# State Office of Administrative Hearings

Shelia Bailey Taylor
Chief Administrative Law Judge

May 3, 2001



Katherine A. Thomas, M.N., R.N.
Executive Director
Board of Nurse Examiners for the State of Texas
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701

**HAND DELIVERY**

**RE: Docket Nos. 507-01-1532, 507-01-1533, 507-01-1535, 507-01-1536, 507-01-1537, 507-01-1538, 507-01-1539, 507-01-1540, 507-01-1542, 507-01-1543, 507-01-1544, 507-01-1545, 507-01-1546, 507-01-1547, 507-01-1549, 507-01-1550, 507-01-1551, 507-01-1552, 507-01-1553, 507-01-1626, 507-01-1627, and 507-01-0773**
**In the Matter of the Texas State Board of Nurse Examiners vs. Certain Licensees of the Board**

Dear Ms. Thomas:

Enclosed please find a Proposal for Decision in the above-referenced matters for the consideration of the Board of Nurse Examiners for the State of Texas. Copies of the documents are being sent to Phong Phan, Assistant General Counsel, and to all the Respondents (see Attachment). For reasons discussed in the proposal, I have recommended that the Respondents' nursing licenses be revoked (see Attachment).

Pursuant to the Administrative Procedure Act, each party has the right to file exceptions to the proposal, accompanied by supporting briefs. Exceptions, replies to the exceptions, and supporting briefs must be filed with the Board according to the agency's rules, with a copy to the State Office of Administrative Hearings. A party filing exceptions, replies, and briefs must serve a copy on the other party hereto.

Sincerely,

Carol Wood

Carol Wood
Administrative Law Judge

CW/ib
Enc.
cc: Phong Phan, General Counsel, Board of Nurse Examiners for the State of Texas - HAND DELIVERY
Rommel Corro, Docket Clerk, State Office of Administrative Hearings - HAND DELIVERY
To all Respondents (See Attachment) Regular U.S. Mail

**DOCKET NUMBER 507-01-1546**

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| IN THE MATTER OF | § | BEFORE THE STATE OFFICE |
| PERMANENT CERTIFICATE | § | |
| NUMBER 583616 | § | OF |
| ISSUED TO | § | |
| **BEVERLY KAY MESSENGER** | § | ADMINISTRATIVE HEARINGS |

## ORDER OF THE BOARD

TO: Beverly Kay Messenger
2024 Aspen Drive
Lewisville, Texas 75067

During open meeting held in Austin, Texas, the Board of Nurse Examiners finds that after proper and timely notice was given, the above-styled case was heard by an Administrative Law Judge who made and filed a proposal for decision containing the Administrative Law Judge's findings of fact and conclusions of law. The proposal for decision was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein.

The Board of Nurse Examiners, after review and due consideration of the proposal for decision, and exceptions and replies filed, if any, adopts the findings of fact and conclusions of law of the Administrative Law Judge as if fully set out and separately stated herein. All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number **583616**, previously issued to **BEVERLY KAY MESSENGER**, to practice professional nursing in the State of Texas be, and the same is hereby, **REVOKED**.

IT IS FURTHER ORDERED that Permanent Certificate Number 583616, previously issued to BEVERLY KAY MESSENGER, upon receipt of this Order, be immediately delivered to the office of the Board of Nurse Examiners for the State of Texas.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privilege, if any, to practice professional nursing in the State of Texas.

Entered this 12th day of June, 2001.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

BY: Katherine A. Thomas

KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

**SOAH DOCKET NOS.**
**507-01-1532, 507-01-1533, 507-01-1535, 507-01-1536, 507-01-1537, 507-01-1538, 507-01-1539, 507-01-1540, 507-01-1542, 507-01-1543, 507-01-1544, 507-01-1545, 507-01-1546, 507-01-1547, 507-01-1549, 507-01-1550, 507-01-1551, 507-01-1552, 507-01-1553, 507-01-1626, 507-01-1627, and 507-01-0773**

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| **TEXAS STATE BOARD OF NURSE EXAMINERS,** | § | **BEFORE THE STATE OFFICE** |
| ***Petitioner*** | § | |
| | § | |
| **V.** | § | **OF** |
| | § | |
| **CERTAIN LICENSEES OF THE BOARD,** | § | |
| | § | |
| ***Respondents*** | § | **ADMINISTRATIVE HEARINGS** |

## PROPOSAL FOR DECISION

Staff of the Texas State Board of Nurse Examiners (Board) seeks discipline against several of the Board's licensees (Respondents) for violating various provisions of the Nursing Practice Act (Act), TEX. OCC. CODE ANN. ch. 301,[1] and the Board's rules. Despite being sent proper notice, none of the Respondents appeared or were represented at the hearing. Based on the Respondents' failure to appear, Staff's allegations were accepted as true and established the violations. The Administrative Law Judge agrees with Staff's recommendation that Respondents' nursing licenses should be revoked.

## I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The Board has jurisdiction to discipline its licensees for violations of the Act or its rules pursuant to § 301.453 of the Act. The State Office of Administrative Hearings (SOAH) has jurisdiction to hear the Board's disciplinary cases and issue proposals for decisions pursuant to TEX. GOV'T. CODE ANN. ch. 2003 and § 301.454 of the Act.

