

**DOCKET NUMBER 507-06-0086**

**IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 141585  
ISSUED TO  
TINA BENDY HOFFPAUIR**

§  
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§

**BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS**



*Patricia P. Plummer*  
Executive Director of the Board

I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.

**ORDER OF THE BOARD**

**TO: Tina Bendy Hoffpauir  
2801 Broadmead Drive #413  
Houston, Texas 77025**

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 141585, previously issued to TINA BENDY HOFFPAUIR, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 141585, previously issued to TINA BENDY HOFFPAUIR, 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 vocational nursing in the State of Texas.

Entered this 14<sup>th</sup> day of February, 2006.

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 NO. 507-06-0086

IN THE MATTER OF PERMANENT § BEFORE THE STATE OFFICE  
CERTIFICATE NUMBER 141585 §  
ISSUED TO § OF  
TINA BENDY HOFFPAUIR § ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Board of Nurse Examiners for the State of Texas (Staff/Board) brought this case seeking revocation of the vocational nurse's license of Tina Bendy Hoffpauir (Respondent) for violating provisions of the Nursing Practice Act, TEX. OCC. CODE ANN. ch. 301, and the Board's rules.<sup>1</sup> Despite being sent proper notice, Respondent did not appear nor was she represented at the hearing. Based on Respondent's failure to appear, Staff's allegations were accepted as true, establishing the violations. The Administrative Law Judge (ALJ) recommends that Respondent's license be revoked.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The hearing convened December 7, 2005, before ALJ Georgie B. Cunningham in the William P. Clements Building, 300 West 15<sup>th</sup> Street, Austin, Texas. Staff was represented by Elizabeth L. Higginbotham, Assistant General Counsel. On November 23, 2005, Attorney William E. Hopkins filed a motion to withdraw as Respondent's counsel. After receiving no objection, the ALJ granted the motion.

After providing competent evidence establishing that the Board has jurisdiction and that appropriate notice of the hearing was provided, Staff moved for a default based on Respondent's

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<sup>1</sup> The Board of Vocational Nurse Examiners (BVNE) previously existed as a separate agency to regulate and supervise vocational nurses under the TEX. OCC. CODE ANN. ch. 302. However, effective February 1, 2004, ch. 302 was repealed, the BVNE was abolished, and all of its functions were transferred to the Board. Most of the underlying events that are the basis of this proceeding occurred prior to February 1, 2004, and the investigation of Respondent began at the BVNE in December 2002. Under the repealer and transition provisions of the act that abolished the BVNE, all investigations and proceedings that were pending before the BVNE on January 31, 2004, were transferred to the Board without change in status. Therefore, the now repealed TEX. OCC. CODE ANN. ch. 302 continues to apply to Respondent's actions that are the subject of this proceeding. Acts 2003, 78th Leg., ch. 553, § 3.003(4). Additionally, the BVNE's rules at 22 TEX. ADMIN. CODE ch. 239 were repealed after the underlying allegations in this case occurred, but the substantive provisions of those rules also apply to this case.

failure to appear. Those matters are set out in the Findings of Fact and Conclusions of Law. The hearing was closed on December 7, 2005.

## II. RECOMMENDATION

Based upon the following Findings of Fact and Conclusions of Law and in accordance with 1 TEX. ADMIN. CODE § 155.55, the ALJ granted Staff's motion for default and deemed the allegations to be true. Carol Marshall, Board staff, presented testimony recommending revocation of Respondent's license to protect the public. According to Ms. Marshall, Respondent's conduct was likely to injure patients and defraud patients and the hospital's pharmacy. Ms. Marshall further testified that Respondent's unprofessional and dishonorable conduct demonstrates she is unfit to practice nursing. Accordingly, the ALJ recommends that Respondent's license as a vocational nurse be revoked.

