



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

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse §  
License Number 670500, issued to § AGREED ORDER  
DIANA LYNN MOCZYGEMBA §

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of DIANA LYNN MOCZYGEMBA, Registered Nurse License Number 670500, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(3),(10)&(13), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on February 5, 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.
2. Respondent waived 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.
4. Respondent received a Diploma in Nursing from Baptist Health System, San Antonio, Texas, in June 2000. Respondent was licensed to practice professional nursing in the State of Texas on July 18, 2000.
5. Respondent's professional employment history includes:

08/00 - 04/01	Staff RN	Northeast Baptist Hospital San Antonio, Texas
04/01 - 07/02	Staff RN	Methodist Hospital San Antonio, Texas

Respondent's professional employment history continued:

06/02 - 08/02	Agency Nurse	Favorite Nurses San Antonio, Texas
11/02 - 07/03	Staff RN	University Hospital San Antonio, Texas
12/03 - 01/04	Staff RN	Guadalupe Valley Hospital San Antonio, Texas
04/04 - 04/04	Staff RN	Trisun Care Center San Antonio, Texas
05/04 - 11/04	Unknown	
12/04 - 9/07	Staff RN	Northwest Kidney Disease San Antonio, Texas
12/04 - unknown	Staff RN	Methodist Healthcare System San Antonio, Texas
07/07 - 10/07	Agency Nurse	Favorite Healthcare Staffing, Inc. San Antonio, Texas
11/07 - Present	Unknown	

6. On September 9, 2004, Respondent was issued an Agreed Order by the Board of Nurse Examiners for the State of Texas, which required her to participate and successfully complete the Texas Peer Assistance Program for Nurses. A copy of the Findings of Fact, Conclusions of Law and Agreed Order dated September 9, 2004, is attached and incorporated by reference as part of this Order.
7. On or about January 6, 2005, Respondent plead nolo contendere to the offense of "Fraud", a Second Degree Felony, in the 274th Judicial District Court of Guadalupe County, Texas, cause number 04-0833CR. Respondent was issued a Deferral of Adjudication of Guilt and placed on five (5) years of community supervision. Respondent was discharged from community supervision on July 18, 2007.
8. At the time of the incidents in Findings of Fact Numbers Nine (9) through Thirteen (13), Respondent was employed as an Agency Nurse with Favorite Healthcare Staffing, Inc., San Antonio, Texas, and had been in this position for two (2) months.

9. On or about September 30, 2007 through October 14, 2007, while employed with Favorite Healthcare Staffing, San Antonio, Texas, and on assignment with South Texas Regional Medical Center, Jourdanton, Texas, Respondent withdrew Meperidine (Demerol) from the Pyxis Medication Dispensing System for patients without a physician's order, as follows:

Date	Time	Patient	Physician's Order	Pyxis Record
9/30/07	1315	2323640	No further orders for Meperidine	Meperidine 75mg
9/30/07	1830	2323663	No Order for Meperidine	Meperidine 75mg
10/8/07	0712	2324932	IV Demerol 25mg @ 0047 (one time order) No further orders for Meperidine	Meperidine 75mg
10/8/07	0848	2324932	No Order for Meperidine	Meperidine 75mg
10/8/07	1051	2325001	No Order for Meperidine	Meperidine 75mg
10/14/07	1725	2326062	No Order for Meperidine	Meperidine 50mg

Respondent's conduct was likely to injure the patients in that the administration of Meperidine to patients without a physician's order could result in the patients suffering from adverse reactions.

