

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS



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

In the Matter of Registered Nurse §
 License Number 540308 § AGREED
 issued to DELL L. GARRETT § ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of DELL L. GARRETT, Registered Nurse License Number 540308, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9),(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on March 20, 2007, 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 an Associate Degree in Nursing from Central Texas College, Killeen, Texas, in May 1987. Respondent was licensed to practice professional nursing in the State of Texas on August 24, 1987.
5. Respondent's professional nursing employment history includes:

09/93 - 01/95	Staff Nurse/ICU	Midland Memorial Hospital Midland, Texas
01/95 - 09/99	Staff Nurse/ER	Odessa Regional Hospital Odessa, Texas

Respondent's professional nursing employment history continued:

05/97 - 08/97	Staff Nurse/SICU	Methodist Hospital Lubbock, Texas
08/97 - 04/99	Staff Nurse/SICU	University Medical Center Lubbock, Texas
04/00 - 01/06	Charge Nurse	Southwest Regional Specialty Hospital Lubbock, Texas
04/06 - 07/06	Staff Nurse/CCU	Lubbock Heart Hospital Lubbock, Texas
08/06 - Present	not employed	

6. At the time of the incidents in Findings of Fact Numbers Seven (7) and Eight (8), Respondent was employed as a Staff Nurse with Southwest Regional Specialty Hospital, Lubbock, Texas, and had been in this position for five (5) years and nine (9) months.
7. During January 2006, while employed with Southwest Regional Specialty Hospital, Lubbock, Texas, Respondent withdrew Demerol from the Pyxis Medication Dispensing System for Patient B.E., Medical Record Number 202496, but failed to document or accurately document the administration of Demerol in the patients' Medication Administration Record (MAR), as follows:

Date/Time	Patient	Physician's Order	Pyxis Record	MAR
1/5/06 @ 0818pm	B.E MR#202496	Demerol 50mg IM Q 4 hrs PRN for Breakthrough Pain	2 Demerol 25mg	2100
1/6/06 @ 0803am	same	same	1 Demerol 50mg	No documentation
1/6/06 @ 0740pm	same	same	2 Demerol 25mg	1730
1/7/06 @ 0439am	same	same	2 Demerol 25mg	No documentation
1/7/06 @ 0805pm	same	same	2 Demerol 25mg	No documentation
1/7/06 @ 1038pm	same	same	2 Demerol 25mg	No documentation
1/12/06@1224am	same	same	2 Demerol 25mg	No documentation
1/12/06@0214am	same	same	2 Demerol 25mg	No documentation
1/12/06@0414am	same	same	2 Demerol 25mg	No documentation
1/12/06@0623am	same	same	2 Demerol 25mg	No documentation
1/12/06@0918pm	same	same	2 Demerol 25mg	No documentation

Respondent's conduct above was likely to injure the patient in that subsequent care givers would rely on her documentation to further medicate the patient which could result in over medication.

8. On or about January 2006, while employed with Southwest Regional Specialty Hospital, Lubbock, Texas, Respondent withdrew Demerol from the Pyxis Medication Dispensing System for Patient B.E., Medical Record Number 202496, which was in excess frequency of the physician's order, as follows:

Date/Time	Patient	Physician's Order	Pyxis Record	MAR	Comments
1/5/06 @ 0818pm	B.E 202496	Demerol 50mg IM every 4 hrs PRN for Breakthrough Pain	2 Demerol 25mg	2100	
1/5/06 @ 1038pm	same	same	2 Demerol 25mg	2300	excess frequency
1/6/06 @ 0615am	same	same	2 Demerol 25mg	0630	
1/6/06 @ 0803am	same	same	1 Demerol 50mg	1310	excess frequency
1/6/06 @ 0740pm	same	same	2 Demerol 25mg	1730	
1/6/06 @ 1102pm	same	same	2 Demerol 25mg	2300	excess frequency
1/7/06 @ 0220am	same	same	2 Demerol 25mg	0230	excess frequency
1/7/06 @ 0439am	same	same	2 Demerol 25mg	No	excess frequency
1/7/06 @ 0630am	same	same	2 Demerol 25mg	0630	excess frequency
1/7/06 @ 0805pm	same	same	2 Demerol 25mg	No	
1/7/06 @ 1038pm	same	same	2 Demerol 25mg	2100	excess frequency
1/12/06@1224am	same	same	2 Demerol 25mg	No	
1/12/06@0214am	same	same	2 Demerol 25mg	No	excess frequency
1/12/06@0414am	same	same	2 Demerol 25mg	No	excess frequency
1/12/06@0623am	same	same	2 Demerol 25mg	No	excess frequency
1/12/06@0918pm	same	same	2 Demerol 25mg	No	excess frequency

