

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 628469
ISSUED TO
MISTI L. BARRETT

§
§
§
§
§
§
§
§

BEFORE THE ELIGIBILITY
AND DISCIPLINARY
COMMITTEE OF THE TEXAS
BOARD OF NURSING

ORDER OF THE BOARD

TO: Misti L. Barrett
c/o James R. Angel
PO Box 8418
Waco, Texas 76714

During open meeting held in Austin, Texas, on February 12, 2008, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case. This case was heard, and based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee of the Texas Board of Nursing finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, chapter 301 of the Texas Occupations Code, for retention of Respondent's license to practice professional nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Eligibility and Disciplinary Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing (22 TEX. ADMIN.CODE § 213.2(j)). All parties have a right to judicial review of this Order.

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 628469, previously issued to MISTI L. BARRETT, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 628469, previously issued to MISTI L. BARRETT, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

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 February, 2008.

TEXAS BOARD OF NURSING

BY: 

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

Re: Permanent Certificate Number 628469
Issued to MISTI L. BARRETT
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of February, 2008, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

Misti L. Barrett
c/o James R. Angel
PO Box 8418
Waco, Texas 76714

BY:



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



Board of Nurse Examiners For the State of Texas

Location Address: William P. Hobby Building, Ste. 3-460, 333 Guadalupe Street, Austin, Texas 78701
Phone: (512) 305-7400 Fax: (512) 305-7401 Web: www.bne.state.tx.us

Katherine A. Thomas, MN, RN
Executive Director

September 26, 2007

Certified Mail No. 7007 0710 0002 0001 2973
Return Receipt Requested

Misti L. Barrett
c/o James R. Angel, Attorney
Dunnam & Dunnam, L.L.P.
PO Box 8418
Waco, Texas 76714

Dear Ms. Barrett:

Enclosed are Formal Charges which have been filed against you alleging one or more violations of Section 301.452(b) of the Nursing Practice Act, Texas Occupations Code. Within three weeks of the date of this letter, you must file a written answer to each charge admitting or denying each allegation. If you intend to deny only part of an allegation, you must specify so much of it as is true and deny only the remainder. Your answer shall also include any other matter, whether of law or fact, upon which you intend to rely for your defense. Please send your written answer to the attention of Noemi Reyes, Investigator. You may obtain legal counsel at your own expense.

FAILURE TO FILE A WRITTEN ANSWER TO THE FORMAL CHARGES, EITHER PERSONALLY OR BY LEGAL REPRESENTATIVE, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF WILL BE GRANTED BY DEFAULT.

Please be advised that should you fail to file a written answer, the case will proceed on a default basis and it will be staff's recommendation that a default order be entered revoking your license or multistate privilege to practice professional nursing in the State of Texas.

The results of any default order or formal disposition (Board Order) are public information. Results of informal and formal dispositions will appear in the Board's newsletter under the heading of "Disciplinary Action."

Should you desire to discuss this matter, you may contact Noemi Reyes, Investigator, Enforcement Division, at the above address, or at (512) 305-6834.

Sincerely,

Katherine A. Thomas, MN, RN
Executive Director

KAT/nr

Enclosure: Formal Charges
09/99-DA

Members of the Board

- | | | | | |
|---------------------------------|---------------------------------------|--|--|---|
| Joyce Adams, PhD, RN
Houston | Deborah Bell, CLU, ChFC
Abilene | George Buchenau, Jr., BSN, RN, MBA
Amarillo | Virginia Campbell, BSN, RN, CNOR
Mesquite | Blanca Rosa Garcia, PhD, RN
Corpus Christi |
| Richard Gibbs, LVN
Mesquite | Rachel Gomez, LVN
Harlingen | Brenda Jackson, PhD, RN
San Antonio | Beverley Jean Nutall, LVN
Bryan | |
| Anita Palmer, ME, MA
Olney | Phyllis Rawley, CPC
Vice-President | Linda Rounds, PhD, FNP, RN
President | Frank Sandoval, Jr., J.D.
San Antonio | |

U.S. Postal Service
CERTIFIED MAIL
(Domestic Mail Only - No In...)
For delivery information visit
OFFICE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

7007 0710 0002 0001 2973

Sent to Misti L. Bar
Street, Apt. No.,
or PO Box No. PO BOX
City, State, ZIP+4 Waco, TX 76714

PS Form 3800, August 2005

RECEIPT
Insurance (Coverage Provided)

Website at www.usps.com

RESTRICTED USE

Postmark
Here

F c/o James R. Angel
18
4

See Reverse for Instructions

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
 X *Misti L. Barrett*
 B. Received by (Printed Name) Date of Delivery
 C. *9/28/07*
 D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below: No

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Misti L. Barrett
c/o James R. Angel
PO Box 8418
Waco, Texas 76714

