

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Registered Nurse License Number 642959 §
issued to DONA CAIN FULLEN § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of DONA CAIN FULLEN, Registered License Number 642959, herein 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, informal conference, notice and hearing, and agreed to the entry of this Order offered on October 1, 2008, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received an Associate Degree in Nursing from Bacone College, Muskogee, Oklahoma on May 1, 1992. Respondent was licensed to practice professional nursing in the State of Texas on July 10, 1997.
5. Respondent's professional nursing employment history includes:

07/97 - 07/03 Unknown



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

Respondent's professional nursing employment history continued:

08/03 - 03/06	Agency ER RN	Advantage Nursing Houston, Texas
07/05 - 02/06	Travel Assignment	Trustaff Cincinnati, OH
03/06 - 07/06	Travel ER Nurse	All About Staffing Tampa, FL
07/06 - 07/07	Staff RN	Medical Staffing Network Houston, Texas
06/07 - 08/07	RN	Methodist Willowbrook Hospital Houston, Texas
08/07 - Present	Unknown	

6. On or about April 24, 2007 through May 13, 2007, while employed as a Registered Nurse with Medical Staffing Network, Houston, Texas, and on assignment at Methodist Willowbrook Hospital, Houston, Texas, Respondent withdrew Morphine from the Medication Dispensing System (Pyxis) for patients without a valid physicians' orders, as follows:

Date	Patient ID No.	Physician's Order	Medication Dispensing System (Pyxis) Record Time and Quantity	Emergency Nursing Record	Wastage
04/24/07	0237602757113	None	Morphine Sulfate 10mg/ 1ml vial 0246 (1)	Not Documented	None Documented
05/08/07	0149389977127	None	Morphine Sulfate 10mg/ 1ml vial 0201 (1)	Not Documented	None Documented
05/13/07	0238174067132	None	Morphine Sulfate 10mg/ 1ml vial 0243 (1)	Not Documented	None Documented

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

7. On or about April 24, 2007 through May 13, 2007, while employed as a Registered Nurse with Medical Staffing Network, Houston, Texas, and on assignment at Methodist Willowbrook Hospital, Houston, Texas, Respondent withdrew Morphine from the Medication Dispensing System (Pyxis) for patients, but failed to document, or accurately document the administration of the medications in the patients' Medication Administration Record and/or nurse's notes, as follows:

Date	Patient ID No.	Physician's Order	Medication Dispensing System (Pyxis) Record Time and Quantity	Emergency Nursing Record	Wastage
04/24/07	0237602757113	None	Morphine Sulfate 10mg/ 1ml vial 0246 (1)	Not Documented	None Documented
05/08/07	0149389977127	None	Morphine Sulfate 10mg/ 1ml vial 0201 (1)	Not Documented	None Documented
05/13/07	0238174067132	None	Morphine Sulfate 10mg/ 1ml vial 0243 (1)	Not Documented	None Documented

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. On or about April 24, 2007 through May 13, 2007, while employed as a Registered Nurse with Medical Staffing Network, Houston, Texas, and on assignment at Methodist Willowbrook Hospital, Houston, Texas, Respondent withdrew Morphine from the Medication Dispensing System (Pyxis) for patients, but failed to follow the facility's policy and procedures for wastage of any of the unused portions of the medications, as follows:

Date	Patient ID No.	Physician's Order	Medication Dispensing System (Pyxis) Record Time and Quantity	Emergency Nursing Record	Wastage
04/24/07	0237602757113	None	Morphine Sulfate 10mg/ 1ml vial 0246 (1)	Not Documented	None Documented
05/08/07	0149389977127	None	Morphine Sulfate 10mg/ 1ml vial 0201 (1)	Not Documented	None Documented
05/13/07	0238174067132	None	Morphine Sulfate 10mg/ 1ml vial 0243 (1)	Not Documented	None Documented

Respondents' conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substance Act).

9. On or about April 2007 through May 13, 2007, while employed as a Registered Nurse with Medical Staffing Network, Houston, Texas, and on assignment at Methodist Willowbrook Hospital, Houston, Texas, Respondent misappropriated Morphine from 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.