## III. FINDINGS OF FACT

1. Tina Bendy Hoffpauir (Respondent), holds Vocational Nurse License Number 141585, which was current on the date of the hearing.
2. On August 2, 2005, Staff of the Board of Nurse Examiners for the State of Texas (Staff/Board) sent Respondent its Second Amended Formal Charges by certified mail, return receipt requested, c/o William E. Hopkins, Attorney, Thompson & Knight, 98 San Jacinto Boulevard, Suite 1900, Austin, Texas 78701. USPS Form 3811, domestic return receipt, indicates that the certified mail was received on August 6, 2005.
3. On September 12, 2005, Staff sent its Notice of Hearing and charges to Respondent by certified mail, return receipt requested, c/o William E. Hopkins, Attorney, Thompson & Knight, 98 San Jacinto Boulevard, Suite 1900, Austin, Texas 78701. USPS Form 3811, domestic return receipt, indicates that the certified mail was received on September 14, 2005.
4. The hearing notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
5. The hearing notice contained the following language in capital letters in large 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."**

6. Respondent did not appear at the hearing and was not represented by counsel whose motion to withdraw had been granted prior to the hearing. Staff was represented by an Assistant General Counsel, who moved for a default.
7.
  - (a) On March 19, 2002, the County Criminal Court at Law No. 5 of Harris County, Texas, convicted Respondent of Driving While Intoxicated (a Class B misdemeanor offense committed on January 20, 2002), in Cause No. 1097257. The Court placed Respondent on probation for a period of nine (9) months, ordered her to pay a three hundred dollar (\$300) fine, and assessed court costs and fees. The Court suspended Respondent's driver's license for a period of one (1) year and ordered her to perform thirty (30) hours of community service.
  - (b) On June 20, 2002, the County Criminal Court at Law No. 5 of Harris County, Texas, revoked Respondent's community supervision in Cause No. 1097257 based on findings that Respondent had violated the terms and conditions of her probation, to-wit: Respondent failed to avoid injurious or vicious habits and failed to pay her court-ordered supervision fees. The Court ordered Respondent to be confined in the Harris County Jail for thirty (30) days, to pay any unpaid portion of the three hundred dollar (\$300) fine that she had been assessed previously, and to pay accrued court costs totaling three hundred thirty-six dollars (\$336). Respondent was given four (4) days credit toward the fine and court costs.
8. On March 31, 2003, Respondent submitted her license renewal to the Board of Vocational Nurse Examiners for the State of Texas. On the renewal, Respondent answered "No" to the question: "Were you convicted of a misdemeanor other than a minor traffic violation since your last renewal?"
9. On April 27, 2003, Respondent, while employed as a Licensed Vocational Nurse (LVN) with Advantage Nursing Services, Houston, Texas, and on assignment at San Jacinto Methodist Hospital, Baytown, Texas, withdrew medications from the Medication Dispensing System (Pyxis) for patients, but failed to document, or accurately document the administration of the medications in patients' medical records, as follows:

Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Nurse's Notes
MM	Demerol 100mg with Vistaril 25mg IM prior to Physical Therapy and Q4H prn pain	Meperidine HCL 50mg/1ml CPJ 1711 Qty: 2	Not Documented	1600 Entry: Pt c/o pain. Medicated with Demerol. 1800 Entry: No complaints voiced
BF	Morphine Sulfate 5mg Q4-6H Prn Pain	Morphine 10mg/1ml CPJ 1633 Qty: 1	Not Documented	1600 Entry. No complaints voiced at this time.
DA	Butorphanol 1mg IM Q3H Prn Pain	Butorphanol 2mg/1ml Vial 1654 Qty: 1	Not Documented	1700 Entry. C/O pain and discomfort. Medicated for pain.
BS	Demerol 75mg with Vistaril 25mg IM Q4H Prn Pain	Meperidine HCL 75mg/1ml CPJ 1811 Qty: 1	Documented as Administered at 2015	1800 Entry. Discussed s/s of infection and what to report. Pt temp 101-0. Dr. paged awaiting return call. 2000 Entry. C/O pain. Medicated with Demerol.
BS	Ativan 1mg IV Q6H Prn Anxiety/Sleep	Lorazepam 2mg/1ml Vial 2222 Qty: 1	Documented as Administered at 2145	2200 Entry. Resting quietly. Resp even and unlabored. No s/s distress noted.