3. Service Type Express Mail Return Receipt for Merchandise
 Certified Mail
 Registered C.O.D.
 Insured Mail Yes No

4. Restricted Delivery? (Extra Fee) Yes No

NR0005

2. Article Number (Transfer from service label) 7007 0710 0002 0001 2973

102595-02-M-1540

Domestic Return Receipt

PS Form 3811, February 2004

**In the Matter of Permanent License
Number 628469, Issued to
MISTI L. BARRETT, Respondent**

§ **BEFORE THE TEXAS**
§
§ **BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MISTI L. BARRETT, is a Registered Nurse holding license number 628469, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about April 21, 2004, while employed at Hillcrest Baptist Medical Center, Waco, Texas, Respondent withdrew Morphine Sulfate 5mg from the Pyxis Medication Dispensing System for Patient N.C. and administered the Morphine Sulfate in excess frequency of the physician's orders, as follows:

Date	Patient's Name and MR#	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity	Medication Administration Record	Nurses Notes
04/21/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	No documentation of any Morphine Sulfate being withdrawn for patient at 2000.	Morphine Sulfate 5mg/ml vial 2000 (1)	2000 Entry - c/o pain to abd - med/orders
04/21/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	Morphine Sulfate 5mg Inj 2010 (2)	Morphine Sulfate 5mg/ml vial 2030 (1)	2030 Entry - continue to c/o pain - med/orders
04/21/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	Morphine Sulfate 5mg Inj 2113 (2)	Morphine Sulfate 5mg/ml vial 2120 (1)	No Entry

Respondent's conduct was likely to injure the patients in that the administration of Morphine Sulfate in excess frequency of the physician's order could result in the patients suffering from adverse effects.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §§217.11(3) and 217.12(3)(eff. To 9/28/04).

CHARGE II.

On or about April 21 and 22, 2004, and January 29, 2005, while employed at Hillcrest Baptist Medical Center, Waco, Texas, Respondent withdrew medications from the Pyxis Medication Dispensing System for patients, but failed to accurately and completely document the administration of this medication in the patients' Medication Administration Record and/or Nurses Notes, as follows:

Date	Patient's Name and MR#	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity	Medication Administration Record	Nurses Notes
04/21/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	No documentation of any Morphine Sulfate being withdrawn for patient at 2000.	Morphine Sulfate 5mg/ml vial 2000 (1)	2000 Entry - c/o pain to abd - med/orders
04/21/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	Morphine Sulfate 5mg Inj 2010 (2)	Morphine Sulfate 5mg/ml vial 2030 (1)	2030 Entry - continue to c/o pain - med/orders
04/21/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	Morphine Sulfate 5mg Inj 2113 (2)	Morphine Sulfate 5mg/ml vial 2120 (1)	No Entry
04/21/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	No documentation of any Morphine Sulfate being withdrawn for patient at 2250.	Morphine Sulfate 5mg/ml vial 2250 (1)	2300 Entry - no change in cond/ prev assessment, med/orders
04/22/04	N.C. (048877)	None	Versed 5mg 0006 (1)	Not documented	No Entry
04/22/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	Morphine Sulfate 5mg Inj 0009 (1)	Morphine Sulfate 5mg/ml vial 0000 (1)	No Entry
04/22/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	No documentation of any Morphine Sulfate being withdrawn for patient at 0150.	Morphine Sulfate 5mg/ml vial 0150 (1)	No Entry
04/22/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	Morphine Sulfate 5mg Inj 0341 (2)	Morphine Sulfate 5mg/ml vial 0350 (1)	0350 Entry - no documentation of any c/o pain or meds being administered
04/22/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	No documentation of any Morphine Sulfate being withdrawn for patient at 0445.	Morphine Sulfate 5mg/ml vial 0445 (1)	0450 Entry - med/orders for comfort
04/22/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	Morphine Sulfate 5mg Inj 0616 (2)	Morphine Sulfate 5mg/ml vial 0600 (1)	No Entry
04/22/04	N.C. (048877)	Brethine 0.25mg sq now q 2hrs x 4 doses, then prn	Brethine 1mg 0616 (1)	Not documented	No Entry
04/22/04	N.C. (048877)	None	Versed 5mg 0620 (1)	Not documented	No Entry
04/22/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	Morphine Sulfate 5mg Inj 0852 (2)	Morphine Sulfate 5mg/ml vial 0825 (1)	Respondent provided report to oncoming nurse at 0750

01/29/05	G.C. (574207)	Morphine Sulfate 150mg/ 30ml Syringe	Morphine Sulfate 150mg/30ml 1045 (1)	Not documented	No Entry
----------	---------------	---	---	----------------	----------

Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patients which could result in an overdose and placed the hospital in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §§217.11(4) and 217.12(1)(4)&(20)(eff. to 9/28/04) and 22 TEX. ADMIN. CODE §§217.11(1)(A)&(D)(iv) and 217.12(1)(A),(10)(B)&(11)(B)(eff. 9/28/04).

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

CHARGE III.

