. In addition, Respondent demonstrated that the drug dispensing system data does not become part of the patient chart, so the practice of using a different patient name never results in an inaccurate medical record.

11. On or about May 3, 2007, while employed with Bayou Anesthesia, Houston, Texas, and working at TOMC, Houston, Texas, Respondent failed to follow the policy and procedure for wastage of narcotics in that she withdrew one (1) 4mg vial of Midazolam and one (1) 10mg vial of Midazolam from the medication dispensing system for Patient 012369054, documented the administration of 4mg Midazolam in the patient's Medication Administration Record, but failed to properly document the wastage of the remaining 10 mg of Midazolam. 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. In response to the incident in Finding of Fact Number Eleven (11), Respondent states she intended to withdraw 4mg Midazolam for the patient but that she inadvertently withdrew 10mg Midazolam. When Respondent realized her error, she also withdrew the 4mg vial, but was unable to get the Pyxis machine to function in "replace" mode to return the 10mg vial, despite two (2) attempts that day. Additionally, Respondent asserts that after the surgical procedure she tried to return the vial a second time but was unable to do so. Respondent does not recall the exact date she wasted the Midazolam but does recall that she carried it with her for a period of time intending to return 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 violations of Section 301.452(b)(10)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B),(1)(C)&(1)(D) and 22 TEX. ADMIN. CODE §217.12(1)(B),(4),(10)(B)&(10)(C).

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 646989 and Vocational Nurse License Number 86721, heretofore issued to NANCY LODICO, 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 A FINE, 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 medication administration. 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. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. 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. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor 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.*

(3) 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.*

(4) 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://www.learningext.com/products/generalce/critical/ctabout.asp.*

(5) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars ($500.00). 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 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 A REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(6) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S licenses. 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 licenses. 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.

(7) 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, **with the exception of Respondent's current employment as a Staff Nurse with Med Center Ambulatory Surgery, Houston, Texas, and with Physician Endoscopy Center, Houston, Texas. Should Respondent's current employment with either facility cease or change, multiple employers will be 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 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.

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 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 19th day of August, 2010.

Nancy Lodico RN

NANCY LODICO, Respondent

Sworn to and subscribed before me this 19th day of August, 2010.

SEAL

ANGELA MCGUIRE NOTARY PUBLIC STATE OF TEXAS EXPIRES 2-27-2013

Notary Public in and for the State of Texas

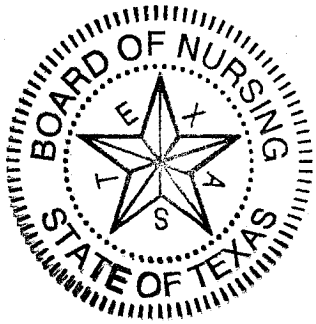
Approved as to form and substance.

Jeffrey B. McClure, Attorney for Respondent

Signed this 20th day of August, 2010.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 19th day of August, 2010, by NANCY LODICO, Registered Nurse License Number 646989 and Vocational Nurse License Number 86721, and said Order is final.

Effective this 14th day of September, 2010.



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