Respondent's conduct was likely to injure the patient in that the administration of Demerol in excess frequency of the physician's order could result in the patient suffering from adverse reactions, including respiratory depression.

9. At the time of the incidents in Findings of Fact Numbers Ten (10) through Thirteen (13), Respondent was employed as a Staff Nurse with Lubbock Heart Hospital, Lubbock, Texas, and had been in this position for one hundred four (104) days.

10. On or about June 30, 2006, through July 24, 2006, while employed with Lubbock Heart Hospital, Lubbock, Texas, Respondent withdrew Demerol from the Pyxis Medication Dispensing System for patients, with no physician's order for Demerol and failed to document the administration of the medication in the patients' Medication Administration Record (MAR), as follows:

Date/Time	Patient	Physician's Order	Pyxis Record	MAR	Wastage
6/30/06 @2156	MR#3412	No Order	Demerol 50mg	No documentation	None
6/30/06 @2325	same	No Order	Demerol 50mg	No documentation	None
6/30/06 @0157	same	No Order	Demerol 50mg	No documentation	None
6/30/06 @0408	same	No Order	Demerol 50mg	No documentation	None
6/30/06 @0454	same	No Order	Demerol 50mg	No documentation	None
6/30/06 @0544	same	No Order	Demerol 50mg	No documentation	None
6/30/06 @0638	same	No Order	Demerol 50mg	No documentation	None
6/30/06 @0725	same	No Order	Demerol 50mg	No documentation	None
7/01/06 @2105	same	No Order	Demerol 50mg	No documentation	None
7/01/06 @2309	same	No Order	Demerol 50mg	No documentation	None
7/02/06 @0102	same	No Order	Demerol 50mg	No documentation	None
7/02/06 @0428	same	No Order	Demerol 50mg	No documentation	None
7/02/06 @0550	same	No Order	Demerol 50mg	No documentation	None
7/02/06 @0639	same	No Order	Demerol 50mg	No documentation	None
7/02/06 @2107	MR#15392	No Order	Demerol 50mg	No documentation	None
7/02/06 @2151	same	No Order	Demerol 50mg	No documentation	None
7/02/06 @2300	same	No Order	Demerol 50mg	No documentation	None
7/03/06 @0000	same	No Order	Demerol 50mg	No documentation	None
7/03/06 @0144	same	No Order	Demerol 50mg	No documentation	None
7/03/06 @0316	same	No Order	Demerol 50mg	No documentation	None
7/03/06 @0450	same	No Order	Demerol 50mg	No documentation	None
7/03/06 @0553	same	No Order	Demerol 50mg	No documentation	None
7/03/06 @0624	same	No Order	Demerol 50mg	No documentation	None
7/03/06 @0709	same	No Order	Demerol 50mg	No documentation	None
7/03/06 @2120	same	No Order	Demerol 50mg	No documentation	None