On January 30 and 31, 2001, and February 1, 2001, Staff sent notices of hearing to the last known address in the Board's records for each Respondent listed on the Attachment. The notice of hearing stated the date, time, and location of the hearing, referenced the applicable rules and statutes, and contained a short, plain statement of the factual basis for the allegations.

On March 1, 2001, the hearing in this matter convened before SOAH Administrative Law Judge (ALJ) Carol Wood in the SOAH Hearings Facility in Austin, Texas. Staff was represented by Assistant General Counsel Phong P. Phan. After introducing evidence sufficient to establish

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[1] The Nursing Practice Act was formerly found at TEX. REV. CIV. STAT. ANN. art. 4525 (Vernon Supp. 1999). It is now codified in the TEX. OCC. CODE ANN. ch. 301, effective September 1, 1999. The codification made no substantive changes to the Act, and all citations to the Act in the body of the Proposal and in the Attachment will be to the Occupations Code.

jurisdiction and notice, Staff moved for a default pursuant to 1 TEX. ADMIN. CODE § 155.55. Based on Respondents' failure to appear, the ALJ granted the default and deemed all Staff's factual allegations true. The record remained open to March 5, 2001, to receive proposed Findings of Fact and Conclusions of Law from Staff.

## II. RECOMMENDATION

The ALJ recommends that a default be entered against all the Respondents listed on the Attachment and that those Respondents' nursing licenses be revoked, based on the deemed facts set forth in the Findings of Fact and Conclusions of Law presented below.

## III. FINDINGS OF FACT

1. The persons listed on the Attachment hereto (Respondents) hold licenses issued by the Texas State Board of Nurse Examiners (Board) to practice professional nursing.

2. By notices of hearing sent January 30 and 31, 2001, and February 1, 2001, the Board's Staff (Staff) notified Respondents that formal charges had been filed and a disciplinary hearing had been scheduled in this matter. The notices of hearing were sent by first class mail and by certified mail, return receipt requested, to each Respondent's last known address as contained in the Board's records.

3. The notices of hearing informed each Respondent of the allegations, the right to appear and be represented by counsel, the time and place of the hearing, the statutes and rules involved, and the factual basis for the allegations. The notice further provided in boldface type: **"FAILURE TO APPEAR AT THE HEARING IN PERSON OR BY LEGAL REPRESENTATIVE, REGARDLESS OF WHETHER AN APPEARANCE HAS BEEN ENTERED, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF SHALL BE GRANTED BY DEFAULT."**

4. Respondents did not appear and were not represented at the hearing held March 1, 2001, in Austin, Texas.

5. Based on Respondents' failure to appear at the hearing, Staff moved for default as authorized by 1 TEX. ADMIN. CODE § 155.55.

6. Staff's motion for default was granted, and Staff's allegations against each Respondent were deemed true.

7. Each Respondent violated certain provisions of the Act and the Board's rules as listed in the Attachment hereto.

8. Staff recommended each Respondent's license be revoked.

## IV. CONCLUSIONS OF LAW

1. The Texas State Board of Nurse Examiners (Board) has jurisdiction over this matter pursuant to the Nursing Practice Act (the Act), TEX. OCC. CODE ANN. § 301.453 (Vernon 2001).

2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this matter, including the authority to issue a proposal for decision with findings of fact and conclusions of law, pursuant to TEX. GOV'T. CODE ANN. ch. 2003 (Vernon 2001) and § 301.454 of the Act.

3. Based on Findings of Fact Nos. 2 and 3, each Respondent listed on the Attachment hereto received proper and timely notice of the intention to institute disciplinary action and of the hearing, pursuant to TEX. GOV'T. CODE ANN. §§ 2001.051 and 2001.054(c) (Vernon 2001).

4. Based on Finding of Fact No. 7, each Respondent violated certain provisions of the Act and the Board's rules as set out in the Attachment hereto.

5. Based on the Findings of Fact Nos. 2 - 4 and Conclusion of Law No. 3, a default should be entered against each Respondent pursuant to 1 TEX. ADMIN. CODE § 155.55 (2001).

6. Based on Conclusions of Law Nos. 4 and 5, the license of each Respondent to practice professional nursing should be revoked, pursuant to § 301.453 of the Act.

