

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Registered Nurse License Number 677449 § AGREED
issued to MARGARET MARY DEVITT-MORGAN § ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of MARGARET MARY DEVITT-MORGAN, Registered Nurse License Number 677449, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(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 15, 2007, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

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 St. Francis Hospital, Evanston, Illinois, on June 1, 1992. Respondent was licensed to practice professional nursing in the State of Illinois on November 6, 1992, and was licensed to practice professional nursing in the State of Texas on May 31, 2001.

5. Respondent's professional employment history includes:

11/92 to 1/96	RN Evanston Hospital Evanston, Illinois
2/96	Unknown
3/96 to 1/99	RN Evanston Hospital Evanston, Illinois
1/98 to 3/00	RN Great Lakes Naval Hospital Pediatric After Hours Clinic Great Lakes, Illinois
3/99 to 3/00	RN, Utilization Review Diagnostic Solutions Lake Forest, Illinois
3/00 to 3/03	RN HealthHelp, Inc. Houston, Texas
3/03 to Unknown	RN, Case Manager VISTA Hospice Dallas, Texas
9/20/04 to 3/28/05	RN Odyssey Healthcare Dallas, Texas
Unknown to 8/07	RN, Clinical Reviewer Health Help Houston, Texas

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as a Registered Nurse with Odyssey Healthcare, Dallas, Texas, and had been in this position for six (6) months.

7. On or about March 26, 2005, while employed as a Registered Nurse with Odyssey Healthcare, Dallas, Texas, Respondent misappropriated a multi-dose vial of Dilaudid from the home of Patient Medical Record Number 6404. Dilaudid is a potent narcotic medication. The patient had been diagnosed with Ovarian Cancer, was on hospice care, and had been having her pain controlled with oral Morphine; however, Respondent called in an order for the injectable Dilaudid and Vistaril after speaking with a physician. Respondent's conduct deprived the patient of needed medication as ordered for pain control, was likely to deceive the pharmacy, and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). In addition, possession of Dilaudid is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

8. On or about May 7, 2007, Respondent completed a Forensic Psychological Evaluation with polygraph by Dr. John Lehman, Ph.D. According to Dr. Lehman, Respondent is not fit to practice as a nurse and Dr. Lehman states that while this event of misappropriation is in the past, her lack of integrity and lack of truthfulness is a present issue. Dr. Lehman indicates that the complete story of why Respondent misappropriated the medications remains untold, concluding that Respondent has chosen to withhold information, and as such, the extent of the risk cannot be fully determined. Dr. Lehman continues, stating that Respondent does not appear to be chemically dependent, that her explanation that she took it to help her sleep is not plausible, and that Respondent has not been able to successfully pass a polygraph over all the relevant issues. Dr. Lehman concludes that he does not believe there are treatment issues that could be addressed to remediate the situation; however, even with therapy to address Respondent's issues, but without full disclosure in order to assess risk, Dr. Lehman still could not recommend that Respondent retain her license.

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 a violation of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(G),(10)(C),(10)(E)&(11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against License Number 677449, heretofore issued to MARGARET MARY DEVITT-MORGAN, including revocation of Respondent's professional license to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that Registered Nurse License Number 677449, previously issued to MARGARET MARY DEVITT-MORGAN, to practice professional nursing in Texas is hereby SUSPENDED and said suspension is ENFORCED until Respondent receives a favorable neuropsychological evaluation, performed by a Board certified psychiatrist approved by the Board, which indicates that Respondent is fit to practice professional nursing. RESPONDENT SHALL CAUSE the performing psychiatrist to send a report of the evaluation to the Board office. The report shall include:

- A. A description of the instruments used for evaluation and the results of the evaluation;
- B. Further evaluation of the issues raised by the Findings of this Order;
- C. A statement as to the RESPONDENT's fitness to safely practice professional nursing; and
- D. Recommendations for therapy or other follow-up.

RESPONDENT SHALL comply with the recommendations for therapy or other follow-up. If the results of the evaluation reveal further violations of the Nursing Practice Act, further disciplinary action may be taken, including revocation of Respondent's license to practice professional nursing in the State of Texas.

IT IS FURTHER ORDERED that Permanent Certificate Number 677449 previously issued to MARGARET MARY DEVITT-MORGAN, 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 AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate privilege, if any, to practice professional nursing in compact states.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this order the 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, upon verification of successful completion of the neuropsychological evaluation as set out above, the Suspension will be STAYED, and RESPONDENT will be placed on PROBATION for two (2) years with the following agreed terms of probation:

(1) RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§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.

(2) RESPONDENT SHALL pay all re-registration fees, if applicable, and be issued a license to practice professional nursing in the State of Texas with the appropriate notation.

(3) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6)

contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding Sexual Misconduct, Fraud, Theft and Deception, Nurses with Chemical Dependency, and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bne.state.tx.us/about/stipscourses.html>.*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(4) RESPONDENT SHALL notify all future employers in professional nursing of this Order of the Board and the probation conditions on RESPONDENT's license. RESPONDENT

SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(5) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(6) RESPONDENT SHALL be supervised by a Registered Nurse who is on the premises. The supervising RN is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising RN shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(7) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT's capability to practice nursing. These reports shall be completed by the Registered Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising Registered Nurse to the office of the Board at the end of each three (3) months for two (2) years of employment as a nurse.

(8) RESPONDENT SHALL participate in any follow-up therapy recommended by the neuropsychological evaluator. RESPONDENT SHALL CAUSE the therapist to submit

written reports, on forms provided by the Board, as to the RESPONDENT's progress in therapy, rehabilitation and capability to safely practice professional nursing. The report must indicate whether or not the RESPONDENT's stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the probation period, or until RESPONDENT is dismissed from therapy.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license, the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional 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. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, 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 ____ day of _____, 20____.

MARGARET MARY DEVITT-MORGAN, Respondent

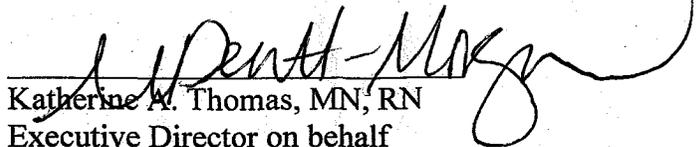
Sworn to and subscribed before me this ____ day of _____, 20____.

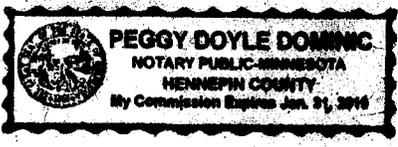
SEAL

Notary Public in and for the State of _____

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the ___ day of NOV. 1, 2007, by MARGARET MARY DEVITT-MORGAN, Registered Nurse License Number 677449, and said Order is final.

Effective this NOV 1 day of NOV 1, 2007


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



Peggy Doyle Dominic 11-1-07

** Please see attached.*



WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 1st day of November, 2007, by MARGARET MARY DEVITT-MORGAN, Registered Nurse License Number 677449, and said Order is final.

Effective this 17th day of January, 2008.


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