



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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of License Number 670500 § AGREED
issued to DIANA LYNN MOCZYGEMBA § ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of DIANA LYNN MOCZYGEMBA, Registered Nurse, License Number 670500, hereinafter 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 representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on July 26, 2004, 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 a Diploma in Nursing from Baptist Health System, San Antonio, Texas, in June 2000. Respondent was licensed to practice professional nursing in the State of Texas on July 18, 2000.
5. Respondent's professional employment history includes:

07/00 - 03/01	Staff RN	Northeast Baptist Hospital San Antonio, Texas
---------------	----------	--

06/01 - 06/02	Staff RN	Methodist Hospital San Antonio, Texas
---------------	----------	--

Respondent's professional employment history continued:

06/02 - 08/02	Agency Nurse	Favorite Nurses San Antonio, Texas
11/02 - 07/03	Staff RN	University Hospital San Antonio, Texas
12/03 - 01/04	Staff RN	Guadalupe Valley Hospital San Antonio, Texas
04/04 - 04/04	Staff RN	Trisun Care Center San Antonio, Texas
05/04 - Present	Unknown	

6. At the time of the initial incident, Respondent was employed as an Agency Nurse with Favorite Nurses, San Antonio, Texas, and had been in this position for several days.
7. On or about June 2002, while employed with Favorite Nurses, San Antonio, Texas, and on assignment at Southwest Methodist Hospital, San Antonio, Texas, Respondent misappropriated Demerol belonging to the facility and/or the patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.
8. On or about June 2002, while employed with Favorite Nurses, San Antonio, Texas, and on assignment at Southwest Methodist Hospital, San Antonio, Texas, Respondent engaged in the intemperate use of Demerol. Possession of Demerol is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of 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 June 2002, while employed with Favorite Nurses, San Antonio, Texas, and on assignment at Southwest Methodist Hospital, San Antonio, Texas, Respondent withdrew Demerol from the PYXIS Medication Dispensing System using other staff members' pass codes. Respondent's conduct was likely to deceive and defraud the facility of the cost of the medications.
10. On or about August 2002, while employed with Favorite Nurses, San Antonio, Texas, and on assignment at Southwest Texas Regional Medical Center, San Antonio, Texas, Respondent misappropriated Demerol belonging to the facility and/or the patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

11. On or about August 2002, while employed with Favorite Nurses, San Antonio, Texas, and on assignment at Southwest Texas Regional Medical Center, San Antonio, Texas, Respondent engaged in the imtemperate use of Demerol. Possession of Demerol is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of 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.
12. At the time of the incidents in Findings of Fact Numbers Thirteen (13), through Seventeen (17), Respondent was employed as a Staff RN with Guadalupe Valley Hospital, San Antonio, Texas, and had been in this position for twelve (12) days.
13. On or about December 12, 2003, through December 24, 2003, while employed with Guadalupe Valley Hospital, Seguin, Texas, Respondent withdrew Demerol 100mg from the PYXIS Medication Dispensing System for patients without a physician's order for the medication, as follows:

Date/Time	Patient	Physician's Order	Pyxis Record	ER Record
12/12/03 @ 2125	V0000825848	No Order	Demerol 100mg	Patient discharged at 2020
12/12/03 @ 2348	V0000825861	No Order	Demerol 100mg	No
12/13/03 @ 0304	V0000825872	Demerol 25mg IM @ 0228 (1 time order)	Demerol 100mg	0228 Demerol 25mg by another RN. Patient discharged at 0305
12/13/03 @ 2230	V0000825963	No Order	Demerol 100mg	No
12/14/03 @ 0051	V0000825963	No Order	Demerol 100mg	No
12/14/03 @ 0446	V0000825970	No Order	Demerol 100mg	No
12/14/03 @ 2158	V0000826050	No Order	Demerol 100mg	No
12/14/03 @ 2329	V0000826052	No Order	Demerol 100mg	No
12/15/03 @ 0652	V0000826064	No Order	Demerol 100mg	Patient discharged at 0255
12/18/03 @ 1929	V0000827234	No Order	Demerol 100mg	Patient discharged at 1925
12/18/03 @ 2245	V0000827249	No Order	Demerol 100mg	Patient discharged at 2152
12/19/03 @ 0031	V0000827253	No Order	Demerol 100mg	Patient discharged at 2345
12/19/03 @ 0346	V0000827267	Demerol 25mg at 0213 (1 time order)	Demerol 100mg	0213 Demerol 25mg given by ST
12/19/03 @ 0656	V0000827267	No Order	Demerol 100mg	Patient discharged at 0438
12/19/03 @ 2147	V0000827478	No Order	Demerol 100mg	No
12/19/03 @ 2332	V0000827478	No Order	Demerol 100mg	Patient discharged at 2215