**SIGNED this 3rd day of May, 2001.**

Carol Wood

**CAROL WOOD**
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

**SOAH DOCKET NOS.**
**507-01-1532, 507-01-1533, 507-01-1535, 507-01-1536, 507-01-1537, 507-01-1538, 507-01-1539, 507-01-1540, 507-01-1542, 507-01-1543, 507-01-1544, 507-01-1545, 507-01-1546, 507-01-1547, 507-01-1549, 507-01-1550, 507-01-1551, 507-01-1552, 507-01-1553, 507-01-1626, 507-01-1627, and 507-01-0773**

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|---|---|---|
| TEXAS STATE BOARD OF NURSE EXAMINERS,<br>*Petitioner* | § | **BEFORE THE STATE OFFICE** |
| V. | § | **OF** |
| CERTAIN LICENSEES OF THE BOARD,<br>*Respondents* | § | **ADMINISTRATIVE HEARINGS** |

## ATTACHMENT

Hearing held on March 1, 2001, before Administrative Law Judge Carol Wood

| SOAH DOCKET No.<br>RESPONDENT and<br>PERMANENT CERTIFICATE No. | SUMMARY OF VIOLATION(S) | STATUTE AND/OR RULE VIOLATED | DISCIPLINARY ACTION |
|---|---|---|---|
| 507-01-1532<br>Lynne R. Barry<br>255426 | CHARGE I<br>On February 17, 1999, Respondent's license to practice professional nursing was placed on probation for one (1) year by the Arkansas State Board of Nursing, Little Rock, Arkansas. | TEX. OCC. CODE ANN. § 301.452(b)(8) | Revocation |

| SOAH DOCKET No.<br>RESPONDENT and<br>PERMANENT CERTIFICATE No. | SUMMARY OF VIOLATION(S) | STATUTE AND/OR RULE VIOLATED | DISCIPLINARY ACTION |
|---|---|---|---|
| 507-01-1533<br>Paula Ann Bennett<br>627766 | CHARGE I<br>On or about April 22, 1999, while employed at Baylor University Medical Center, Dallas, Texas, Respondent, while on duty as the night shift supervisor, failed to supervise a staff nurse in the proper administration of IV Insulin to Medical Record # 247600-008. The calculated rate of the insulin infusion should not have exceeded 12.2 units/hour. The staff nurse had the rate at 400 units/hour. The staff nurse had miscalculated the insulin rate throughout his shift. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE II<br>On or about April 22, 1999, while employed at the above noted facility, Respondent, while on duty as the night shift supervisor, failed to intervene in the care of Medical Record # 247600-008. Respondent failed to adjust the IV Insulin to the correct dosage. Respondent's conduct unnecessarily exposed the patient to a risk of harm. | TEX. OCC. CODE ANN. § 301.452(b)(13) and 22 TEX. ADMIN. CODE § 217.11(4) and (16) | Revocation |
| 507-01-1535<br>Ann Morton Chafin<br>646229 | CHARGE I<br>On April 12, 2000, Respondent's license to practice professional nursing in the State of Mississippi was revoked by the Mississippi Board of Nursing, Jackson, Mississippi. | TEX. OCC. CODE ANN. § 301.452(b)(8) | Revocation |
| 507-01-1536<br>Lois Victoria Durbridge<br>659020 | CHARGE I<br>On or about December 7, 1998, through December 14, 1998, while employed at Park Place Medical Center, Port Arthur, Texas, Respondent engaged in the intemperate use of Alcohol in that Respondent produced a specimen for a drug screen which resulted positive for Alcohol. The use of Alcohol 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. | TEX. OCC. CODE ANN. § 301.452(b)(9) | Revocation |

| SOAH DOCKET No.<br>RESPONDENT and<br>PERMANENT CERTIFICATE No. | SUMMARY OF VIOLATION(S) | STATUTE AND/OR RULE VIOLATED | DISCIPLINARY ACTION |
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| 507-01-1537<br>Lisa Shawn Flagor<br>650260 | CHARGE I<br>On or about May 10, 1998, while employed at University Medical Center, Lubbock, Texas, Respondent failed to administer Lasix to Medical Record # 870911, as ordered by the physician. The physician ordered Lasix 20 mg by mouth twice daily. The patient did not receive the medication. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE II<br>On or about July 20, 1998, while employed at the above noted facility, Respondent failed to administer Acyclovir to Medical Record # 885493, at the time ordered by the physician. The physician ordered Acyclovir ointment to the lips three times daily. The patient first received the Acyclovir seven hours and fifteen minutes after the order was written. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE III<br>On or about November 16, 1998, while employed at the above noted facility, Respondent failed to complete an admission assessment for Medical Record # 896841 before leaving for lunch. While the Respondent was at lunch, the patient vomited blood. Other staff who were present had no initial assessment data to refer to. At 1420, another nurse performed the assessment. Respondent's conduct unnecessarily exposed the patient to a risk of harm. | TEX. OCC. CODE ANN. § 301.452(b)(13) and 22 TEX. ADMIN. CODE § 217.11(3) and (6) | Revocation |
| 507-01-1538<br>Barbara Ann Gonzalez<br>247931 | CHARGE I<br>On or about September 29, 1997, Respondent was convicted of a felony "aiding and abetting to make and use a material false document to mislead the United States Department of Health and Human Services," by the United States District Court for the Southern District of Texas, Corpus Christi, Texas. | TEX. OCC. CODE ANN. § 301.452(b)(3) | Revocation |

