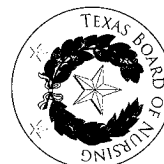


BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Registered Nurse §
License Number 552699 §
issued to E. FAY AYERS §



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.
Patricia P. Thomas
Executive Director of the Board

ORDER OF THE BOARD

On this day, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 552699, issued to E. FAY AYERS, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal conference, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent is currently licensed to practice professional nursing in the State of Texas.
2. Respondent waived representation by counsel, informal conference, notice and hearing.
3. Respondent received an Associate Degree in Nursing from Charity DelGado School of Nursing, New Orleans, Louisiana, on May 1, 1985. Respondent was licensed to practice professional nursing in the State of Texas in May 1989.
4. Respondent's complete professional nursing employment history is unknown.

5. On or about April 22, 2005, while employed with Alpha Staffing Agency, Longview, Texas, and on assignment at Longview Regional Medical Center, Longview, Texas, Respondent withdrew 10 mg Morphine Sulfate for Patient Medical Record Number BE01086699 at 0923, 1039, 1323 and 1606, from the Accudose medication dispensing system, but failed to document its administration in the patient's Medication Administration Record or Nurses Notes. Respondent's conduct placed the patient at risk of harm in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose .
6. On or about February 27, 2006, while employed at Capstone Agency and on assignment with Memorial Medical Center, San Augustine, Texas, Respondent signed out 10 mg Morphine Sulfate at 2015 for Patient LK on the Drug Administration Record, but failed to document the administration in the patient's Medication Administration Record or Nurses Notes. Respondent's conduct placed the patient at risk of harm in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose.
7. On or about February 27, 2006, while employed at Capstone Agency and on assignment with Memorial Medical Center, San Augustine, Texas, Respondent signed out 10 mg Morphine Sulfate at 2015 and 2230 on the Drug Administration Record for Patient LK, which was in excess of the physician's order. Respondent's conduct placed the patient at risk of harm in that the administration of Morphine in excess frequency/dosage of the physician's order could result in the patient suffering from respiratory depression.
8. Respondent, on or about February 28, 2006, while employed at Capstone Agency and on assignment with Memorial Medical Center, San Augustine, Texas, engaged in the intemperate use of Morphine and Demerol in that Respondent produced a specimen for a drug screen which resulted positive for Morphine and Demerol. Possession of Morphine and Demerol is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Morphine and 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 February 27, 2006, while employed at Capstone Agency and on assignment with Memorial Medical Center, San Augustine, Texas, Respondent misappropriated Morphine and Demerol from the facility and the patients thereof. Respondent's conduct defrauded the facility and the patients thereof of the cost of the medications.

10. On or about June 9, 2006, Respondent engaged in the intemperate use of benzodiazepines in that she produced a specimen for pre-employment drug screen submitted to Nightingale Nurses, L.L.C., which resulted positive for benzodiazepines. Possession of benzodiazepines is prohibited by Chapter 481 (Controlled Substance Act) of the Texas Health and Safety Code. The use of benzodiazepines by a Registered Nurse, while subject to duty or call 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.
11. On or about June 16, 2006, while employed with Nightingale Nurses, L.L.C., Boca Raton, Florida, and on assignment at Maryvale General Hospital, Phoenix, Arizona, utilizing her multi state compact privilege to practice vocational nursing through her license in the State of Texas, Respondent exhibited impaired behavior which included, but was not limited to: she appeared distracted, forgetful and confused, she spent an inordinate amount of time in the bathroom and she made inappropriate comments. Respondent's condition may have prevented her from delivering safe nursing care.
12. Formal Charges were filed on August 4, 2006.
13. Formal Charges were mailed to Respondent on August 4, 2006.
14. On August 28, 2006, Respondent returned License Number 552699 and submitted a statement to the Board voluntarily surrendering the right to practice professional nursing in Texas. A copy of the statement is attached and incorporated, by reference, as part of this Order.
15. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
16. 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 violations of Section 301.452(b)(9), (10) & (13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A)(C) & (D) and 22 TEX. ADMIN. CODE §217.12(5),(6)(G), (10)(A)(D)& (E).

3. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
4. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
5. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER


NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 552699, heretofore issued to E. FAY AYERS, to practice professional nursing in the State of Texas, is accepted by the Executive Director on behalf of the Board of Nurse Examiners. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL immediately deliver the wallet-sized license, heretofore issued to E. FAY AYERS, to the office of the Board of Nurse Examiners.
2. RESPONDENT SHALL NOT practice professional nursing, use the title of Registered Nurse or the abbreviation "RN" or wear any insignia identifying herself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
3. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
4. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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

Effective this 29th day of August, 2006.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

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

ISSUED BY THE BOARD OF NURSE EXAMINERS FOR THE STATE OF TEXAS
RN LIC. NO. 552699
E FAY AYERS
EXPIRES LAST DAY OF JUL 2007
Matthew C. Munoz
EXECUTIVE DIRECTOR

E. Fay Ayers
741 CR 3771
Queen City, TX 75572

8-22-06

A. Smith
A NURSE EXAM.
William P. Hobby Bld; Suite 3-460
333 Guadalupe St.
Austin, TX. 78701

Attention Cynthia A. Smith;

I am sending in my RN license, and retiring from nursing. Since I don't have the money for a lawyer, or the lie detector test or for the psych. evaluation, this is my only option. This, however, does not mean that I am admitting to any violations.

Thank you,
E. Fay Ayers

E. FAY AYERS

441 CR 3771

QUEEN CITY, TX 75572

8-22-06

Cynthia A. Smith

Board of Nurse Exam.

William P. Hobby Bld; Suite 3-460

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