10. On April 27, 2003, Respondent, while employed as an LVN with Advantage Nursing Services, Houston, Texas, and on assignment at San Jacinto Methodist Hospital, Baytown, Texas, withdrew medications from the Medication Dispensing System (Pyxis) for patients, but failed to follow the facility's policy and procedure for wastage of the unused portions of these medications, as follows:

Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Wastage
MM	Demerol 100mg with Vistaril 25mg IM prior to Physical Therapy and Q4H prn pain	Meperidine HCL 50mg/1ml CPJ 1711 Qty: 2	Not Documented	None Documented

BF	Morphine Sulfate 5mg Q4-6H Prn Pain	Morphine 10mg/1ml CPJ 1633 Qty: 1	Not Documented	None Documented
DA	Butorphanol 1mg IM Q3H Prn Pain	Butorphanol 2mg/1ml Vial 1654 Qty: 1	Not Documented	None Documented

11. On April 27, 2003, Respondent, while employed as an LVN with Advantage Nursing Services, Houston, Texas, and on assignment at San Jacinto Methodist Hospital, Baytown, Texas, withdrew medications from the Medication Dispensing System (Pyxis) in excess frequency of the physician's order, as follows:

Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Comments
MM	Demerol 100mg with Vistaril 25mg IM prior to Physical Therapy and Q4H prn pain	Meperidine HCL 50mg/1ml CPJ 1711 Qty: 2	Not Documented as Administered and No Wastage.
MM	Demerol 100mg with Vistaril 25mg IM prior to Physical Therapy and Q4H prn pain	Meperidine HCL 50mg/1ml CPJ 1954 Qty: 2	Withdrawn in Excess Frequency.
BF	Morphine Sulfate 5mg Q4-6H Prn Pain	Morphine 10mg/1ml CPJ 1633 Qty: 1	Not Documented as Administered and No Wastage.
BF	Morphine Sulfate 5mg Q4-6H Prn Pain	Morphine 10mg/1ml CPJ 1816 Qty: 1	Withdrawn in Excess Frequency.

12. (a) On August 17, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, falsified a Physician's Order Sheet, under the name of Patient FE, in order to obtain a fraudulent and unauthorized prescription for Demerol.
- (b) On June 14, 2004, the County Criminal Court at Law No. 1 of Harris County, Texas, convicted Respondent in Cause No. 1207288 for forging/altering a prescription (a Class B misdemeanor offense committed on August 19, 2003). The Court sentenced Respondent to confinement in the Harris County Jail for a period of ten (10) days, with four (4) days credit given, and ordered her to pay court costs.

13. On August 19, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, altered a physician's order sheet, under the name of Patient VB, in order to obtain a fraudulent and unauthorized prescription for Percocet.
14. On August 20, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, falsified a physician's order sheet, under the name of Patient MM, in order to obtain a fraudulent and unauthorized prescription for Demerol.
15. On August 23, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, falsified a physician's order sheet, under the name of Patient LM, in order to obtain a fraudulent and unauthorized prescription for Demerol.
16. On August 23, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, falsified a physician's order sheet, under the name of Patient SH, in order to obtain a fraudulent and unauthorized prescription for Demerol.
17. On August 19, 2003 to August 24, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, withdrew medications from the Medication Dispensing System (Pyxis) for patients, without a valid physician's order, as follows:

Date	Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Nurse's Notes
08-19-03	FE	None	Demerol 50mg Inj 1900 Qty: 2	Documented as Lortab 7.5/325mg 1 PO Q6H Prn at 1900. No Demerol wastage.	Not Documented
08-19-03	FE	None	Demerol 50mg Inj 2300 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 0230 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 0500 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 0645 Qty: 1	Not Documented. No wastage.	Not Documented