| SOAH DOCKET No.<br>RESPONDENT and<br>PERMANENT CERTIFICATE No. | SUMMARY OF VIOLATION(S) | STATUTE AND/OR RULE VIOLATED | DISCIPLINARY ACTION |
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| 507-01-1539<br>William Hernick Hempling<br>633323 | CHARGE I<br>On or about April 5, 1996, Respondent provided false information on the Temporary License/Endorsement Application submitted to the Board of Nurse Examiners for the State of Texas, in that Respondent answered "no" to the question: "Have you ever been convicted of a crime other than minor traffic violations?" Respondent was convicted in Mississippi for Domestic Assault and Battery on October 4, 1994, in Case No. 0094046449, *People v. William Hempling*, by the Hattiesburg Municipal Court.<br><br>CHARGE II<br>On or about April 5, 1996, Respondent provided false information on the Temporary License/Endorsement Application submitted to the Board of Nurse Examiners for the State of Texas, in that he answered "no" to the question: "Have you been diagnosed with or treated or hospitalized in the past five (5) years for schizophrenia or other psychotic disorders, depression, bipolar disorder, paranoid personality disorder, antisocial personality disorder, or borderline personality disorder? (You may answer "no" if you have completed and/or are in compliance with TPAPN for mental illness.)" Respondent was diagnosed as having bipolar affective disorder beginning in 1987, and has been treated for bipolar affective disorder by a psychiatrist from January 20, 1992, through November 21, 1996.<br><br>CHARGE III<br>On October 22, 1999, Respondent's application for licensure as a registered nurse was denied by the Board of Registered Nurse Examiners, Department of Consumer Affairs, State of California. | TEX. OCC. CODE ANN. § 301.452(b)(2) and (8) | Revocation |

| SOAH DOCKET No.<br>RESPONDENT and<br>PERMANENT CERTIFICATE No. | SUMMARY OF VIOLATION(S) | STATUTE AND/OR RULE VIOLATED | DISCIPLINARY ACTION |
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| 507-01-1540<br>Marcia Lou Kaiser<br>638498 | CHARGE I<br><br>On or about May 26, 1998, while employed at Methodist Hospital, Lubbock, Texas, Respondent failed to administer Pepcid 20 mg and Persantine 25 mg to Medical Record # 000299729-8141, as ordered by the physician. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE II<br>On or about May 27, 1998, while employed at the above noted facility, Respondent failed to intervene for Medical Record # 000299729-8141, a patient who was confused and attempting to remove his Foley catheter. Respondent observed the patient pulling on his Foley catheter, but failed to act. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE III<br>On or about June 3, 1998, while employed at the above noted facility, Respondent administered 10 units of regular insulin at hour of sleep to Medical Record # 000659128-8150, in contradiction of the physician's orders. While the physician ordered accuchecks to be done before meals (AC) and at hour of sleep (HS), he did not order any insulin coverage for HS. Respondent administered 10 units of regular insulin to the patient for a blood sugar of 326 at HS. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE IV<br>On or about June 8, 1998, while employed at the above noted facility, Respondent failed to intervene when Medical Record # 000682701-8159 complained of chest pain. The patient complained of chest pains early in the shift, but the charge nurse was not notified until the end of the shift. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE V<br>On or about June 15, 1998, while employed at the above noted facility, Respondent failed to appropriately administer a bolus of Potassium Chloride 40mEq/100cc normal saline to Medical Record # 000132484-8161. The patient complained of the IV hurting | TEX. OCC. CODE ANN. § 301.452(b)(13) and 22 TEX. ADMIN. CODE § 217.11(4) and (6) | Revocation |

| SOAH DOCKET No.<br>RESPONDENT and<br>PERMANENT CERTIFICATE No. | SUMMARY OF VIOLATION(S) | STATUTE AND/OR RULE VIOLATED | DISCIPLINARY ACTION |
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| 507-01-1542<br>Barbara Ann Maultsby<br>551586 | CHARGE I<br>On or about September 18, 1999, while employed in the Emergency Room at McKenna Memorial Hospital, New Braunfels, Texas, Respondent failed to take a blood pressure for Medical Record # 435213, a nine year old child who sustained a head injury from a fall off of a moving vehicle four hours prior to coming into the Emergency Room. The patient presented to the Emergency Room with complaints of a headache. The patient was triaged as non-emergent by Respondent. The patient was subsequently diagnosed with an epidural hematoma and skull fracture and was airlifted to University Hospital, San Antonio, Texas. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE II<br>On or about September 18, 1999, while employed in the Emergency Room at the above noted facility, Respondent failed to document a neurological assessment on Medical Record # 435213, the above referenced nine (9) year old child. A physician evaluated the child and documented the patient had symptoms of lethargy and vomiting. The patient was triaged as non-emergent by Respondent. The patient was subsequently diagnosed with an epidural hematoma and skull fracture and was airlifted to University Hospital, San Antonio, Texas. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE III<br>On or about October 20, 1999, while employed in the Emergency Room at the above noted facility, Respondent failed to remove a bandage and assess a chest laceration for Medical Record # 437340, a 61 year old male who had been hit in the chest with a stone grinder. The patient was triaged by Respondent as non-emergent. A physician found the chest laceration to be seven centimeters long and two to three centimeters deep. In addition, the patient had a fractured third rib. Respondent's conduct unnecessarily exposed the patient to a risk of harm. | TEX. OCC. CODE ANN. § 301.452(b)(13) and 22 TEX. ADMIN. CODE § 217.11(2) and (4) | Revocation |

