

5. Respondent's nursing employment history includes:

1991 - 1996	GN/RN Staff Nurse	Gambro Dialysis Port Arthur, Texas
1994 - 1997	Staff Nurse	St. Mary Hospital Port Arthur, Texas
12/97 - 02/06	Staff Nurse	Renal Care Group Beaumont, Texas
02/06 - 06/07	Staff Nurse	Southeast Texas Nephrology Port Arthur, Texas
06/07 - 09/07	Agency Nurse	Pulse Staffing Houston, Texas
08/07 - 09/07	Staff Nurse	Promise Specialty Hospital Port Arthur, Texas
11/07 - Present	Staff Nurse	Southeast Texas Nephrology Port Arthur, Texas

6. At the time of the incidents in Findings of Fact Numbers Seven (7) through Eleven (11), Respondent was employed as a Staff Nurse with Promise Specialty Hospital, Port Arthur, Texas, and has been in this position for one (1) month.

7. On or about August 31, 2007 through September 4, 2007, while employed with Promise Specialty Hospital, Port Arthur, Texas, Respondent withdrew Dilaudid from the Medication Dispensing System (MedDispense) for patients which was in excess frequency/dosage of the physician's orders, as follows:

Date/Time	Patient	Physician's Order	MedDispense Record	Wastage
8/31/07 @ 4:18am	KM	Dilaudid 1 mg IV every 6 hrs PRN (as needed for) pain	Hydromorphone 2mg	none
8/31/07 @ 6:30am	KM	same	Hydromorphone 2mg	1mg
9/3/07 @ 3:40am	RJ	Dilaudid 1mg IV every 4 hrs PRN (as needed for) pain	Hydromorphone 2mg	none
9/3/07 @ 5:15am	RJ	same	Hydromorphone 2mg	none

Respondent's conduct was likely to injure the patient in that the administration of Dilaudid in excess frequency/dosage of the physician's order could result in the patient suffering from adverse reactions.

8. On or about August 31, 2007 through September 4, 2007, while employed with Promise Specialty Hospital, Port Arthur, Texas, Respondent withdrew eight (8) doses of Dilaudid 2mg from the Medication Dispensing System (MedDispense) for patients but failed to follow the facility's policy and procedure for wastage of the unused portion of Dilaudid. 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).
9. On or about August 31, 2007 through September 3, 2007, while employed with Promise Specialty Hospital, Port Arthur, Texas, Respondent withdrew Dilaudid from the Medication Dispensing System (MedDispense) for patients but failed to document the administration of Dilaudid in the patients' Medication Administration Record, as follows:

Date/Time	Patient	Physician's Order	Med Dispense Record	MAR
8/31/07 @ 4:18am	KM	Dilaudid 1 mg IV Q 6 hrs PRN pain	Hydromorphone 2mg	No
8/31/07 @ 6:30am	KM	same	Hydromorphone 2mg	No
9/1/07 @ 2108	KM	same	Hydromorphone 2mg	No
9/2/07 @ 1902	KM	same	Hydromorphone 2mg	No
9/2/07 @ 1900	JS	Dilaudid 1mg IV Q 4 hrs PRN pain	Hydromorphone 2mg	No
9/3/07 @ 3:40am	RJ	Dilaudid 1mg IV Q 4 hrs PRN pain	Hydromorphone 2mg	No
9/3/07 @ 5:15am	RJ	same	Hydromorphone 2mg	No
9/4/07 @ 8:33pm	EM	Dilaudid 1mg Q 6 hrs PRN pain	Hydromorphone 2mg	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.