10. On or about July 15, 2007, while employed as a Registered Nurse with Methodist Willowbrook Hospital, Houston, Texas, Respondent engaged in the intemperate use of Morphine, in that she produced a specimen for a drug screen which resulted positive for Morphine. Possession of Morphine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Morphine by a Registered Nurse, while subject to call or duty, could impair the nurses' ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurses' ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.
11. In response to Findings of Fact Number Ten (10), Respondent states that on July 15th, she was confronted by Risk Management nurse and a security officer who took her for a urine drug screen. Respondent was being treated at the time by a physician in Houston who specialized in pain management, and she was on prescription for Hydrocodone and Soma. Respondent was contacted by Methodist Willowbrook the next month and notified that they had turned their investigation over to TPAPN. Respondent entered Hermann Memorial Prevention and Recovery, on September 18th and completed the program on October 19th.
12. On or about February 28, 2008, Respondent produced a specimen for a drug screen which resulted positive for Propoxyphene. Possession of Propoxyphene is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act).
13. In response to Findings of Fact Number Twelve (12), Respondent states: While in the TPAPN program she was called to submit a urine specimen on 02/28/08, which tested positive for Alcohol and Propoxyphene. Respondent had the specimen retested twice at her expense and it resulted negative for ETG. The question of the Propoxyphene still lingers, as it is a drug Respondent has not been prescribed, and has never taken.
14. On or about April 9, 2008, Respondent produced a specimen for a drug screen which resulted positive for Cocaine. Possession of Cocaine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act).
15. In response to Findings of Fact Number Fourteen (14), Respondent states: While in the TPAPN program she was called to submit a urine specimen on 4/09/08, which tested positive for Cocaine. Respondent received a letter stating she had been terminated from TPAPN. On May 21st, Respondent at her own expense paid to have the April 9th specimen tested for DNA(results still pending). Respondent stated "I am 55 years old and have never used Cocaine in my life. I think it would probably kill me". Respondent is currently seeing a counselor in Brownsville.

16. On September 12, 2008, Respondent underwent a Forensic Psychological Evaluation with a Chemical Dependency Component, including a polygraph exam, with Matthew L. Ferrara, Ph.D. Incorporating the results of the polygraph which yielded a result of "Deception Indicated," Dr. Ferrara's concludes that Respondent has not provided support for her claim that she has not misused substances since July 2007, and consequently she does not appear to be in a state of recovery. Respondent's substance related condition may affect her ability to safely practice nursing duties, thus creating a threat to public safety. If the Board were to allow Respondent to practice, she should only be permitted to do so after a twelve-month period of documented proof of recovery. Dr. Ferrara adds that Respondent should be required to complete another substance abuse treatment program, and her practice should be monitored if reinstated.
17. The Board finds that there exist 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 violation of Section 301.452(b)(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(B)&(D). and 22 TEX. ADMIN. CODE §217.12(5),(6)(G),(10)(A),(B),(C),(D) & (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 642959, heretofore issued to DONA CAIN FULLEN, 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 642959, previously issued to DONA CAIN FULLEN, 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 642959 previously issued to DONA CAIN FULLEN, 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 professional 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 be issued a license to practice nursing in the State of Texas.

(3) RESPONDENT SHALL pay a monetary fine in the amount of five hundred (\$500) dollars. RESPONDENT SHALL pay this fine within forty-five (45) days of the suspension being stayed. 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.

(4) 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) contact 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>.

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) YEAR(S) 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:

(5) 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.

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.

(15) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and 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, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice nursing in the State of Texas.

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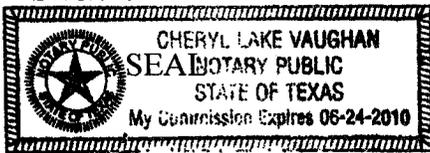
RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive my right to an attorney. 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 9th day of December, 2008.

Dona Cain Fullen
DONA CAIN FULLEN, Respondent

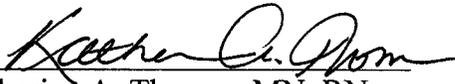
Sworn to and subscribed before me this 9th day of December, 2008.



Cheryl Lake Vaughan
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 9th day of December, 2008, by DONA CAIN FULLEN, Registered Nurse License Number 642959, and said Order is final.

Effective this 2nd day of January, 2009.


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