| SOAH DOCKET No.<br>RESPONDENT and<br>PERMANENT CERTIFICATE No. | SUMMARY OF VIOLATION(S) | STATUTE AND/OR RULE VIOLATED | DISCIPLINARY ACTION |
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| 507-01-1543<br>M. Colleen McClinton<br>629152 | CHARGE I<br>On or about January 21, 1999, while employed at Corpus Christi Medical Center, Corpus Christi, Texas, Respondent failed to accurately document the heart rhythm on Medical Record # HT003306. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE II<br>On or about March 6, 1999, while employed at the above noted facility, Respondent failed to document the administration of Morphine Sulphate (MSO4) in the Medication Administration Record (MAR) or the nurse's notes on Medical Record # D01454229. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE III<br>On or about March 6, 1999, while employed at the above noted facility, Respondent failed to document the administration of MSO4 in the MAR or the nurse's notes on Medical Record # D012862249. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE IV<br>On or about March 14, 1999, while employed at the above noted facility, Respondent failed to document the wastage of MSO4 in the narcotics record for Medical Record # D012870275. Respondent's conduct was likely to deceive, defraud, or injure the patient or the public.<br><br>CHARGE V<br>On or about March 25, 1999, while employed at the above noted facility, Respondent failed to document the administration of MSO4 in the MAR or the nurse's notes on Medical Record #D0292544. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE VI<br>On or about March 25, 1999, while employed at the above noted facility, Respondent failed to document the wastage of Valium in the narcotics record for Medical Record # D0292544. Respondent's conduct was likely to deceive, defraud, or injure the | TEX. OCC. CODE ANN. § 301.452(b)(10) and (13) and 22 TEX. ADMIN. CODE §§ 217.11(7) and 217.13(14) | Revocation |

| SOAH DOCKET No.<br>RESPONDENT and<br>PERMANENT CERTIFICATE No. | SUMMARY OF VIOLATION(S) | STATUTE AND/OR RULE VIOLATED | DISCIPLINARY ACTION |
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| 507-01-1544<br>Lisa Marie Melnyk<br>590982 | CHARGE I<br>While employed with Advanced Temporaries and on assignment at Methodist Hospital, San Antonio, Texas, Respondent withdrew controlled substances (Merperidine, Seconal, Percodan, Lortab, and Phenergan)) from the Pyxis Medication System for three different patients on numerous occasions but failed to document the administration of the medication in the Medication Administration Record (MAR) and the nurses notes.<br><br>CHARGE II<br>On or about June 12, 1999, through June 13, 1999, Respondent misappropriated Meperidine, Seconal, Percodan, and Lortab from the hospital and the patients thereof. Respondent's conduct was likely to defraud patients and the public. | TEX. OCC. CODE ANN. § 301.452(b)(10) and 22 TEX. ADMIN. CODE §§ 217.13(5) and (15) | Revocation |
| 507-01-1545<br>Marilyn P. Merchant<br>517585 | CHARGE I<br>On May 24, 1998, Respondent's license to practice professional nursing in the State of California was placed on probation for one (1) year by the California Board of Registered Nursing, Sacramento, California. | TEX. OCC. CODE ANN. § 301.452(b) (8) | Revocation |

| SOAH DOCKET No.<br>*RESPONDENT and*<br>PERMANENT CERTIFICATE No. | SUMMARY OF VIOLATION(S) | STATUTE AND/OR RULE VIOLATED | DISCIPLINARY ACTION |
|---|---|---|---|
| 507-01-1546<br>Beverly Kay Messenger<br>583616 | CHARGE I<br>On or about February 10, 1998, while employed at Advanced Temporaries, Inc., Fort Worth, Texas, and on duty at All Saints Episcopal Hospital, Fort Worth, Texas, Respondent withdrew Morphine, Diazepam and Furosemide from the Pyxis for twelve different patients who were not assigned to her. Respondent failed to collaborate with the members of the health team regarding the administration of medications. Respondent's conduct was likely to injure patients.<br><br>CHARGE II<br>On or about February 10, 1998, while employed at the above noted entity and on duty at the above noted facility, Respondent withdrew Morphine from the Pyxis at 1724 for Patient # 262414. This patient was discharged from the facility at 1720. Respondent's conduct was likely to defraud the patient and the public.<br><br>CHARGE III<br>On or about February 10, 1998, while employed at the above noted entity and on duty at the above noted facility, Respondent withdrew Morphine from the Pyxis at 1657 for Patient # 242401. This patient had been transferred to another unit (B4N) at 1545. Respondent's conduct was likely to defraud the patient and the public.<br><br>CHARGE IV<br>On or about February 10, 1998, while employed at the above noted entity and on duty at the above noted facility, Respondent withdrew Morphine on three different occasions and Furosemide on one occasion for Patient # 208311, who had expired earlier that day (i.e., prior to the withdrawal of the medications) on February 10, 1998. Respondent's conduct was likely to defraud patients and the public.<br><br>CHARGE V<br>On or about February 10, 1998, while employed at the above noted entity and on duty at the above noted facility, Respondent misappropriated Morphine belonging to the facility and patients thereof. Respondent's conduct was likely to defraud patients and the public. | TEX. OCC. CODE ANN. § 301.452(b)(9), (10), and (13)<br>and<br>22 TEX. ADMIN. CODE §§ 217.11(12) and 217.13(1), (3), (5),and (15) | Revocation |