7/03/06 @2207	same	No Order	Demerol 50mg	No documentation	None
7/03/06 @2333	same	No Order	Demerol 50mg	No documentation	None
7/04/06 @0122	same	No Order	Demerol 50mg	No documentation	None
7/04/06 @0212	same	No Order	Demerol 50mg	No documentation	None
7/04/06 @0313	same	No Order	Demerol 50mg	No documentation	None
7/04/06 @0419	same	No Order	Demerol 50mg	No documentation	None
7/04/06 @0543	same	No Order	Demerol 50mg	No documentation	None
7/04/06 @0622	same	No Order	Demerol 50mg	No documentation	None
7/04/06 @2136	MR#16363	No Order	Demerol 50mg	No documentation	None
7/4/06 @2250	same	No Order	Demerol 50mg	No documentation	None
7/5/06 @0010	same	No Order	Demerol 50mg	No documentation	None
7/5/06 @0121	same	No Order	Demerol 50mg	No documentation	None
7/5/06 @0211	same	No Order	Demerol 50mg	No documentation	None
7/5/06 @0244	same	No Order	Demerol 50mg	No documentation	None
7/5/06 @0314	same	No Order	Demerol 50mg	No documentation	None
7/5/06 @0553	same	No Order	Demerol 50mg	No documentation	None
7/5/06 @0641	same	No Order	Demerol 50mg	No documentation	None
7/5/06 @2226	same	No Order	Demerol 50mg	No documentation	None
7/6/06 @0024	same	No Order	Demerol 50mg	No documentation	None
7/6/06 @0213	same	No Order	Demerol 50mg	No documentation	None
7/6/06 @0323	same	No Order	Demerol 50mg	No documentation	None
7/6/06 @0537	same	No Order	Demerol 50mg	No documentation	None
7/6/06 @0712	same	No Order	Demerol 50mg	No documentation	None
7/16/06 @2139	MR#1082	No Order	Demerol 50mg	No documentation	None
7/16/06 @2332	same	No Order	Demerol 50mg	No documentation	None
7/17/06 @0116	same	No Order	Demerol 50mg	No documentation	None
7/17/06 @0251	same	No Order	Demerol 50mg	No documentation	None
7/17/06 @0356	same	No Order	Demerol 50mg	No documentation	None
7/17/06 @0533	same	No Order	Demerol 50mg	No documentation	None
7/17/06 @0638	same	No Order	Demerol 50mg	No documentation	None

7/17/06 @0728	same	No Order	Demerol 50mg	No documentation	None
7/17/06 @0809	same	No Order	Demerol 50mg	No documentation	None
7/24/06 @2104	MR#16645	No Order	Demerol 50mg	No documentation	None
7/24/06 @2202	same	No Order	Demerol 50mg	No documentation	None
7/24/06 @2319	same	No Order	Demerol 50mg	No documentation	None
7/24/06 @2350	same	No Order	Demerol 50mg	No documentation	None
7/24/06 @2202	same	No Order	Demerol 50mg	No documentation	None

Respondent's conduct was likely to injure the patient in that the administration of Demerol without a physician's order could result in the patient suffering from adverse reactions. In addition, Respondent's failure to document the administration of Demerol 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).

11. On or about July 22 - 23, 2006, while employed with Lubbock Heart Hospital, Lubbock, Texas, Respondent withdrew Morphine 10mg from the Pyxis Medication Dispensing System for Patient Medical Record Number 16382, but failed to follow the policy and procedure for the wastage of Morphine. Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
12. During June and July 2006, while employed with Lubbock Heart Hospital, Lubbock, Texas, Respondent misappropriated Demerol and Morphine belonging to the facility and patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.
13. On or about July 22 - 23, 2006, while employed with Lubbock Heart Hospital, Lubbock, Texas, Respondent engaged in the intemperate use of Demerol and Morphine. Possession of Demerol and Morphine without a valid prescription is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Demerol and Morphine 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. 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.
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. Respondent's conduct described in the preceding Findings of Fact resulted from Respondent's impairment by dependency on chemicals.
17. 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 violation of Section 301.452(b)(9),(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(A),(4),(5),(6)(G),(8), (10)(A) (B)(C)&(11)(B) and §217.11(1)(A)(C)(D)&(T).
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 540308, heretofore issued to DELL L. GARRETT, including revocation of Respondent's license to practice professional 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 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 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 nursing in the State of Texas.

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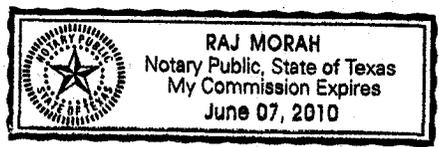
RESPONDENT'S CERTIFICATION

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 4th day of May, 2007.
Dell L. Garrett
DELL L. GARRETT, Respondent

Sworn to and subscribed before me this 4th day of MAY, 2007.

SEAL



Raj Morah
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 4th day of May, 2007, by DELL L. GARRETT, Registered Nurse License Number 540308, and said Order is final.

Entered and effective this 9th day of May, 2007.



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