

BEFORE THE BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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In the Matter of Vocational Nursing License Number 82728           §     AGREED  
and Registered Nurse License Number 532506                     §  
issued to SHANNON D. ACOSTA   §     ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of Vocational Nursing License Number 82728 and Registered Nurse License Number 532506 issued to SHANNON D. ACOSTA, 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 informal conference, notice and hearing, and agreed to the entry of this Order offered on March 8, 2006, 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 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. Respondent holds a license to practice vocational nursing which is in delinquent status.
4. Respondent received a Certificate in Vocational Nursing from Lubbock Vocational School of Nursing, Lubbock, Texas, in September 1979, and a Bachelor of Science in Nursing from Texas Tech University Health Science Center School of Nursing, Lubbock, Texas in May 1986. Respondent was licensed to practice vocational nursing in the State of Texas in October 1979 and licensed to practice professional nursing in the State of Texas in August 1986.

5. Respondent's professional employment history includes:

1979 - 1986	Staff LVN	Methodist Hospital Lubbock, Texas
1986 - 1991	RN Staff Nurse	Methodist Hospital Lubbock, Texas
1991 - 1994	RN Staff Nurse	University Medical Center Lubbock, Texas
1/95 - 4/97	RN Field Nurse	Care Team/Symphony Home Health Lubbock, Texas
4/97 - 11/03	RN Field Nurse	Concepts of Care Home Health Lubbock, Texas
11/00 - 1/02	RN Field Nurse	Home Care Solutions Lubbock, Texas
2/02 - 11/03	RN Staff Nurse	Covenant Medical Center Lubbock, Texas
11/03 - present	RN Staff Nurse	Lubbock Heart Hospital Lubbock, Texas

6. At the time of the incident in Findings of Fact Numbers Seven (7) through Twelve (12), Respondent was employed as a Staff Nurse with Lubbock Heart Hospital, Lubbock, Texas, and had been in this position for approximately one (1) year.

7. On or about December 21, 2004, through January 13, 2005, while employed at Lubbock Heart Hospital, Lubbock, Texas, Respondent withdrew Versed, Demerol and Fentanyl from the Pyxis Medication Dispensing System for patients but failed to completely and accurately document its administration in the patients' Medication Administration Record or Nurses Notes. Respondent's conduct was likely to injure patients in that subsequent care givers would rely on her documentation to further medicate patients which could result in an overdose and is in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

8. On or about December 21, 2004, through January 13, 2005, while employed at Lubbock Heart Hospital, Lubbock, Texas, Respondent withdrew Versed, Demerol and Fentanyl from the Pyxis Medication Dispensing System for patients without valid physician's orders. Respondent's conduct was likely to injure the patient in that the administration of Versed, Demerol and Fentanyl without valid physician's orders could result in the patient suffering from respiratory depression and is in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
9. On or about December 21, 2004, through January 13, 2005, while employed at Lubbock Heart Hospital, Lubbock, Texas, Respondent withdrew Versed, Demerol and Fentanyl from the Pyxis Medication Dispensing System for patients but falsely documented its administration in the patients' Medication Administration Record or Nurses Notes. Respondent's conduct was likely to injure patients in that subsequent care givers would rely on her documentation to further medicate patients which could result in an overdose and is in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
10. On or about December 21, 2004, through January 13, 2005, while employed at Lubbock Heart Hospital, Lubbock, Texas, Respondent withdrew Versed, Demerol and Fentanyl from the Pyxis Medication Dispensing System for patients but failed to properly waste any unused portions of the medications. Respondent's conduct was likely to deceive the hospital pharmacy and is in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
11. On or about December 21, 2004, through January 13, 2005, while employed at Lubbock Heart Hospital, Lubbock, Texas, Respondent misappropriated Versed, Demerol and Fentanyl from the facility and the patients thereof. Respondent's conduct defrauded the facility and the patients thereof of the cost of the medications.
12. On or about January 17, 2005, while employed at Lubbock Heart Hospital, Lubbock, Texas, Respondent engaged in the intemperate use of Hydrocodone, Propoxyphene, Meperidine, and Benzodiazepines in that she produced a specimen for a drug screen which resulted positive for Hydrocodone, Propoxyphene, Meperidine, and Benzodiazepines. Possession of Hydrocodone, Propoxyphene, Meperidine, and Benzodiazepines is prohibited by Chapter 481 (Controlled Substance Act) of the Texas Health and Safety Code. The use of Hydrocodone, Propoxyphene, Meperidine, and Benzodiazepines by a 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.
13. 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.

14. 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.
15. Respondent's conduct described in Findings of Fact Numbers Seven (7) through Twelve (12) was significantly influenced by Respondent's impairment by dependency on chemicals.
16. 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)(A), (5), (6)(G), (8), (10)(A), (10)(B) & (10)(C).
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 532506 and Vocational Nurse License Number 82728, heretofore issued to SHANNON D. ACOSTA, including revocation of Respondent's professional and vocational licenses 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 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 vocational and/or 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 licenses and multistate licensure privileges, if any, to practice vocational and/or professional nursing in the State of Texas.

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. 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 licenses to practice vocational and/or professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 29 day of March, 2006.

Shannon D. Acosta  
SHANNON D. ACOSTA, Respondent

Sworn to and subscribed before me this 29 day of March, 2006.

SEAL



Karen Sweat  
Notary Public in and for the State of Texas

Approved as to form and substance.

Ann Phillips Haag  
ANN PHILLIPS HAAG, Attorney for Respondent

Signed this 29<sup>th</sup> day of March, 2006.

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 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by SHANNON D. ACOSTA, Vocational Nursing License Number 82728 and Registered Nurse License Number 532506, and said Order is final.

Entered and effective this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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

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 29th day of March, 2006, by SHANNON D. ACOSTA, Vocational Nursing License Number 82728 and Registered Nurse License Number 532506, and said Order is final.

Entered and effective this 6th day of April, 2006.



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