| SOAH DOCKET No.<br>RESPONDENT and<br>PERMANENT CERTIFICATE No. | SUMMARY OF VIOLATION(S) | STATUTE AND/OR RULE VIOLATED | DISCIPLINARY ACTION |
|---|---|---|---|
| Beverly Kay Messenger (con't) | CHARGE VI<br>On or about February 10, 1998, while employed at the above noted entity and on duty at the above noted facility, Respondent engaged in the intemperate use of Morphine. Possession of Morphine is prohibited by Chapter 481 of the TEX.HEALTH & SAFETY CODE ANN. (Controlled Substances Act). The use of 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. | TEX. OCC. CODE ANN. § 301.452(b)(9), (10), and (13)<br>and<br>22 TEX. ADMIN. CODE §§ 217.11(12) and 217.13(1), (3), (5),and (15) | Revocation |
| 507-01-1547<br>Lara Shipp<br>643788 | CHARGE I<br>On or about January 18, 2000, Respondent failed to comply with the Agreed Order issued to her by the Board of Nurse Examiners for the State of Texas on December 8, 1999. Non-compliance is the result of Respondent's failure to apply and be accepted into the Texas Peer Assistance Program for Nurses within 45 days of entry of the Order issued December 8, 1999. | TEX. OCC. CODE ANN. § 301.452(b)(1) | Revocation |

| SOAH DOCKET No.<br>*RESPONDENT and*<br>PERMANENT CERTIFICATE No. | SUMMARY OF VIOLATION(S) | STATUTE AND/OR RULE VIOLATED | DISCIPLINARY ACTION |
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| 507-01-1549<br>Rick Dale Thompson<br>629832 | CHARGE I<br>On or about October 8, 1998, while employed at Texoma Medical Center, Denison, Texas, Respondent performed a shave prep on Medical Record # 207304 that resulted in multiple cuts and abrasions on the patient's chest and legs. The patient was scheduled for coronary artery by-pass surgery. Respondent's conduct was likely to injure the patient.<br><br>CHARGE II<br>On or about November 9, 1998, through November 12, 1998, while employed at Favorite Nurses, Shawnee Mission, Kansas, and working as an Agency Nurse at Northeast Medical Center, Bonham, Texas, Respondent signed out Morphine at 0745, 0820, and 1020 for Medical Record # N017997 with no physician's order. Respondent subsequently falsely documented physician's orders for patient Medical Record # N017997 to reflect additional ordered doses of Morphine. Respondent's conduct was likely to deceive the facility.<br><br>CHARGE III<br>On or about June 25, 1999, while employed at the above noted entity and working as an Agency Nurse at St. Paul Medical Center, Dallas, Texas, Respondent withdrew Demerol 100 mg. for patient Medical Record # D02261057 (53376827), but failed to document wastage of 75 mg. of Demerol. Respondent's conduct was likely to deceive patients and the public.<br><br>CHARGE IV<br>On or about June 25, 1999, while employed at the above noted entity and working as an Agency Nurse at the above noted facility, Respondent withdrew Morphine 30 mg. from the Pyxis at 0958 for patient Medical Record # 004852729 (53386180), but failed to document the administration of 30 cc of the medication. Respondent's conduct was likely to deceive patients and the public.<br><br>CHARGE V<br>On or about October 6, 1999, in the Circuit Court of White County, Searcy, Arkansas, Respondent was convicted of fraudulent acquisition of Lortab, a controlled substance. | TEX. OCC. CODE ANN. § 301.452(b)(3) and (10) and 22 TEX. ADMIN. CODE § 217.13(4), (5), (14), and (15) | Revocation |

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| 507-01-1550<br>Ronnie Lee Walker<br>232690 | CHARGE I<br>In September and October, 1998, while employed as a Certified Registered Nurse Anaesthetist at the Veterans Administration Medical Center-Big Spring, Texas, Respondent, on seven different occasions, failed to obtain co-signatures for verification of the wastage of Fentanyl which was not used when Respondent was anaesthetizing patients.<br><br>CHARGE II<br>In August, September, and October, 1998, while employed as a Certified Registered Nurse Anaesthetist at the above noted facility, Respondent on ten occasions signed out 5 cc of Fentanyl 0.05 mg/ml, a controlled substance, for patients who were not listed in the hospital computer system or were not present for treatment at the time Respondent signed out the medications.<br><br>CHARGE III<br>On or about October 16, 1998, while employed as a Certified Registered Nurse Anaesthetist at the above noted facility, Respondent misappropriated ten ampules of Fentanyl 0.05 mg/ml-5cc.<br><br>CHARGE IV<br>On or about October 21, 1998, while employed as a Certified Registered Nurse Anaesthetist at the above noted facility, Respondent misappropriated ten ampules of Fentanyl 0.05 mg/ml-5cc. | TEX. OCC. CODE ANN. § 301.452(b)(10) and 22 TEX. ADMIN. CODE § 217.13(5),(14), and (15) | Revocation |