10. On or about September 30, 2007 through October 14, 2007, while employed with Favorite Healthcare Staffing, San Antonio, Texas, and on assignment with South Texas Regional Medical Center, Jourdanton, Texas, Respondent withdrew Meperidine (Demerol) from the Pyxis Medication Dispensing System for patients but failed to document the administration of the medication in the patients' Emergency Department Medical Record including the Medication Administration Record (MAR) and Nurses Notes, as follows:

Date	Time	Patient	Physician's Order	Pyxis Record	MAR	Nurses Notes
9/30/07	1315	2323640	No further orders for Demerol	Meperidine 75mg	No	No
9/30/07	1830	2323663	No Order for Meperidine	Meperidine 75mg	No	No
10/8/07	0711	2324932	Diazepam 10mg PRN anxiety	Diazepam 5mg -2 tabs	No	No
10/8/07	1430	2325076	Demerol 25mg IV @ 1431	Meperidine 25mg	No	No
10/8/07	0712	2324932	IV Demerol 25mg @ 0047 No further orders for Demerol	Meperidine 75mg	No	No
10/8/07	0848	2324932	No Order for Demerol	Meperidine 75mg	No	No
10/8/07	1051	2325001	No Order for Demerol	Meperidine 75mg	No	No
10/14/07	1722	2326062	Demerol 25mg @ 1635	Meperidine 50mg	No	No

Respondent's conduct above 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.

11. During September 21, 2007 through October 14, 2007, while employed with Favorite Healthcare Staffing, San Antonio, Texas, and on assignment with South Texas Regional Medical Center, Jourdanton, Texas, Respondent misappropriated Demerol belonging to the facility and the patients. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.
12. On or about September 30, 2007 through October 14, 2007, while employed with Favorite Healthcare Staffing, San Antonio, Texas, and on assignment with South Texas Regional Medical Center, Jourdanton, Texas, Respondent withdrew Meperidine (Demerol) from the Pyxis Medication Dispensing System for patients but failed to follow the policy and procedure for the wastage, as follows:

Date	Time	Patient	Physician's Order	Pyxis Record	MAR	Nurses Notes	Wastage
9/30/07	0909	2323640	Demerol 50mg/Phenergan 25mg IM X1 @ 0915	Meperidine 75mg	50mg @0915	50mg @0915	No Wastage
9/30/07	1315	2323640	No order for Demerol @ 1315	Meperidine 75mg	No	No	No Wastage
9/30/07	1830	2323663	No Order for Meperidine	Meperidine 75mg	No	No	No Wastage
10/1/07	0928	2323782	IV Demerol 25mg @0932	Meperidine 75mg	0932	0933	No wastage
10/1/07	1051	2323782	IV Demerol 25mg @1057	Meperidine 75mg	1057	1058	No wastage
10/8/07	0711	2324932	Diazepam 10mg PRN anxiety	2- Diazepam 5mg	No	No	No wastage
10/8/07	1430	2325076	Demerol 25mg IV @1431	Meperidine 25mg	No	No	No wastage
10/8/07	0712	2324932	IV Demerol 25mg @ 0047, No order for Demerol @ 0712	Meperidine 75mg	No	No	No Wastage
10/8/07	0848	2324932	No Order for Demerol	Meperidine 75mg	No	No	No Wastage
10/8/07	1051	2325001	No Order for Demerol	Meperidine 75mg	No	No	No Wastage
10/14/07	1722	2326062	Demerol 25mg @ 1635	Meperidine 50mg	No	No	No wastage
10/14/07	1725	2326062	No Order	Meperidine 50mg	1725	1725	No wastage

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).

13. During September 21, 2007 through October 14, 2007, while employed with Favorite Healthcare Staffing, San Antonio, Texas, and on assignment with South Texas Regional Medical Center, Jourdanton, Texas, Respondent engaged in the intemperate use of Demerol. Possession of Demerol is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Demerol by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
14. Respondent submitted verification of attendance at support group meetings (Alcoholics Anonymous) from April 2008 through January 2010 and verification of fifteen (15) drug screens performed at Labcorp from May 2008 through November 2009 which were negative. In addition, Respondent submitted written verification of completion of a treatment program at the Palmer Drug Abuse Program, San Antonio, Texas, in March 2008.
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. Charges were filed on March 16, 2009.
17. Charges were mailed to Respondent on March 20, 2009.

#### CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation of Section 301.452(b)(3),(10)&(13, Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(A),(C)&(D) and 217.12(1)(A),(B),(C),(4),(6)(A),(G),(10)(A),(C),(11)(B)&(13).
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 670500, heretofore issued to DIANA LYNN MOCZYGEMBA, including revocation of Respondent's license to practice professional nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Registered Nurse License Number 670500, previously issued to DIANA LYNN MOCZYGEMBA, to practice professional nursing in Texas is hereby SUSPENDED for a period of three (3) years with the 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 the 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 DIANA LYNN MOCZYGEMBA, 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 the suspension being stayed, 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>

(4) RESPONDENT SHALL pay a monitoring fee in the amount of Five Hundred Dollars (\$500). 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 AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS 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 THE USE OF A REGISTERED NURSE (RN) VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:**

(5) RESPONDENT SHALL notify each present employer 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 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 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. 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 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. All random screens

SHALL BE conducted through urinalysis. Screens obtained through urinalysis is 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 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 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 license and multistate licensure privileges, if any, to practice nursing in the State of Texas.

(15) SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or

another comparable recovery program that has been pre-approved by the Board. 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.

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, all encumbrances will be removed from RESPONDENT's license and RESPONDENT shall be eligible for multistate licensure privileges, if any, to practice nursing in the State of Texas.

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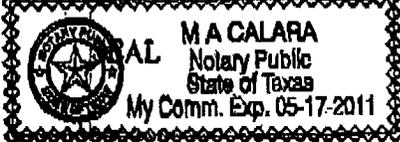
**RESPONDENT'S CERTIFICATION**

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 professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 17 day of February, 2010.

Diana Lynn Moczygemba  
DIANA LYNN MOCZYGENBA, Respondent

Sworn to and subscribed before me this 17 day of February, 2010.



[Signature]  
Notary Public in and for the State of Texas

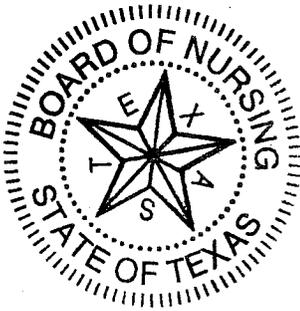
Approved as to form and substance.

[Signature]  
Darr Lype, Attorney for Respondent

Signed this 17 day of February, 2010.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 17<sup>th</sup> day of February, 2010, by DIANA LYNN MOCZYGEMBA, Registered Nurse License Number 670500, and said Order is final.

Effective this 22<sup>nd</sup> day of April, 2010.



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

BEFORE THE BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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In the Matter of License Number 670500 § AGREED  
issued to DIANA LYNN MOCZYGEMBA § ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of DIANA LYNN MOCZYGEMBA, Registered Nurse License Number 670500, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9) & (10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on July 26, 2004, by Katherine A. Thomas, MN, RN, Executive Director.

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 professional nursing in the State of Texas.
4. Respondent received a Diploma in Nursing from Baptist Health System, San Antonio, Texas, in June 2000. Respondent was licensed to practice professional nursing in the State of Texas on July 18, 2000.

5. Respondent's professional employment history includes:

07/00 - 03/01	Staff RN	Northeast Baptist Hospital San Antonio, Texas
06/01 - 06/02	Staff RN	Methodist Hospital San Antonio, Texas

Respondent's professional employment history continued:

06/02 - 08/02	Agency Nurse	Favorite Nurses San Antonio, Texas
11/02 - 07/03	Staff RN	University Hospital San Antonio, Texas
12/03 - 01/04	Staff RN	Guadalupe Valley Hospital San Antonio, Texas
04/04 - 04/04	Staff RN	Trisun Care Center San Antonio, Texas
05/04 - Present	Unknown	