Date	Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Nurse's Notes
08-20-03	FE	None	Demerol 50mg Inj Prior to 0800 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 1600 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 1910 Qty: 1	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 2030 Qty: 2	Not Documented. No wastage.	Not Documented
08-20-03	FE	None	Demerol 50mg Inj 2300 Qty: 2	Not Documented. No wastage.	Not Documented
08-20-03	VB	None	Percocet 0200 Qty: 2	Not Documented. No wastage.	Not Documented
08-20-03	VB	None	Demerol 50mg Inj 0530 Qty: 1	Not Documented. No wastage.	Not Documented
08-23-03	MM	None	Demerol 50mg Inj 1600 Qty: 1	Not Documented. No wastage.	Not Documented
08-23-03	MM	None	Demerol 50mg Inj 2100 Qty: 1	Demerol 50mg IM Q4- 6H Prn Pain Documented as Administered at 1530. No wastage.	Not Documented
08-23-03	MM	None	Demerol 50mg Inj 2200 Qty: 1	Demerol 50mg IM Q4- 6H Prn Pain Documented as Administered at 1945. No wastage.	Not Documented
08-23-03	LM	None	Demerol 50mg Inj 2000 Qty: 1	Demerol 50mg x 1 Now Documented as Administered at "18". No wastage.	Not Documented
08-23-03	SH	None	Demerol 50mg Inj 1945 Qty: 2	Demerol 50-75mg Q4-6H Documented as Administered at 1930 by Respondent. No wastage.	Not Available

Date	Patient	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Quantity Withdrawn	Medication Administration Record	Nurse's Notes
08-24-03	SH	None	Demerol 50mg Inj 0030 Qty: 2	Demerol 50-75mg Q4-6H Documented as Administered at 0015 by Respondent. No wastage.	Not Available
08-24-03	SH	None	Demerol 50mg Inj 0420 Qty: 1	Demerol 50-75mg Q4-6H Documented as Administered at "04" by Respondent. No wastage.	Not Available
08-24-03	AG	None	Morphine 10mg 0435 Qty: 1	MS04 10mg IM x 1 Documented as Administered at 0430 by Respondent; then "drawn through." No wastage.	Not Documented

18. From August 17 to August 24, 2003, Respondent, while employed as an LVN with Guaranteed Nursing Staff, Houston, Texas, and on assignment at Healthsouth Rehabilitation Hospital, Humble, Texas, misappropriated Demerol, Percocet and Morphine from the hospital and patients thereof.
19. On September 11, 2003 to September 12, 2003, Respondent, while employed as an LVN with Advantage Nursing Services, Houston, Texas, and on assignment at Methodist Sugar Land Hospital, Sugar Land, Texas, withdrew medications from the Medication Dispensing System (Pyxis) for patients, but failed to document, or accurately document the administration of these medications in the patients' medical records, as follows:

Date	Medical Record #	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Qty Withdrawn	MAR	Nurse's Notes
09-11-03	15114028	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Butorphanol 2mg/1ml Vial 2015 Qty: 1	Not Documented	Not Documented (See Note 1 Also)

Date	Medical Record #	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Qty Withdrawn	MAR	Nurse's Notes
09-11-03	15114028	None	Meperidine 25mg/1ml SYRD 2015 Qty: 2	Not Documented	Not Documented
09-11-03	15114028	Ketorolac 30mg slow IVP q6h (Prn/Round the Clock) x 3 days maximum	Ketorolac 30mg/1ml Vial 2106 Qty: 1	Not Documented	Not Documented
09-11-03	15114028	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Nalbuphine 10mg/1ml Amp 2116 Qty: 1	Not Documented	Not Documented (See Note 1 Below Also)
09-11-03	15114028	Oxycodone 5mg/Acetaminophen 325mg 1-2 tabs PO q3-4h Prn Pain	Oxycodone + Acetaminophen 5mg/1 Tab 2123 Qty: 2	Not Documented	(See Note 2 Below)
09-12-03	15114028	None	Meperidine 50mg/1ml SYRD 0011 Qty: 1	Not Documented	Not Documented
09-12-03	15114028	Diphenhydramine 25-50mg IV or IM or PO q4h Prn itching.	Diphenhydramine 50mg/1ml Vial 0627 Qty: 1	Not Documented	Not Documented
09-12-03	15114028	None	Meperidine 50mg/1ml SYRD 0628 Qty: 1	Not Documented	Not Documented
09-11-03	432299381	Ondansetron 4mg IVP q6h prn. If Zofran ineffective, give Promethazine 12.5mg IVP. May repeat x 1.	Promethazine 25mg/1ml Amp 2348 Qty: 1	Not Documented	(See Note 3 Below)
09-11-03	432299381	None	Meperidine 50mg/1ml SYRD 2348 Qty: 1	Not Documented	(See Note 3 Below)