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| 507-01-1551<br>Helen Louise Ward<br>246511 | CHARGE I<br>On or about July 1, 1999, while employed at Vencor Hospital Fort Worth Southwest, Fort Worth, Texas, Respondent administered Morphine 4 mg. to Medical Record # 12080 in two hours despite physician orders to reduce Morphine to 1-2 mg every 8-12 hours. Respondent's conduct unnecessarily exposed the patient to the risk of harm.<br><br>CHARGE II<br>On or about July 1, 1999, while employed at the above noted facility, Respondent failed to document the administration of MSO4 in the MAR or the nurse's notes to Medical Record # 12080 at 2400 and at 0500. Respondent's conduct unnecessarily exposed the patient to the risk of harm.<br><br>CHARGE III<br>On or about July 1, 1999, while employed at the above noted facility, Respondent failed to document the wastage of 8 mg of MSO4 on the narcotics record for Medical Record # 12080 at 2400 and at 0500. Respondent's conduct was likely to deceive, defraud, or injure the patient or the public.<br><br>CHARGE IV<br>On or about July 1, 1999, while employed at the above noted facility, Respondent got Medical Record # 12080 out of bed at approximately 2400 after over sedating the patient. Respondent then left the patient up in a chair all night. Respondent's conduct unnecessarily exposed the patient to the risk of harm.<br><br>CHARGE V<br>On or about July 1, 1999, while employed at the above noted facility, Respondent failed to document the administration of the 0600 dose of Nitroglycerin to Medical Record # 12080. Respondent's conduct unnecessarily exposed the patient to the risk of harm.<br><br>CHARGE VI<br>On or about July 1, 1999, while employed at the above noted facility, Respondent failed to document any vitals on Medical Record # 12080 for the entire shift. Respondent's conduct unnecessarily exposed the patient to the risk of harm. | TEX. OCC. CODE ANN. § 301.452(b)(10), (11), and (13) and 22 TEX. ADMIN. CODE §§ 217.11(3), (6), (7), and (8); 217.12(1); and 217.13(14) | Revocation |

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| Helen Louise Ward (con't) | CHARGE VII<br>On or about July 1, 1999, while employed at the above noted facility, Respondent left Medical Record # 12065 (a motor vehicle accident closed head trauma patient) unattended in a regular chair after getting him out of bed. Respondent's conduct unnecessarily exposed the patient to the risk of harm.<br><br>CHARGE VIII<br>On or about July 1, 1999, while employed at the above noted facility, Respondent discontinued the administration of Oxygen to Medical Record # 12065 without authorization from a physician. Respondent's conduct unnecessarily exposed the patient to the risk of harm.<br><br>CHARGE IX<br>On or about July 1, 1999, while employed at the above noted facility, Respondent failed to monitor the status of Medical Record # 12065. Respondent's conduct unnecessarily exposed the patient to the risk of harm.<br><br>CHARGE X<br>On or about July 1, 1999, while employed at the above noted facility, Respondent failed to document the administration of Digoxin at 1825 to Medical Record # 12096 on the medication administration record or the nurse's notes. Respondent's conduct unnecessarily exposed the patient to the risk of harm.<br><br>CHARGE XI<br>On or about July 1, 1999, while employed at the above noted facility, Respondent failed to document the status of Medical Record # 12096. There is no documentation on this patient for Respondent's entire shift. Respondent's conduct unnecessarily exposed the patient to the risk of harm. | TEX. OCC. CODE ANN. § 301.452(b)(10), (11), and (13) and 22 TEX. ADMIN. CODE §§ 217.11(3), (6), (7), and (8); 217.12(1); and 217.13(14) | Revocation |

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| Helen Louise Ward (con't) | CHARGE XII<br>On or about June 22, 2000, while employed at USA Personnel Medical Staffing, Fort Worth, Texas, Respondent engaged in the intemperate use of drugs in that Respondent produced a urine specimen for a drug screen which resulted positive for Cocaine. Possession of Cocaine is prohibited by Chapter 481 of theTEX. HEALTH & SAFETY CODE ANN. (Controlled Substances Act). The use of Cocaine 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. | TEX. OCC. CODE ANN. § 301.452(b)(10), (11), and (13) and 22 TEX. ADMIN. CODE §§ 217.11(3), (6), (7), and (8); 217.12(1); and 217.13(14) | Revocation |

