TEXAS BOARD OF NURSING
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.
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§
Registered Nurse License Number 506000	§
issued to JAMES M RUST	§

ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 506000, issued to JAMES M RUST, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent's license to practice professional nursing in the State of Texas is currently in delinquent status.

2. Respondent waived representation by counsel, informal proceedings, notice and hearing.

3. Respondent received a Baccalaureate Degree in Nursing from the University of Texas, Arlington, Texas, on December 1, 1982. Respondent was licensed to practice professional nursing in the State of Texas on March 18, 1983.

4. Respondent's professional nursing employment history includes:

3/83 - 12/83	Unknown	
1/84 - 8/93	Staff Nurse	University of Texas Medical Branch Galveston, Texas
9/93 - 3/94	Unknown	

Respondent's professional nursing employment history continued:

4/94 - 12/94	Staff Nurse	Mainland Medical Center Texas City, Texas
12/94 - Unknown	Staff Nurse	Hermann Hospital Houston, Texas
3/96 - 8/97	Staff Nurse	St. Luke's Episcopal Hospital Houston, Texas
9/97 - 12/97	Unknown	
1/98 - 12/99	Staff Nurse	Staff Search, Inc. Houston, Texas
12/99 - 2/08	Staff Nurse	Methodist Hospital Houston, Texas
3/08 - present	Unknown	

5. On August 17, 2010, Respondent was issued the sanction of a Reprimand with Stipulations by the Texas Board of Nursing. A copy of the August 17, 2010, Agreed Order, Finding of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this Order.

6. On or about August 18, 2011, Respondent failed to comply with the Agreed Order issued to him on August 17, 2010, by the Texas Board of Nursing. Noncompliance is the result of his failure to comply with Stipulation Number Three (3) of the Agreed Order which states, in pertinent part:

> (3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills"...

7. On July 16, 2012, Respondent submitted a signed statement to the Board expressing his desire to voluntarily surrender the right to practice professional nursing in the State of Texas in lieu of complying with the Agreed Order issued to him on August 17, 2010. A copy of the July 12, 2012, statement is attached and incorporated, by reference, as part of this Order.

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 violation(s) of 22 TEX. ADMIN. CODE §217.12(11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1) and (10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 506000, heretofore issued to JAMES M RUST, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.

6. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.

7. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC§§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

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ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 506000, heretofore issued to JAMES M RUST, to practice nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title of registered nurse or the abbreviation " RN" or wear any insignia identifying himself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.

2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order.

3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

Effective this 20th day of July, 2012.

TEXAS BOARD OF NURSING

By: _____

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

JAMES RUST

July 12, 2012

Dianne E. Burrell
Texas Board of Nursing
333 Guadalupe
Suite 3-460
Austin, Texas 78701

Dear Diane E. Burell,

I received your letter. I have since been admitted to the VA Hospital in Houston twice in the past few weeks for complications related to type 2 diabetes. I am back home now and can respond to your questions.

1 I have not practiced since Sept ember 2, 2011. Then I worked for the Texas Specialty Hospital. I sent you E-mail about this.

2. I did not recognize the time management as a class I needed to take. When you and I discussed that on the phone in September 2011: I did not have the resources to do that. That is my fault. I freely admit that was a mistake on my part. I respect the order of the board and would not intently violate it.

I did not renew my license to practice in November. I am not practicing now in any way. In fact I am retired on Social Security. My health status is an issue. I could not practice now; my physical condition has declined secondary to Type 2 diabetes. As a practical solution I voluntarily surrender my right to practice Nursing in Texas.

Sincerely

James Rust

James Rust

223 OLD SPRING LANE • HOUSTON, TEXAS • 77015-2043
PHONE: 713 451-6022 • E-MAIL: RUSTJ@COMCAST.NET

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse	§	AGREED
License Number 506000	§	
issued to JAMES M. RUST	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JAMES M. RUST, Registered Nurse License Number 506000, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on May 31, 2010, 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 proceedings, 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 Baccalaureate Degree in Nursing from the University of Texas at Arlington, Arlington, Texas on December 1, 1982. Respondent was licensed to practice professional nursing in the State of Texas on March 18, 1983.

5. Respondent's nursing employment history includes:

3/1983 - 12/1983	Unknown

Respondent's nursing employment history continued:

1/1984 - 8/1993	Staff Nurse U.T. Medical Branch Galveston, Texas
9/1993 - 3/1994	Unknown
4/1994 - 12/1994	Staff Nurse Mainland Medical Center Texas City, Texas
12/1994 - Unknown	Staff Nurse Hermann Hospital Houston, Texas
3/1996 - 8/1997	Staff Nurse St. Lukes Episcopal Hospital Houston, Texas
9/1997 - 12/1997	Unknown
12/1997 - 12/1999	Staff Nurse Staff Search, Inc. Houston, Texas
12/1999 - 2/2008	Staff Nurse Methodist Hospital Houston, Texas
3/2008 - Present	Unknown

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as a Staff Nurse in the Intensive Care Unit with Methodist Hospital, Houston, Texas, and had been in this position for nine (9) years and three (3) months.

7. On or about February 25, 2008 and February 26, 2008, while employed in the Intensive Care Unit at Methodist Hospital, Houston, Texas, Respondent administered 4 mg Zofran to Patient Number 024587917at 8:58pm and at 5:29am on February 26, 2008, without a physicians' order. Respondent's conduct was likely to injure patients in that the administration of medications without a physician's order could result in the patient experiencing adverse reactions.