Date	Medical Record #	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Qty Withdrawn	MAR	Nurse's Notes
09-12-03	432299381	Oxycodone 5mg/Acetaminophen 325mg 1-2 tabs PO q3-4h Prn Pain	Hydrocodon-Acet 5mg/500mg 5mg/1 Tab 0117 Qty: 2	Not Documented	Not Documented
09-12-03	432299381	None	Meperidine 50mg/1ml SYRD 0341 Qty: 1	Not Documented	Not Documented
09-12-03	432299381	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Butorphanol 2mg/1ml Vial 0615 Qty: 1	Not Documented	Not Documented (See Note 1 Below Also)
09-11-03	16126211	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Butorphanol 2mg/1ml Vial 2041 Qty: 1	Not Documented	Not Documented (See Note 1 and Note 4 Below Also)
09-11-03	16126211	None	Meperidine 25mg/1ml SYRD 2041 Qty: 2	Not Documented	Not Documented
09-11-03	16126211	Revex 25-50ug IVP q 5 min until itching stops or up to 100ug q 6 hrs. If ineffective, give Nalbuphine 2mg IV/IM q 2 hrs x 4 OR Butorphanol 1-2mg q 4 hrs.	Butorphanol 2mg/1ml Vial 2123 Qty: 1	Not Documented	Not Documented (See Note 1 and Note 4 Below Also)
09-11-03	16126211	Oxycodone 5mg/Acetaminophen 325mg 1-2 tabs PO q3-4h prn pain.	Oxycodone + Acetaminophen 5mg/1 Tab 2201 Qty: 2	Not Documented	Not Documented (See Note 5 Below Also)

Date	Medical Record #	Physician's Order	Medication Dispensing System Record (Pyxis) Time and Qty Withdrawn	MAR	Nurse's Notes
09-11-03	16126211	None	Meperidine 50mg/1ml SYRD 2201 Qty: 1	Not Documented	Not Documented (See Note 5 Below Also)
09-12-03	16126211	None	Meperidine 50mg/1ml SYRD 0114 Qty: 1	Not Documented	Not Documented (See Note 5 Below Also)
09-12-03	16126211	None	Meperidine 50mg/1ml SYRD 0616 Qty: 1	Not Documented	Not Documented
09-12-03	16126211	Ondansetron 4mg IVP q6h prn. If Zofran ineffective, give Promethazine 12.5mg IVP. May repeat x 1.	Promethazine 25mg/1ml Amp 0627 Qty: 1	Not Documented	Not Documented
09-12-03	16126211	Oxycodone 5mg/Acetaminophen 325mg 1-2 tabs PO q3-4h prn pain.	Oxycodone + Acetaminophen 5mg/1 Tab 0715 Qty: 2	Not Documented	Not Documented
09-12-03	16126211	None	Meperidine 100mg/1ml SYRD 0715 Qty: 1	Not Documented	Not Documented

**Note 1:** Although there was technically an order for the Stadol and Talwin, it was for itching related to the epidural, and was ordered as q4h only if the Revex did not work. None of the patients that had Stadol or Talwin withdrawn for them were given Revex for itching. In addition, there was no documentation of itching, or that the medications were given at all.

**Note 2:** Respondent withdrew two (2) tablets of Percocet UD from the Medication Dispensing System, on 09-11-03, at 2123, for Medical Record # 15114028. The administration of the Percocet was not documented on the Medication Administration Record for Medical Record # 15114028. There are no Nursing Note entries made by Respondent at or around 2123, on 09-11-03, pertaining to the Percocet. There was a shift assessment by Respondent at 2241, on 09-11-03, reading: "moderate incisional pain, mild perineum pain, no uterine cramping, mild breast pain." There was a Nursing Note entry made by Respondent at 23:28, on 09-11-03, that read: "c/o pain medicated with percocet" and another Nursing Note entry made by Respondent at 0134, on 09-12-03, that read: "medicated with percocet." There is no evidence which would suggest that Respondent withdrew Percocet for Medical Record # 15114028, at or around 0134, on 09-12-03.