6. At the time of the initial incident, Respondent was employed as an Agency Nurse with Favorite Nurses, San Antonio, Texas, and had been in this position for several days.
7. On or about June 2002, while employed with Favorite Nurses, San Antonio, Texas, and on assignment at Southwest Methodist Hospital, San Antonio, Texas, Respondent misappropriated Demerol belonging to the facility and/or the patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.
8. On or about June 2002, while employed with Favorite Nurses, San Antonio, Texas, and on assignment at Southwest Methodist Hospital, San Antonio, Texas, Respondent engaged in the intemperate use of Demerol. Possession of Demerol is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Demerol by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
9. On or about June 2002, while employed with Favorite Nurses, San Antonio, Texas, and on assignment at Southwest Methodist Hospital, San Antonio, Texas, Respondent withdrew Demerol from the PYXIS Medication Dispensing System using other staff members' pass codes. Respondent's conduct was likely to deceive and defraud the facility of the cost of the medications.
10. On or about August 2002, while employed with Favorite Nurses, San Antonio, Texas, and on assignment at Southwest Texas Regional Medical Center, San Antonio, Texas, Respondent misappropriated Demerol belonging to the facility and/or the patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

11. On or about August 2002, while employed with Favorite Nurses, San Antonio, Texas, and on assignment at Southwest Texas Regional Medical Center, San Antonio, Texas, Respondent engaged in the imtemperate use of Demerol. Possession of Demerol is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Demerol by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
  
12. At the time of the incidents in Findings of Fact Numbers Thirteen (13), through Seventeen (17), Respondent was employed as a Staff RN with Guadalupe Valley Hospital, San Antonio, Texas, and had been in this position for twelve (12) days.
  
13. On or about December 12, 2003, through December 24, 2003, while employed with Guadalupe Valley Hospital, Seguin, Texas, Respondent withdrew Demerol 100mg from the PYXIS Medication Dispensing System for patients without a physician's order for the medication, as follows:

Date/Time	Patient	Physician's Order	Pyxis Record	ER Record
12/12/03 @ 2125	V0000825848	No Order	Demerol 100mg	Patient discharged at 2020
12/12/03 @ 2348	V0000825861	No Order	Demerol 100mg	No
12/13/03 @ 0304	V0000825872	Demerol 25mg IM @ 0228 (1 time order)	Demerol 100mg	0228 Demerol 25mg by another RN. Patient discharged at 0305
12/13/03 @ 2230	V0000825963	No Order	Demerol 100mg	No
12/14/03 @ 0051	V0000825963	No Order	Demerol 100mg	No
12/14/03 @ 0446	V0000825970	No Order	Demerol 100mg	No
12/14/03 @ 2158	V0000826050	No Order	Demerol 100mg	No
12/14/03 @ 2329	V0000826052	No Order	Demerol 100mg	No
12/15/03 @ 0652	V0000826064	No Order	Demerol 100mg	Patient discharged at 0255
12/18/03 @ 1929	V0000827234	No Order	Demerol 100mg	Patient discharged at 1925
12/18/03 @ 2245	V0000827249	No Order	Demerol 100mg	Patient discharged at 2152
12/19/03 @ 0031	V0000827253	No Order	Demerol 100mg	Patient discharged at 2345
12/19/03 @ 0346	V0000827267	Demerol 25mg at 0213 (1 time order)	Demerol 100mg	0213 Demerol 25mg given by ST
12/19/03 @ 0656	V0000827267	No Order	Demerol 100mg	Patient discharged at 0438
12/19/03 @ 2147	V0000827478	No Order	Demerol 100mg	No
12/19/03 @ 2332	V0000827478	No Order	Demerol 100mg	Patient discharged at 2215

