

BEFORE THE TEXAS BOARD OF NURSING



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In the Matter of Vocational Nurse § AGREED  
License Number 198008 §  
issued to LISA GAY GIUSTI § ORDER

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.  
*Patricia Thomas*  
Executive Director of the Board

An investigation by the Texas Board of Nursing, hereinafter referred to as the Board, produced evidence indicating that LISA GAY GIUSTI, hereinafter referred to as Respondent, Vocational License Number 198008, may have violated Section 301.452(b)(3),(10)&(13), Texas Occupations Code.

An informal conference was held on July 9, 2008, at the office of the Texas Board of Nursing, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Elizabeth L. Higginbotham, Attorney at Law. In attendance were Katherine A. Thomas, MN, RN, Executive Director; John F. Legris, Assistant General Counsel; and Jesse Thibodeau, 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 Schreiner College, Kerrville, Texas, on February 17, 2005. Respondent was licensed to practice vocational nursing in the State of Texas on March 22, 2005.

5. Respondent's vocational nursing employment history includes:

04/05-10/06	LVN	Town and Country Manor Boerne, Texas
02/06-07/07	LVN	CareChoice of Boerne Boerne, Texas
08/07	Not Employed in Nursing	
09/07-Present	LVN	Hilltop Village Kerrville, Texas

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with Town and Country Manor, Boerne, Texas, and had been in this position for approximately one (1) year and four (4) months. Respondent was also employed as a Licensed Vocational Nurse with CareChoice of Boerne, Boerne, Texas, and had been in this position for approximately six (6) months.
7. On or about August 1, 2006 through October 16, 2006, while employed as a Licensed Vocational Nurse with Town and Country Manor, Boerne, Texas, Respondent removed Hydrocodone from the medication cart for Patients before the time for administration according to the physician's order two hundred thirty-six (236) times. If Respondent administered the medication sooner than it was due, this could have injured the patients in that the administration of Hydrocodone in excess frequency of the physician's order could result in the patient suffering from adverse reactions and is in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
8. On or about August 4, 2006 through October 16, 2006, while employed as a Licensed Vocational Nurse with Town and Country Manor, Boerne, Texas, Respondent administered Hydrocodone to Patients in excess frequency or dosage, of a physician's order fifty-eight (58) times. If Respondent administered Hydrocodone to Patients in excess frequency or dosage, patients could be injured.
9. On or about August 1, 2006 through October 16, 2006, while employed as a Licensed Vocational Nurse with Town and Country Manor, Boerne, Texas, Respondent administered Hydrocodone and Propoxyphene to Patients, but failed to accurately and completely document the administration in the patients' Medication Administration Records (MAR) and/or Nursing Notes six hundred ninety-three (693) times. Respondent's conduct could expose patients to injury if subsequent care givers relied on her documentation to further medicate the patients.

10. On or about August 1, 2006 through October 16, 2006, while employed as a Licensed Vocational Nurse with Town and Country Manor, Boerne, Texas, Respondent removed Hydrocodone and Propoxyphene as outlined in Finding of Fact Number Nine (9), but failed to follow policy and procedure in place for the wastage of medication if it was not given to the patients. Respondent's conduct could expose the hospital pharmacy to violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
11. On or about June 1, 2007 through July 2, 2007, while employed as a Licensed Vocational Nurse with CareChoice of Boerne, Boerne, Texas, Respondent administered Hydrocodone to the Patient with Medical Record Number 1205, but failed to accurately and completely document the administration in the patient's Medication Administration Records (MAR) and or Nursing Notes forty-eight (48) times. Respondent's conduct was likely to injure the patients if subsequent care givers relied on her documentation to further medicate the patient which could result in an overdose and is in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
12. On or about June 1, 2007 through July 2, 2007, while employed with CareChoice of Boerne, Boerne, Texas, Respondent removed Hydrocodone but failed to follow policy and procedure in place for the wastage of medication forty-eight (48) times. Respondent's conduct was likely to deceive the hospital pharmacy and place them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
13. In response to Findings of Fact Numbers Seven (7) through Twelve (12), Respondent admits to routinely failing to document controlled substance medication administration. She states that she was never taught in nursing school how to properly document. She also states that it was the normal practice for other nurses at the two facilities to not document PRN medications.
14. On or about February 7, 2008, Respondent entered a plea of Nolo Contendere to "Fraud," for failing to properly document in the narcotic records, a 3rd Degree felony offense committed on July 3, 2007, in the 216th Judicial District Court of Kendall County, Texas, under Cause No. 4723. As a result, proceedings were deferred without entering an adjudication of guilt, and Respondent was placed on deferred adjudication probation for a period of two (2) years. Furthermore, Respondent was ordered to pay a fine and court costs. Respondent has since been released from probation.
15. On or about May 24, 2010, Respondent voluntarily submitted to a chemical dependency evaluation, and the results showed that the Respondent's key indicators do not show "any evidence of an addictive personality or drug dependence or addiction tendencies."
16. Formal Charges were filed on April 17, 2008.
17. Formal Charges were mailed to Respondent on April 22, 2008.

### 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)(3),(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(A),(B),(C)&(D), and 22 TEX. ADMIN. CODE §217.12(1)(A),(B)&(C),(4),(6)(G),(10)(B)&(C),(11)(B) and (13).
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 198008, heretofore issued to LISA GAY GIUSTI, including revocation of Respondent's license to practice nursing in the State of Texas.

### ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that License Number 198008, previously issued to LISA GAY GIUSTI, to practice nursing in Texas is hereby SUSPENDED for a period of two (2) years with the said suspension STAYED and Respondent is hereby placed on PROBATION for two (2) years with the following agreed terms of probation:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate privilege, 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 multistate licensure 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.

(1) 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.

(2) RESPONDENT SHALL deliver the wallet-sized license issued to LISA GAY GIUSTI, to the office of the Texas Board of Nursing within ten (10) days of the date of this Order.

(3) 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 not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with 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>.

(4) 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.bon.state.tx.us/disciplinaryaction/stipscourses.html>.

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

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the probation conditions on RESPONDENT's license. RESPONDENT SHALL

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

(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 nurse.

(7) For the first year of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse or a Licensed Vocational Nurse. Direct supervision requires another professional or vocational nurse to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). The 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) For the remainder of the probation 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.

(9) 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 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) month period for two (2) years of employment as a nurse.

(10) 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.**

(11) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. Random screens shall be performed at least once per month for the first twelve (12) months of RESPONDENT'S probationary period. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis is the sole method accepted by the Board.

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

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT's license and RESPONDENT shall be eligible for multistate licensure privileges, if any, to practice 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 violation 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 24<sup>th</sup> day of January, 2011.

Lisa Gay Giusti  
LISA GAY GIUSTI, Respondent

Sworn to and subscribed before me this 26<sup>th</sup> day of January, 2011.

SEAL

Mark A. Quintero  
Notary Public in and for the State of Texas



Approved as to form and substance:

Elizabeth L. Higginbotham  
Elizabeth L. Higginbotham, Attorney for Respondent

Signed this 3<sup>rd</sup> day of February, 2011.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 26th day of January, 2011, by LISA GAY GIUSTI, Vocational Nurse License Number 198008, and said Order is final.

Effective this 28th day of April, 2011.



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