**Note 3:** Respondent assessed Medical Record # 432299381 and documents no nausea or pain.

Note 4: On 09-11-03, Respondent withdrew one (1) Stadol at 2041, and another Stadol at 2123, for Medical Record # 16126211. The Stadol was ordered q4h, if the Revex was ineffective.

Note 5: On 09-11-03 at 2239, Respondent assessed Medical Record # 16126211 with no pain. On 09-12-03, at 0136 and 0137, Respondent assessed Medical Record # 16126211 with no pain and noted as asleep, respectively.

20. On June 13, 2005, Respondent, while employed as an LVN with Brazos Presbyterian Home, d/b/a Isla Carroll Turner Health Care Facility, Houston, Texas, lacked fitness to practice vocational nursing, in that she had a flushed face, slurred speech, and poor eye focus and her affect and demeanor were unusual. Furthermore, Respondent opted to resign her position "on-the-spot" at Isla Carroll Turner Health Care Facility, when she was requested to submit to a reasonable suspicion drug and alcohol test.

#### IV. CONCLUSIONS OF LAW

1. The Board of Nurse Examiners for the State of Texas (Board) has jurisdiction over this matter pursuant to the Nursing Practice Act, TEX. OCC. CODE ANN. § 301.453.
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 and TEX. OCC. CODE ANN. § 301.454.
3. Proper and timely notice was effected upon Respondent pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 and 22 TEX. ADMIN. CODE (TAC) §§ 213.10 and 213.22.
4. The allegations stated in Findings of Fact Nos. 7 - 20 are deemed admitted as true. 1 TAC § 155.55.
5. Based on Findings of Fact Nos. 7-19, Respondent violated TEX. OCC. CODE ANN. § 302.402(a)(10).
6. Based on Finding of Fact No. 12, Respondent violated TEX. OCC. CODE ANN. § 301.452(b)(3).
7. Based on Findings of Fact Nos. 12 and 20, Respondent violated TEX. OCC. CODE ANN. § 301.452(b)(10).
8. Based on Findings of Fact Nos. 9-11, 17 and 19, Respondent violated the Controlled Substances Act, TEX. HEALTH AND SAFETY CODE ANN. ch. 481.
9. Based on Findings of Fact Nos. 7 and 12, Respondent violated 22 TAC § 239.11(29)(A)(iv).

10. Based on Finding of Fact No. 8, Respondent violated 22 TAC § 239.11(8).
11. Based on Findings of Fact Nos. 9-11, 17, and 19, Respondent violated 22 TAC § 239.11(2) and (4).
12. Based on Findings of Fact Nos. 9-11 and 19, Respondent violated 22 TAC § 239.11(3).
13. Based on Findings of Fact Nos. 9 and 12-19, Respondent violated 22 TAC § 239.11(28).
14. Based on Findings of Fact Nos. 10 and 11, Respondent violated 22 TAC § 239.11(27)(G) and (K).
15. Based on Findings of Fact Nos. 12-16, Respondent violated 22 TAC § 239.11(5) and (7).
16. Based on Findings of Fact Nos. 12-16, and 18, Respondent violated 22 TAC § 239.11(6).
17. Based on Finding of Fact No. 18, Respondent violated 22 TAC § 239.11(1).
18. Based on Finding of Fact No. 20, Respondent violated 22 TAC § 217.12(1)(B) and (E), (4) and (5).
19. Based on the foregoing findings of fact and conclusions of law, the Board should revoke Permanent License No. 141585 issued to Respondent pursuant to TEX. OCC. CODE ANN § 301.453.

**SIGNED January 13, 2006.**

  
**GEORGIE B. SUNNINGHAM**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**