8. In response to Finding of Fact Number Seven (7), Respondent admits he did administer 4 mg Zofran twice to the post-operative patient who complained of nausea. Respondent states the patient reported that Zofran did help and it was routinely ordered in the unit. Respondent states he intended to get the order in the morning when the physician made rounds, but he did not see the physician the next morning. Respondent acknowledges he should have called the physician for the order even though it was late at night.

9. On or about November 3, 2007, while employed in the Intensive Care Unit at Methodist Hospital, Houston, Texas, Respondent failed to draw a lab specimen for Patient #0242261777305, at 10:00 P.M. as ordered by the physician. Respondent's conduct deprived the physician and the patient of timely detection and medical intervention in the event there was a significant change in the patient's condition.

10. In response to Finding of Fact Number Nine (9), Respondent admits that he did not draw the lab specimen at 10:00 pm and states that he spoke with the resident physician around 8:00-9:00 pm and the physician told him that the only thing that counted was that the patient's serum Sodium was above "133" on previous specimens.

11. On or about September 29, 2007, while employed in the Intensive Care Unit at Methodist Hospital, Houston, Texas, Respondent removed one (1) Fentanyl 600mcq/30cc Patient Controlled Analgesia syringe from the automated medication dispensing system for Patient #0242100157268 without a physicians' order, as required. Respondent's conduct was likely to injure the patient in that the administration of Fentanyl without a physician's order could result in the patient suffering from adverse reactions and placed the pharmacy in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

12. In response to Finding of Fact Number Eleven (11), Respondent states that although he has a limited recollection of the incident, it is clear from the documentation that he did remove the Fentanyl syringe for the patient and that patient received Fentanyl for over 24 hours. Respondent asserts there is no supportive documentation that the physician wrote the order, but stated it was common practice for the hospital intensivists to give him verbal orders that they would enter into the system on their "computer on wheels" with the expectation that he would carry out these orders immediately. Respondent reports that the computer charting and ordering system was new at that time and could take an hour for a pharmacist to see and validate the order.

13. On or about February 9, 2007, while employed in the Intensive Care Unit at Methodist Hospital, Houston, Texas, Respondent restrained Patient #0186668677038 without a physician's order, as required. Respondent's conduct was a likely to cause emotional harm and was a violation of patient's rights.

14. In response to Finding of Fact Number Thirteen (13), Respondent admits that he did restrain the patient because he was climbing over the side rails and states that he only restrained the patient less than an hour. Respondent reports that the patient's aggressive behavior had been an issue all day according to the report he received from the ongoing nurse.

15. On or about July 11, 2006, while employed in the Intensive Care Unit at Methodist Hospital, Houston, Texas, Respondent failed to assess and intervene when the Respiratory Therapist changed the oxygen concentration for Patient #217734116190 to 100% without a physician's order, as required. Additionally, Respondent failed to notify the physician of the change in the patient's condition. Respondent's conduct deprived the patient and the physician of timely detection and intervention which may have been required to stabilize the patient's condition.

16. In response to Finding of Fact Number Fifteen (15), Respondent states that the Respiratory Therapist did increase the oxygen concentration to maintain the patient's oxygen saturation at 90%. Respondent reports that he was told in report that was the goal of therapy, because the patient's oxygen saturation level had been in the high 70's during the day and the doctor's were aware of that.

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 violations of Section 301.452(b)(10) & (13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(C),(D),(M) & (3) and 22 TEX. ADMIN. CODE §217.12(1)(A) & (B) & (4).

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 506000, heretofore issued to JAMES M. RUST, including revocation of Respondent's license to practice professional nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a REPRIMAND WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act,

Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice 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 nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL, within one (1) year of entry of this Order, 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 <u>not</u> 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) 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 Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; 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.bon.state.tx.us/disciplinaryaction/stipscourses.html.*

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in medication administration. 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. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor 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.bon.state.tx.us/disciplinaryaction/stipscourses.html.

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address: http://ncsbn.hivelive.com/hives/a0f6f3e8a0/summary.*

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 STIPULATIONS FOR TWO YEAR(S) 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 THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(4) 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.

(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 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

(7) RESPONDENT SHALL CAUSE each employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports

involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.

(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 nursing. These reports shall be completed by the Registered 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) month period for two (2) years of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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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 7 day of July, 2010

James Rust

JAMES M. RUST, Respondent

Sworn to and subscribed before me this 7 day of July, 2010.

SEAL

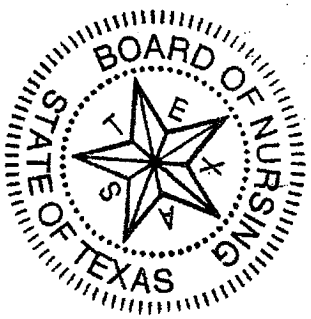
Marisa Luviano

Notary Public in and for the State of TEXAS

MARISA LUVIANO
Notary Public
STATE OF TEXAS
My Comm. Exp. 03-09-12

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 7th day of July, 2010, by JAMES M. RUST, Registered Nurse License Number 506000, and said Order is final.

Effective this 17th day of August, 2010.



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