Date/Time	Patient	Physician's Order	Pyxis Record	ER Record
12/20/03 @ 0425	V0000827493	No Order	Demerol 100mg	Patient discharged at 0315
12/20/03 @ 0637	V0000827499	No Order	Demerol 100mg	Patient discharged at 0620
12/21/03 @ 0046	V0000827581	No Order	Demerol 100mg	No
12/21/03 @ 0555	V0000827600	No Order	Demerol 100mg	Patient discharged at 0540
12/21/03 @ 0658	V0000827600	No Order	Demerol 100mg	same
12/22/03 @ 1944	V0000827901	No Order	Demerol 100mg	Patient discharged at 1908
12/22/03 @ 2131	V0000827901	No Order	Demerol 100mg	same
12/22/03 @ 2346	V0000827893	No Order	Demerol 100mg	Patient discharged at 2140
12/23/03 @ 0103	V0000827925	No Order	Demerol 100mg	No
12/23/03 @ 0659	V0000827929	No Order	Demerol 100mg	Patient discharged at 0320
12/23/03 @ 2042	V0000825023	No Order	Demerol 100mg	Patient discharged at 1855
12/23/03 @ 2122	V0000828139	No Order	Demerol 100mg	Patient discharged at 1725
12/23/03 @ 2337	V0000828178	No Order	Demerol 100mg	No
12/24/03 @ 0000	V0000828178	No Order	Demerol 100mg	Patient discharged at 2345
12/24/03 @ 0332	V0000828182	No Order	Demerol 100mg	Patient discharged at 0043
12/24/03 @ 2310	V0000828361	No Order	Demerol 100mg	No
12/24/03 @ 2354	V0000828364	Demerol 100mg IM at 2345 (1 time order)	Demerol 100mg	2350 Demerol 100mg given by another RN. Patient discharged at 2350

Respondent's conduct was likely to injure the patients in that the administration of Demerol without a physician's order could result in the patients suffering from adverse reactions.

14. On or about December 12, 2003, through December 24, 2003, while employed with Guadalupe Valley Hospital, Seguin, Texas, Respondent withdrew Demerol 100mg from the PYXIS Medication Dispensing System for patients who had been discharged from the facility, as follows:

Date/Time	Patient	Physician's Order	Pyxis Record	ER Record
12/12/03 @ 2125	V0000825848	No Order	Demerol 100mg	Patient discharged at 2020
12/13/03 @ 0304	V0000825872	Demerol 25mg IM @ 0228 (1 time order)	Demerol 100mg	0228 Demerol 25mg given by another RN. Patient discharged at 0305
12/15/03 @ 0652	V0000826064	No Order	Demerol 100mg	Patient discharged at 0255

Date/Time	Patient	Physician's Order	Pyxis Record	ER Record
12/18/03 @ 1929	V0000827234	No Order	Demerol 100mg	Patient discharged at 1925
12/18/03 @ 2245	V0000827249	No Order	Demerol 100mg	Patient discharged at 2152
12/19/03 @ 0031	V0000827253	No Order	Demerol 100mg	Patient discharged at 2345
12/19/03 @ 0656	V0000827267	No Order	Demerol 100mg	Patient discharged at 0438
12/19/03 @ 2332	V0000827478	No Order	Demerol 100mg	Patient discharged at 2215
12/20/03 @ 0425	V0000827493	No Order	Demerol 100mg	Patient discharged at 0315
12/20/03 @ 0637	V0000827499	No Order	Demerol 100mg	Patient discharged at 0620
12/21/03 @ 0555	V0000827600	No Order	Demerol 100mg	Patient discharged at 0540
12/21/03 @ 0658	V0000827600	No Order	Demerol 100mg	Patient discharged at 0540
12/22/03 @ 1944	V0000827901	No Order	Demerol 100mg	Patient discharged at 1908
12/22/03 @ 2131	V0000827901	No Order	Demerol 100mg	Patient discharged at 1908
12/22/03 @ 2346	V0000827893	No Order	Demerol 100mg	Patient discharged at 2140
12/23/03 @ 0659	V0000827929	No Order	Demerol 100mg	Patient discharged at 0320
12/23/03 @ 2042	V0000825023	No Order	Demerol 100mg	Patient discharged at 1855
12/23/03 @ 2122	V0000828139	No Order	Demerol 100mg	Patient discharged at 1725
12/24/03 @ 0000	V0000828178	No Order	Demerol 100mg	Patient discharged at 2345
12/24/03 @ 0332	V0000828182	No Order	Demerol 100mg	Patient discharged at 0043
12/24/03 @ 2354	V0000828364	Demerol 100mg IM at 2345 (1 time order)	Demerol 100mg	2350 100mg given by another RN. Patient discharged at 2350