Date/Time	Patient	Physician's Order	Pyxis Record	ER Record
12/20/03 @ 0425	V0000827493	No Order	Demerol 100mg	Patient discharged at 0315
12/20/03 @ 0637	V0000827499	No Order	Demerol 100mg	Patient discharged at 0620
12/21/03 @ 0046	V0000827581	No Order	Demerol 100mg	No
12/21/03 @ 0555	V0000827600	No Order	Demerol 100mg	Patient discharged at 0540
12/21/03 @ 0658	V0000827600	No Order	Demerol 100mg	same
12/22/03 @ 1944	V0000827901	No Order	Demerol 100mg	Patient discharged at 1908
12/22/03 @ 2131	V0000827901	No Order	Demerol 100mg	same
12/22/03 @ 2346	V0000827893	No Order	Demerol 100mg	Patient discharged at 2140
12/23/03 @ 0103	V0000827925	No Order	Demerol 100mg	No
12/23/03 @ 0659	V0000827929	No Order	Demerol 100mg	Patient discharged at 0320
12/23/03 @ 2042	V0000825023	No Order	Demerol 100mg	Patient discharged at 1855
12/23/03 @ 2122	V0000828139	No Order	Demerol 100mg	Patient discharged at 1725
12/23/03 @ 2337	V0000828178	No Order	Demerol 100mg	No
12/24/03 @ 0000	V0000828178	No Order	Demerol 100mg	Patient discharged at 2345
12/24/03 @ 0332	V0000828182	No Order	Demerol 100mg	Patient discharged at 0043
12/24/03 @ 2310	V0000828361	No Order	Demerol 100mg	No
12/24/03 @ 2354	V0000828364	Demerol 100mg IM at 2345 (1 time order)	Demerol 100mg	2350 Demerol 100mg given by another RN. Patient discharged at 2350

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

14. On or about December 12, 2003, through December 24, 2003, while employed with Guadalupe Valley Hospital, Seguin, Texas, Respondent withdrew Demerol 100mg from the PYXIS Medication Dispensing System for patients who had been discharged from the facility, as follows:

Date/Time	Patient	Physician's Order	Pyxis Record	ER Record
12/12/03 @ 2125	V0000825848	No Order	Demerol 100mg	Patient discharged at 2020
12/13/03 @ 0304	V0000825872	Demerol 25mg IM @ 0228 (1 time order)	Demerol 100mg	0228 Demerol 25mg given by another RN. Patient discharged at 0305
12/15/03 @ 0652	V0000826064	No Order	Demerol 100mg	Patient discharged at 0255