10. On or about August 31, 2007 through September 4, 2007, while employed with Promise Specialty Hospital, Port Arthur, Texas, Respondent misappropriated Dilaudid from the facility and patients thereof. Respondent's conduct was likely to defraud the facility and the patients of the cost of the medications.
11. On or about September 4, 2007, while employed with Promise Specialty Hospital, Port Arthur, Texas, Respondent engaged in the intemperate use of Dilaudid. Possession of Dilaudid is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Dilaudid 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 Sixteen (16), Respondent was employed as an Agency Staff Nurse with Pulse Staffing, Houston, Texas, and has been in this position for three (3) months.
13. On or about September 25, 2007, while employed with Pulse Staffing Agency, and on assignment with Cardinal Health, Houston, Texas, Respondent withdrew Dilaudid 2mg and Demerol 50mg from the medication dispensing system (Pyxis), but failed to completely and accurately document the administration of the medication in the patient's Medication Administration Record (MAR), as follows:

Date/Time	Patient	Physician's Order	Pyxis Record	MAR	Wastage
9/25/07 @ 18:56	PD	No Order	Dilaudid 2mg	No	None
9/25/07 @ 20:47	WM	No Order	Dilaudid 2mg	No	None
9/25/07 @ 18:34	LS	No Order	Demerol 50mg	No	None

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.

14. On or about September 25, 2007, while employed with Pulse Staffing Agency, and on assignment with Cardinal Health, Houston, Texas, Respondent withdrew Dilaudid 2mg and Demerol 50mg from the medication dispensing system (Pyxis), but failed to follow the policy and procedure for wastage of the medications. 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).
15. On or about September 25, 2007, while employed with Pulse Staffing Agency, and on assignment with Cardinal Health, Houston, Texas, Respondent withdrew two doses of Dilaudid 2mg and one Demerol 50mg from the medication dispensing system (Pyxis) for patients without a physician's order, as follows:

Date/Time	Patient	Physician's Order	Pyxis Record	MAR	Wastage
9/25/07 @ 18:56	PD	No Order	Dilaudid 2mg	No	None
9/25/07 @ 20:47	WM	No Order	Dilaudid 2mg	No	None
9/25/07 @ 18:34	LS	No Order	Demerol 50mg	No	None

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

16. On or about September 25, 2007, while employed with Pulse Staffing Agency, and on assignment with Cardinal Health, Houston, Texas, Respondent misappropriated Dilaudid 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.
17. Respondent states that her date of sobriety is September 2007.
18. 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.

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 a violations of Section 301.452(b)(9),(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(A)(C)&(D) and 217.12(1)(A)(B),(4),(5),(6)(G),(8),(10)(A)(B)(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 578006, heretofore issued to KIMBERLY ANN MOLINA, including revocation of Respondent's license to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Registered Nurse License Number 578006, previously issued to KIMBERLY ANN MOLINA, to practice nursing in Texas is hereby SUSPENDED and said suspension is enforced until Respondent completes a treatment program approved by the Board, provides documentation of successful completion, and has obtained twelve (12) consecutive months of sobriety. Any relapse prior to the completion of the twelve (12) consecutive months of sobriety will

result in an extension of the enforced suspension until such twelve (12) consecutive months of sobriety and additional treatment have been attained.

IT IS FURTHER ORDERED that Permanent Certificate Number 578006 previously issued to KIMBERLY ANN MOLINA, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

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

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.

IT IS FURTHER AGREED, upon verification of successful completion of the approved treatment and twelve (12) consecutive months of sobriety as set out in this Order, the Suspension will be stayed, and RESPONDENT will be placed on probation for three (3) years with the following agreed terms of probation:

(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 pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.

(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/about/stipscourses.html>.

(3) RESPONDENT SHALL pay a monetary fine 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) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(4) 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.

(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) 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.

(7) 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.

(8) 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.

(9) 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.

(10) 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.

(11) 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.

(12) 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.**

(13) 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 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.

(14) 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 professional 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.

(15) RESPONDENT 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 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 nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 28 day of April, 2009.

Kimberly Ann Molina

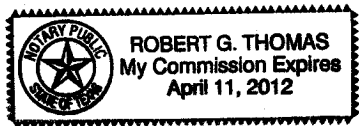
KIMBERLY ANN MOLINA, Respondent

Sworn to and subscribed before me this 28th day of April, 2009.

Robert G. Thomas


Notary Public in and for the State of Texas

SEAL



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 28th day of April, 2009, by KIMBERLY ANN MOLINA, Registered Nurse License Number 578006, and said Order is final.

Effective this 9th day of June, 2009.



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