

BEFORE THE BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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In the Matter of Vocational Nurse License Number 142290 §     AGREED  
and Registered Nurse Licensed Number 662216             §  
issued to PAMALA DIANNE MERKEL                             §     ORDER



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.  
*Pamela P. Parnell*  
Executive Director of the Board

An investigation by the Board of Nurse Examiners for the State of Texas, herein referred to as the Board, produced evidence indicating that PAMALA DIANNE MERK hereinafter referred to as Respondent, Vocational Nurse License Number 142290, and Registered Nurse License Number 662216, may have violated Section 301.452(b)(9),(10),(12)&(13), Texas Occupations Code.

An informal conference was held on November 28, 2006, at the office of the Board of Nurse Examiners, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Susan Henricks, Attorney at Law. In attendance were Jolene Zych, MS, RNC, WHNP, Nurse Consultant, Executive Director's Designee; E. Joy Sparks, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Candace V. Heisserman, Investigator; Noemi Reyes, Investigator; Elise D. Dunham, Investigator; Laura Ferrel, RN, Investigator; Marcia Wilson, RN, Investigator; and Mary Lynn Adams, 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 license.
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 Kilgore College-Longview Center, Longview, Texas, on February 26, 1993. Respondent was licensed to practice vocational nursing in the State of Texas on May 25, 1993. Respondent received an Associate Degree in Nursing from Kilgore College, Kilgore, Texas, on May 1, 1999. Respondent was licensed to practice professional nursing in the State of Texas on July 13, 1999.
5. Respondent's professional and vocational nursing employment history includes:

5/93-7/05	Staff Nurse (LVN/RN)	Good Shepherd Medical Center Longview, Texas
2000-2002	Staff Nurse (RN)	Laird Memorial Kilgore, Texas
2005-2006	Staff Nurse (RN)	Whispering Pines Nursing Home Longview, Texas
2006-9/06	Case Manager (RN)	Lifecare Home Health Longview, Texas
9/06-Present	Unemployed	

6. At the time of the incidents, Respondent was employed as a Staff Nurse with Good Shepherd Medical Center, Longview, Texas, and had been in this position for approximately twelve years (12) and two (2) months.
7. On or about July 19, 2005, while employed with Good Shepherd Medical Center, Longview, Texas, Respondent may have lacked fitness to practice nursing in that she exhibited fatigue, which might have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care.
8. On or about July 19, 2005, while employed with Good Shepherd Medical Center, Longview, Texas, Respondent was recovering from physical injury to her foot and was under the care of her regular family physician, Dr. Kenneth H. Skipper.
9. Respondent's family physician, Dr. Kenneth H. Skipper, confirmed that he had prescribed

pain medication for Respondent and that, in his opinion, Respondent has never overused or abused the medications.

10. On or about July 19, 2005, while employed with Good Shepherd Medical Center, Longview, Texas, Respondent ingested a one half dose of Vicodin, a pain medication prescribed by her physician for relief of pain caused by physical injuries. The use of Vicodin by a nurse while on duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in patients' conditions, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care.
11. On or about July 19, 2005, while employed with Good Shepherd Medical Center, Longview, Texas, Respondent failed to administer a dose of .5mg Xanax to Patient Medical Record Number 365755, as ordered by the physician. Respondent administered a .25mg dose before a medical procedure performed on a patient, as was Respondent's usual practice in the exercise of her nursing judgment. Respondent's conduct could have resulted in nonefficacious treatment.
12. On or about July 19, 2005, while employed with Good Shepherd Medical Center, Longview, Texas, Respondent admittedly failed to timely administer an IV antibiotic, Claforan, to Patient Medical Number 151437, because the physician's order had not yet been transcribed in the patient's records before Respondent left the facility. Respondent's conduct could have resulted in nonefficacious treatment.
13. On or about July 19, 2005, while employed with Good Shepherd Medical Center, Longview, Texas, Respondent admittedly failed to timely administer another antibiotic, Avalox, to Patient Medical Number 151437, because the physician's order had not yet been transcribed in the patient's records before Respondent left the facility. Respondent's conduct could have resulted in nonefficacious treatment.
14. On or about July 19, 2005, while employed with Good Shepherd Medical Center, Longview, Texas, Respondent made illegible entries in the medical records of Patient Medical Record Numbers 365755, 151437, 329636, and 116300, regarding medications administered and nursing care provided. Such illegible entries may cause injury to patients in that subsequent care givers would rely on Respondent's documentation in providing further treat and medicate for the patients.
15. No known injury occurred to any patient in Respondent's care on July 19, 2005, as a result of any act or omission by Respondent.

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### 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),(12)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(C)&(D), and 22 TEX. ADMIN. CODE §217.12(5)&(10)(A)&(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 662216, and Vocational Nurse License Number 142290, heretofore issued to PAMALA DIANNE MERKEL, including revocation of Respondent's license to practice professional and vocational nursing in the State of Texas.

### ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of a REPRIMAND WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to 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 privilege, if any, to practice professional and vocational nursing in compact states.

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 that:

(1) RESPONDENT SHALL deliver the wallet-sized licenses issued to PAMALA DIANNE MERKEL, to the office of the Board of Nurse Examiners within ten (10) days of the date of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence. 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, and documentation of care. 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 on the Board's website, [www.bne.state.tx.us](http://www.bne.state.tx.us) (under BNE events).*

(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 on the Board's website, [www.bne.state.tx.us](http://www.bne.state.tx.us) (under BNE events).*

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing 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. The course shall be a minimum of six (6) contact hours in length. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify RESPONDENT's successful completion of the course. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Board approved courses may be found on the Board's website, [www.bne.state.tx.us](http://www.bne.state.tx.us) (under BNE events).*

**IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A REGISTERED NURSE OR LICENSED VOCATIONAL 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 OR VOCATIONAL NURSE LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD.**

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(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) 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 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) months for one (1) year(s) of employment as a nurse.

(9) 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.

(10) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first six (6) month period, random screens shall be performed at least once per month. For the remainder of the stipulation 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 stipulation period and require RESPONDENT to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the stipulation period.

Any positive result for which the nurse does not have a valid prescription 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.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued unencumbered licenses and multistate licensure privileges, if any, to practice professional and vocational nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

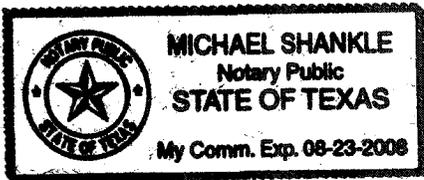
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid 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 and vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 10 day of April, 2007.

Pamala Dianne Merkel  
PAMALA DIANNE MERKEL, Respondent

Sworn to and subscribed before me this 10 day of April, 2007.

SEAL



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

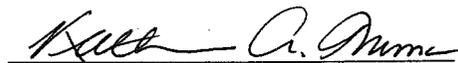
Approved as to form and substance.

[Signature]  
SUSAN HENRICKS, Attorney for Respondent

Signed this 17 day of April, 2007.

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 10th day of April, 2007, by PAMALA DIANNE MERKEL, Registered Nurse License Number 662216, and Vocational Nurse License Number 142290, and said Order is final.

Effective this 12th day of June, 2007.



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