

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Vocational Nurse License Number 188098 § AGREED
issued to MELISSA MARIE SIRTOUT § ORDER

An investigation by the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, produced evidence indicating that MELISSA MARIE SIRTOUT, hereinafter referred to as Respondent, Vocational Nurse License Number 188098, may have violated Section 301.452(b)(9),(10),and(13), Texas Occupations Code.

An informal conference was held on March 27, 2007, at the office of the Board of Nurse Examiners, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Louis Leichter, Attorney at Law. In attendance were Mary Beth Thomas, MSN, RN, Director, Nursing Division, Executive Director's Designee; James W. Johnston, General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Virginia Ayars, BSN, RN, Education Nursing Consultant; Jason Bressie, Investigator; William Shanafelt, Investigator; and Randi P. Capone, Investigator.

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 notice and hearing, and consented to the entry of this Order.
3. Respondent is currently licensed to practice vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Kingwood College, Kingwood, Texas, on December 11, 2002. Respondent was licensed to practice vocational nursing in the State of Texas on February 13, 2003.

5. Respondent's vocational nursing employment history includes:

02/03 - 6/03	LVN	Hearth Stone Healthcare Round Rock, Texas
6/03 - 12/05	LVN	St. David's South Austin Hospital Austin, Texas
01/06 - 04/06	Unknown	
05/06 - present	LVN	Crdenia Staffing Agency, Austin, Texas. On assignment at the Office of Dr. Mark Brown Thomas, Austin, Texas

7. At the time of the incidents, Respondent was employed as a Licensed Vocational Nurse with St. David's South Austin Hospital, Austin, Texas, and had been in this position for approximately two (2) years and six (6) months.

8. On or about December 11, 2005, and December 12, 2005, while employed with Saint David's South Austin Hospital, Austin, Texas, Respondent withdrew Morphine and Hydrocodone from the Medication Dispensing System (Acudose) for patients, but failed to completely and accurately document the administration of the medications in the patients' Medication Administration Records (MARs), Nurses Notes, or both, as follows:

Date/Time	Patient	Medication Dispensing System (Acudose)	Physician's Order	Medication Administration Record	Nurses Notes	Waste
12/11/05 @ 2054	K00103690803	Morphine Sulfate 4MG/ML IML SYRIN	Morphine Sulfate 2-4 MG IV Q3P PRN	2105- 4 MG	Not Documented	None
12/11/05 @ 2054	K00103690803	(2) Hydrocodone 10MG/APAP	Hydrocodone 10mg/APAP 325 1-2 tabs PO Q4p	2105- 2 tabs	Not Documented	None
12/11/05 @ 2052	K00103693619	(2) Morphine Sulfate 10MG/ML IML vial	Morphine Sulfate 5-12 mg Q3P/PRN IM	2157 12mg Morphine Sulfate	Not Documented	None
12/11/05 @ 2324	K00103693619	(2) Morphine Sulfate 10MG/ML IML vial	Morphine Sulfate 5-12 mg Q3P/PRN IM	2327 12mg Morphine Sulfate	Not Documented	None
12/12/05 @ 0040	K00103697807	(2) Hydrocodone 5MG/APAP 1 ea tab	(1) Vicodin PO Q4 PRN	0102 - 2 tabs	Not Documented	None

Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose.

9. On or about December 12, 2005, while employed with Saint David's South Austin Hospital, Austin, Texas, Respondent withdrew Hydrocodone from the Medication Dispensing System (Acudose) for patients in excess dosage of the physician's order, as follows:

Date/Time	Patient	Medication Dispensing System (Acudose)	Physician's Order	Medication Administration Record	Nurses Notes	Waste
12/12/05 @ 0040	K00103697807	(2) Hydrocodone 5MG/APAP 1 ea tab	(1) Vicodin PO Q4 PRN	0102 - 2 tabs	Not Documented	None

Respondent's conduct was likely to injure the Patient K00103697807 in that the administration of Hydrocodone in excess dosage of the physician's order could result in the patient suffering from adverse reactions.