On or about April 22, 2004, while employed at Hillcrest Baptist Medical Center, Waco, Texas, Respondent withdrew Versed 5mg from the Pyxis Medication Dispensing System for Patient N.C. without a valid physician's order, as follows:

Date	Patient's Name and MR#	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity	Medication Administration Record	Nurses Notes
04/22/04	N.C. (048877)	None	Versed 5mg 0006 (1)	Not documented	No Entry
04/22/04	N.C. (048877)	None	Versed 5mg 0620 (1)	Not documented	No Entry

Respondent's conduct resulted in an inaccurate medical record and was likely to injure the patient in that the administration of Versed without a physician's order could result in the patient suffering from adverse reactions.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §§217.11(3) and 217.12(3)(eff. to 9/28/04).

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

CHARGE IV.

On or about April 21 and 22, 2004, and January 29, 2005, while employed at Hillcrest Baptist Medical Center, Waco, Texas, Respondent withdrew medications from the Pyxis Medication Dispensing System for patients, but failed to follow the facility's policy and procedure for wastage of the unused portions of the medications, as follows:

Date	Patient's Name and MR#	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity	Medication Administration Record	Nurses Notes	Wastage
04/21/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	Morphine Sulfate 5mg Inj 2010 (2)	Morphine Sulfate 5mg/ml vial 2030 (1)	2030 Entry - continue to c/o pain - med/orders	Not Documented
04/21/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	Morphine Sulfate 5mg Inj 2113 (2)	Morphine Sulfate 5mg/ml vial 2120 (1)	No Entry	Not Documented
04/22/04	N.C. (048877)	None	Versed 5mg 0006 (1)	Not documented	No Entry	Not Documented
04/22/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	Morphine Sulfate 5mg Inj 0341 (2)	Morphine Sulfate 5mg/ml vial 0350 (1)	0350 Entry - no documentation of any c/o pain or meds being administered	Not Documented
04/22/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	Morphine Sulfate 5mg Inj 0616 (2)	Morphine Sulfate 5mg/ml vial 0600 (1)	No Entry	Not Documented
04/22/04	N.C. (048877)	Brethine 0.25mg sq now q 2hrs x 4 doses, then prn	Brethine 1mg 0616 (1)	Not documented	No Entry	Not Documented
04/22/04	N.C. (048877)	None	Versed 5mg 0620 (1)	Not documented	No Entry	Not Documented
04/22/04	N.C. (048877)	MSO4 1-5mg Q 1 hr. prn for pain	Morphine Sulfate 5mg Inj 0852 (2)	Morphine Sulfate 5mg/ml vial 0825 (1)	Respondent provided report to oncoming nurse at 0750	Not Documented
01/29/05	G.C. (574207)	Morphine Sulfate 150mg/30ml Syringe	Morphine Sulfate 150mg/30ml 1045 (1)	Not documented	No Entry	Not Documented

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).

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(18)(eff. to 9/28/04) and §217.12(10)(C)&(11)(B)(eff. 9/28/04).

CHARGE V.

On or about April 2004 through January 2005, while employed with Hillcrest Baptist Medical Center, Waco, Texas, Respondent misappropriated, and/or failed to take precautions to prevent the misappropriation of, Morphine from the facility and patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(19)(eff. to 9/28/04) and 22 TEX. ADMIN. CODE §217.12(6)(G).

CHARGE VI.

On or about February 1, 2005, while employed with Hillcrest Baptist Medical Center, Waco, Texas, Respondent engaged in the intemperate use of Morphine, Opiates, Benzodiazepines, Oxazepam, Nordiazepam and Temazepam in that she produced a specimen for a drug screen which resulted positive for Opiates, Morphine, Benzodiazepines, Oxazepam, Nordiazepam and Temazepam. Possession of Opiates, Morphine, Benzodiazepines, Oxazepam, Nordiazepam and Temazepam, without a valid prescription, is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Opiates, Morphine, Benzodiazepines, Oxazepam, Nordiazepam and Temazepam 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.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(10)(A)&(D)&(11)(B).

CHARGE VII.

On or about June 26, 2006, while employed with Hill Regional Hospital, Hillsboro, Texas, Respondent lacked fitness to practice in that while on duty Respondent exhibited impaired behavior including but not limited to: appearing confused, incoherent speech, slurred speech, appearing glassy-eyed, unable to concentrate and snoring loudly while sleeping at the nursing desk. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in the patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(12), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(1)(E)and(5).

CHARGE VIII.

On or about June 27, 2006, while employed with Hill Regional Hospital, Hillsboro, Texas, Respondent engaged in the intemperate use of Methadone in that she produced a specimen for a drug screen which resulted positive for Methadone. The use of Methadone 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 patients in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(10)(A)&(D).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to § 301.461, TEX. OCC. CODE ANN. The cost of proceedings shall include, but is not limited to, the cost paid by the board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bne.state.tx.us.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Chemical Dependency and Fraud, Theft & Deception which can be found at the Board's website, www.bne.state.tx.us.

Filed this 25th day of September, 2007.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Victoria Cox, Assistant General Counsel
State Bar No. 00789585

E. Joy Sparks, Assistant General Counsel
State Bar No. 18874600

TEXAS BOARD OF NURSING
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6824
F: (512) 305.8101 or (512)305-7401