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| 507-01-1552<br>Michael E. D. Wernette<br>619364 | CHARGE I<br>On or about February 1 and February 22, 1999, while employed at Harris County MHMRA, Houston, Texas, Respondent failed to document the administration of Haldol on the Nurses Medication Record for Medical Record # 21856. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE II<br>On or about January 11, February 1, and February 22, 1999, while employed at the above noted facility, Respondent failed to document a complete physical assessment on Medical Record # 21856. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE III<br>On or about February 12 and February 26, 1999, while employed at the above noted facility, Respondent failed to document a complete physical assessment for Medical Record # 120717. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE IV<br>On or about February 25, 1999, while employed at the above noted facility, Respondent failed to document a complete physical assessment for Medical Record # 147878. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE V<br>On or about February 25, 1999, while employed at the above noted facility, Respondent failed to document the administration of Prolixin Deconoate on the Nurses Medication Record for Medical Record # 15223. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE VI<br>On or about January 27, 1999, while employed at the above noted facility, Respondent failed to document the administration of Prolixin Deconoate on the Nurses Medication Record for Medical Record # 22405. Respondent's conduct unnecessarily exposed the patient to a risk of harm. | TEX. OCC. CODE ANN. § 301.452(b)(10) and (13) and 22 TEX. ADMIN. CODE §§ 217.11(7) and 217.12(26) | Revocation |

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| Michael E. D. Wernette (con't) | CHARGE VII<br>On or about January 27, 1999, while employed at the above noted facility, Respondent failed to document a complete physical assessment for Medical Record # 22405. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE VIII<br>During 2000, Respondent failed to repay a guaranteed student loan, as provided in Section 57.491 of the TEX. EDUCATION CODE ANN. Respondent's conduct is likely to defraud the public. | TEX. OCC. CODE ANN. § 301.452(b)(10) and (13) and 22 TEX. ADMIN. CODE §§ 217.11(7) and 217.12(26) | Revocation |
| 507-01-1553<br>Carl C. Wheat<br>518568 | CHARGE I<br>On or about July 14, 1999, while employed at Christus Santa Rosa Medical Center, *San Antonio, Texas, Respondent engaged in the intemperate use of Marijuana in that* Respondent produced a specimen for a drug screen which resulted positive for Marijuana. Possession of Marijuana is prohibited by Chapter 481 of the TEX. HEALTH & SAFETY CODE ANN. (Controlled Substances Act). The use of Marijuana 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. | TEX. OCC. CODE ANN. § 301.452(b)(9) and (10) and 22 TEX. ADMIN. CODE § 217.13(1) | Revocation |

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| 507-01-1626<br>Susan Elizabeth Ringstmeyer<br>602812 | CHARGE I<br>During January, 1999, while employed at Westminster Manor Health Care Center, Austin, Texas, Respondent misappropriated Vicodin belonging to the facility and/or the patients thereof. Respondent's conduct was likely to defraud patients and the public.<br><br>CHARGE II<br>On January 10 and January 14, 1999, while employed at the above noted facility, Respondent signed out two Vicodin on the Individual Control Drug Record for patient V.C. when the physician's order was for one Vicodin. Respondent's conduct was likely to injure the patient.<br><br>CHARGE III<br>While employed at the above noted facility, Respondent signed out Vicodin (Hydrocodone) on the Individual Control Drug Record for four different patients, but failed to document the administration of the medication on the medication administration record on seventeen different occasions. Respondent's conduct was likely to injure patients.<br><br>CHARGE IV<br>On or about May 11, 1999, Respondent failed to comply with the Agreed Order issued on March 25, 1999, by the Board of Nurse Examiners for the State of Texas. Non-compliance is the result of Respondent's failure to apply and be accepted into the Texas Peer Assistance Program for Nurses within 45 days from the date of the Order. | TEX. OCC. CODE ANN. § 301.452(b)(1) and (10) and 22 TEX. ADMIN. CODE § 217.13(3),(4), and (15) | Revocation |
| 507-01-1627<br>Gretchen Ann Dean<br>562302 | CHARGE I<br>On or about May 5, 1999, while employed at Memorial Hospital, Midland, Texas, Respondent engaged in the intemperate use of Alcohol in that Respondent reported on duty with the smell of Alcohol on her breath and produced a specimen for a drug screen which resulted positive for Alcohol. The use of Alcohol 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. | TEX. OCC. CODE ANN. § 301.452(b)(9) | Revocation |

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| 507-01-0773<br>Harvey Dayle Ross, Jr.<br>*646404* | CHARGE I<br>On or about March 5, 1999, while employed at The Methodist Hospital, Houston, Texas, Respondent failed to administer a Nitroglycerin patch to Medical Record # 128645759064 as ordered by the physician. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE II<br>On or about March 5, 1999, while employed at the above noted facility, Respondent failed to monitor the blood pressure of Medical Record # 144208559064 while titrating the Nitroglycerin drip. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE III<br>On or about March 5, 1999, while employed at the above noted facility, Respondent documented a 0400 assessment on Medical Record # 167878489056 at or about 0200. Respondent's conduct unnecessarily exposed the patient to a risk of harm.<br><br>CHARGE IV<br>On or about March 5, 1999, while employed at the above noted facility, Respondent documented restraint data on Medical Record # 167878489056 prior to actually performing the assessment two times during his shift. Respondent's conduct unnecessarily exposed the patient to a risk of harm. | TEX. OCC. CODE ANN. § 301.452(b)(13) and 22 TEX. ADMIN. CODE § 217.11(3), (6), and (7) | Revocation |