Respondent's conduct was likely to deceive and defraud the facility and patients of the cost of the medication.

15. On or about December 2003, while employed with Guadalupe Valley Hospital, Seguin, Texas, Respondent withdrew Demerol 100mg from the PYXIS Medication Dispensing System for patients using another staff member's pass code. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.
16. On or about December 2003, while employed with Guadalupe Valley Hospital, Seguin, Texas, Respondent misappropriated Demerol belonging to the facility and/or the patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

17. On or about December 2003, while employed with Guadalupe Valley Hospital, Seguin, Texas, Respondent engaged in the intemperate use of Demerol. Possession of Demerol is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Demerol by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
18. At the time of the incidents in Findings of Fact Number Nineteen (19) through Twenty-one (21), Respondent was employed as a Staff RN with Trisun Care Center, San Antonio, Texas, and had been in this position for several days.
19. On or about April 12, 2004, while employed with Trisun Care Center, San Antonio, Texas, Respondent misappropriated Hydrocodone belonging to the facility and/or the patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.
20. On or about April 14, 2004, while employed with Trisun Care Center, San Antonio, Texas, Respondent failed to administer medications and treatments to patients, as ordered by the physician. The medications included IV antibiotics, IM antibiotics, PO medications, and accuchecks that were not done. Respondent's conduct was likely to injure the patients in that failure to administer medications and treatments as ordered by the physician could result in non-efficacious treatment.
21. On or about April 14, 2004, while employed with Trisun Care Center, San Antonio, Texas, Respondent documented accuchecks for patients which were not done. The accucheck machine did not contain the numbers that Respondent documented in the medical record for the patients. In addition, Respondent documented medications administered to patients; however, the medication count verified that the medications were not given. Respondent's conduct was likely to injure the patients in that failure to administer medications and treatments as ordered by the physician could result in non-efficacious treatment.
22. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
23. 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.
24. Respondent's conduct described in Findings Number Seven (7) through Twenty-one (21) was significantly influenced by Respondent's impairment by dependency on chemicals.
25. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

## 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 Section 301.452(b)(9) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1), (3), (4), (19), & (20).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against License Number 670500, heretofore issued to DIANA LYNN MOCZYGEMBA, including revocation of Respondent's professional license to practice nursing in the State of Texas.
5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

## ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Board of Nurse Examiners.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privileges, if any, to practice professional 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 State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including revocation of Respondent's license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

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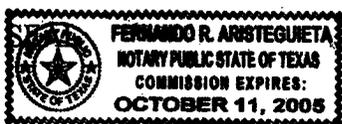
RESPONDENT'S CERTIFICATION

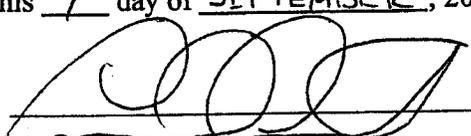
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Board of Nurse Examiners, 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 professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 11 day of Sept, 2004.

  
DIANA LYNN MOCZYGEMBA, Respondent

Sworn to and subscribed before me this 1 day of SEPTEMBER, 2004.



  
Notary Public in and for the State of TEXAS

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby accept and enter the Agreed Order that was signed on the 1<sup>st</sup> day of September, 2004, by DIANA LYNN MOCZYGEMBA, License Number 670500, and said Order is final.

Entered and effective this 9<sup>th</sup> day of September, 2004.



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