10. On or about December 11, 2005, while employed with Saint David's South Austin Hospital, Austin, Texas, Respondent withdrew Morphine from the Medication Dispensing System (Acudose) for patients, but failed to follow the policy and procedure for the wastage of any of the unused portions of the Morphine, as follows:

Date/Time	Patient	Medication Dispensing System (Acudose)	Physician's Order	Medication Administration Record	Nurses Notes	Waste
12/11/05 @2052	K00103693619	(2) Morphine Sulfate 10MG/ML 1ML vial	Morphine Sulfate 5-12 MG Q3P/PRN IM	2157 12mg Morphine Sulfate	Not Documented	None
12/11/05 @ 2324	K00103693619	(2) Morphine Sulfate 10MG/ML 1ML vial	Morphine Sulfate 5-12 MG Q3P/PRN IM	2327 12mg Morphine Sulfate	Not Documented	None

Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

11. On or about December 2, 2005, and December 11, 2005, while employed with Saint David's South Austin Hospital, Austin, Texas, Respondent failed to perform and/or document nursing assessments in the Med/Surg Patient System Review for patients. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on her documentation to further care for and/or medicate the patients which could result in an overdose or the patient's demise.

12. On or about January 11, 2006, while seeking employment with Georgetown Healthcare System, Georgetown, Texas, Respondent engaged in unprofessional conduct, in that Respondent produced a specimen for a drug/alcohol screen which resulted positive for Cocaine. Respondent also tested positive for various other controlled substances for which she provided valid prescriptions for. Possession of Cocaine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Controlled Substances and Cocaine by a Licensed Vocational 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.

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),and (13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(D) and §217.12(4),(6)(G),(10)(A)&(D),and (11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 188098, heretofore issued to MELISSA MARIE SIRTOUT, including revocation of Respondent's license to practice vocational nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and 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 Vocational 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 privilege, if any, to practice vocational nursing in compact states.

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 that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to MELISSA MARIE SIRTOUT, to the office of the Board of Nurse Examiners within ten (10) days of the date of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this order, successfully complete a course in Texas nursing jurisprudence. 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, and documentation of care. 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 on the Board's website, www.bne.state.tx.us (under BNE events).*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. 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. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall

include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office 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>.

(4) RESPONDENT SHALL, within one (1) year of entry of this order, successfully complete a course in nursing 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. The course shall be a minimum of six (6) contact hours in length. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify RESPONDENT's successful completion of the course. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Board approved courses may be found on the Board's website, www.bne.state.tx.us (under BNE events).*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A LICENSED

VOCATIONAL NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE A VOCATIONAL NURSE LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD.

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations 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 present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations 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.

(6) 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 vocational nurse.

(7) For the duration of the stipulation period, RESPONDENT SHALL be supervised

by a Registered Nurse or a Licensed Vocational Nurse who is on the premises. The supervising nurse 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 nurse 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.

(8) 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 vocational nursing. These reports shall be completed by the Registered Nurse or Licensed Vocational Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) months for two (2) year(s) of employment as a vocational nurse.

(9) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT SHALL submit to an**

evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.

(10) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the second three (3) month period, random screens shall be performed at least once per month. For the remainder of the stipulation period, random screens shall be performed at least once every three (3) months.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the RESPONDENT's place of employment at any time during the probation period and require RESPONDENT to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the stipulation period.

Any positive result for which the nurse does not have a valid prescription will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board. Failure to report for a drug screen may be considered the same

as a positive result and may result in further disciplinary action by this 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 vocational 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 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 9th day of December 2007.

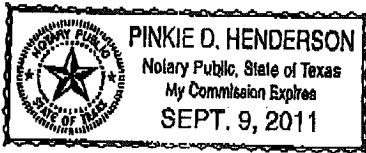
Melissa Marie Sirtout
MELISSA MARIE SIRTOUT, Respondent

Sworn to and subscribed before me this 9th day of December 2007.

SEAL

Pinkie D. Henderson

Notary Public in and for the State of Texas



Approved as to form and substance.

[Signature]
LOUIS LEICHTER, Attorney for Respondent

Signed this 9 day of December, 2007.

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 9th day of December, 2007, by MELISSA MARIE SIRTOUT, Vocational Nurse License Number 188098, and said Order is final.

Effective this 17th day of January, 2008.



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