Date/Time	Patient	Physician's Order	Pyxis Record	ER Record
12/18/03 @ 1929	V0000827234	No Order	Demerol 100mg	Patient discharged at 1925
12/18/03 @ 2245	V0000827249	No Order	Demerol 100mg	Patient discharged at 2152
12/19/03 @ 0031	V0000827253	No Order	Demerol 100mg	Patient discharged at 2345
12/19/03 @ 0656	V0000827267	No Order	Demerol 100mg	Patient discharged at 0438
12/19/03 @ 2332	V0000827478	No Order	Demerol 100mg	Patient discharged at 2215
12/20/03 @ 0425	V0000827493	No Order	Demerol 100mg	Patient discharged at 0315
12/20/03 @ 0637	V0000827499	No Order	Demerol 100mg	Patient discharged at 0620
12/21/03 @ 0555	V0000827600	No Order	Demerol 100mg	Patient discharged at 0540
12/21/03 @ 0658	V0000827600	No Order	Demerol 100mg	Patient discharged at 0540
12/22/03 @ 1944	V0000827901	No Order	Demerol 100mg	Patient discharged at 1908
12/22/03 @ 2131	V0000827901	No Order	Demerol 100mg	Patient discharged at 1908
12/22/03 @ 2346	V0000827893	No Order	Demerol 100mg	Patient discharged at 2140
12/23/03 @ 0659	V0000827929	No Order	Demerol 100mg	Patient discharged at 0320
12/23/03 @ 2042	V0000825023	No Order	Demerol 100mg	Patient discharged at 1855
12/23/03 @ 2122	V0000828139	No Order	Demerol 100mg	Patient discharged at 1725
12/24/03 @ 0000	V0000828178	No Order	Demerol 100mg	Patient discharged at 2345
12/24/03 @ 0332	V0000828182	No Order	Demerol 100mg	Patient discharged at 0043
12/24/03 @ 2354	V0000828364	Demerol 100mg IM at 2345 (1 time order)	Demerol 100mg	2350 100mg given by another RN. Patient discharged at 2350

Respondent's conduct was likely to deceive and defraud the facility and patients of the cost of the medication.

15. On or about December 2003, while employed with Guadalupe Valley Hospital, Seguin, Texas, Respondent withdrew Demerol 100mg from the PYXIS Medication Dispensing System for patients using another staff member's pass code. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.
16. On or about December 2003, while employed with Guadalupe Valley Hospital, Seguin, Texas, Respondent misappropriated Demerol belonging to the facility and/or the patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.

17. On or about December 2003, while employed with Guadalupe Valley Hospital, Seguin, Texas, Respondent engaged in the intemperate use of Demerol. Possession of Demerol is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of 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.
18. At the time of the incidents in Findings of Fact Number Nineteen (19) through Twenty-one (21), Respondent was employed as a Staff RN with Trisun Care Center, San Antonio, Texas, and had been in this position for several days.
19. On or about April 12, 2004, while employed with Trisun Care Center, San Antonio, Texas, Respondent misappropriated Hydrocodone belonging to the facility and/or the patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.
20. On or about April 14, 2004, while employed with Trisun Care Center, San Antonio, Texas, Respondent failed to administer medications and treatments to patients, as ordered by the physician. The medications included IV antibiotics, IM antibiotics, PO medications, and accuchecks that were not done. Respondent's conduct was likely to injure the patients in that failure to administer medications and treatments as ordered by the physician could result in non-efficacious treatment.
21. On or about April 14, 2004, while employed with Trisun Care Center, San Antonio, Texas, Respondent documented accuchecks for patients which were not done. The accucheck machine did not contain the numbers that Respondent documented in the medical record for the patients. In addition, Respondent documented medications administered to patients; however, the medication count verified that the medications were not given. Respondent's conduct was likely to injure the patients in that failure to administer medications and treatments as ordered by the physician could result in non-efficacious treatment.
22. 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.
23. 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.
24. Respondent's conduct described in Findings Number Seven (7) through Twenty-one (21) was significantly influenced by Respondent's impairment by dependency on chemicals.
25. 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 violations of Section 301.452(b)(9) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1), (3), (4), (19), & (20).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against License Number 670500, heretofore issued to DIANA LYNN MOCZYGEMBA, including revocation of Respondent's professional license to practice 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 Professional 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 professional 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 professional nursing in the State of Texas.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

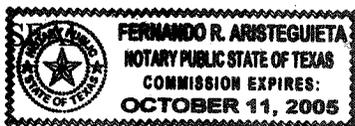
RESPONDENT'S CERTIFICATION

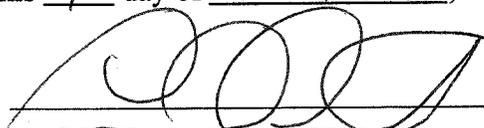
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer 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 01 day of Sept, 2004. 2004


DIANA LYNN MOCZYGEMBA, Respondent

Sworn to and subscribed before me this 1 day of SEPTEMBER, 2004.




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 1st day of September, 2004, by DIANA LYNN MOCZYGEMBA, License Number 670500, and said Order is final.

Entered and effective this 9th day of September, 2004.



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