



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 P. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse §
License Number 643249 §
issued to ROBERT ROY MARTIN JR. (WITTMER) §

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 643249, issued to ROBERT ROY MARTIN JR. (WITTMER), 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 suspended status.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing.
3. Respondent received a Baccalaureate Degree in Nursing from Southern Connecticut State University, New Haven, Connecticut, on May 1, 1997. Respondent was licensed to practice professional nursing in the State of Texas in July 1997.
4. Respondent's complete professional nursing employment history is unknown.
5. On or about April 20, 2006, Respondent was issued the sanction of an Enforced Suspension through an Agreed Order by the Board of Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law and Agreed Order dated April 20, 2006, is attached and incorporated herein by reference as part of this Order.

6. Formal Charges were filed on March 29, 2011. A copy of the Formal Charges is attached and incorporated by reference as part of this Order.
7. Formal Charges were mailed to Respondent on March 29, 2011.
8. On April 25, 2011, the Board received a notarized statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's notarized statement, dated April 25, 2011, is attached and incorporated herein by reference as part of this Order.
9. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
10. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

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)(1)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(9)&(11)(B).
4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
6. 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.

ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 643249, heretofore issued to ROBERT ROY MARTIN JR. (WITTMER), to practice professional 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; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
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 professional nursing in the State of Texas.

Effective this 27th day of April, 2011.



TEXAS BOARD OF NURSING

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

Robert Roy Martin Jr. (Wittmer)
1115 West 9th Street, # 104
Austin, Texas 78703
Texas RN License #643249

Voluntary Surrender Statement

April 22, 2011

Dear Texas Board of Nursing:

I no longer desire to be licensed as a professional nurse. Accordingly, I voluntarily surrender my license/licenses to practice in Texas. I waive representation by counsel and consent to the entry of an Order which outlines requirements for reinstatement of my license. I understand that I will be required to comply with the Board's Rules and Regulations in effect at the time I submit any petition for reinstatement.

Signature *Robert Roy Martin Jr.*
Date April 25th 2011
Texas Nursing License Number/s 643249

The State of Texas

Before me, the undersigned authority, on this date personally appeared Robert Roy Martin Jr. (Wittmer) who, being duly sworn by me, stated that he executed the above for the purpose therein contained and that he understood same.

Sworn to before me the 25th day of April, 2011.

SEAL



Noemi Vezina
Notary Public in and for the State of Texas

In the Matter of Permanent License
Number 643249, Issued to
ROBERT ROY MARTIN JR. (WITTMER),
RESPONDENT

§ BEFORE THE TEXAS
§
§
§ BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, ROBERT ROY MARTIN JR. (WITTMER), is a Registered Nurse holding license number 643249, which is in suspended 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 October 24, 2007, Respondent failed to comply with the Agreed Order issued to him by the Board of Nurse Examiners for the State of Texas, on April 20, 2006. Respondent's non-compliance is the result of his failure to comply with Stipulation Number Three (3) of the Order which reads:

- (3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term.

Specifically, Respondent missed three (3) drug screens on October 24, 2007, November 27, 2007 and January 15, 2008. Additionally, Respondent failed to re-activate his nursing license. A copy of the October 24, 2007 Agreed Order, Findings of Fact and Conclusions of Law is incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(9)&(11)(B).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and 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 Section 301.461, Texas Occupations Code. 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.bon.state.tx.us.

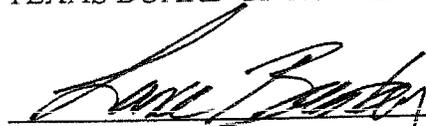
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, which can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.state.tx.us/disciplinaryaction/discp-matrix.html.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order dated April 20, 2006.

Filed this 29 day of March, 2011.

TEXAS BOARD OF NURSING



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

Jena Abel, Assistant General Counsel
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel
State Bar No. 24066924

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel
State Bar No. 24052269

John F. Legris, Assistant General Counsel
State Bar No. 00785533

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

Attachments: Order of the Board dated April 20, 2006

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Registered Nurse	§	AGREED
License Number 643249	§	
issued to ROBERT ROY WITTMER	§	ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of ROBERT ROY WITTMER, Registered Nurse License Number 643249, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10) & (12), Texas Occupations Code. Respondent waived informal conference, notice and hearing, and agreed to the entry of this Order offered on October 20, 2005, 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 informal conference, notice and hearing, and agreed to the entry of this Order.
3. Respondent's license to practice professional nursing in the State of Texas is currently inactive.
4. Respondent received a Baccalaureate in Nursing from Southern Connecticut State University, New Haven, Connecticut, on May 1, 1997. Respondent was licensed to practice professional nursing in the State of Texas in July 1997.

5. Respondent's professional employment history includes:

7/97 - 1/01	Staff Nurse	Children's Medical Center Dallas, Texas
2/00 - 8/00	Staff Nurse	HCA Medical Center of Arlington Arlington, Texas
8/00 - 8/02	Staff Nurse	Methodist Medical Center Dallas, Texas
3/01 - 8/02	Staff Nurse	Nurses Stat Dallas, Texas
9/02 - 1/03	Unknown	
2/03 - 6/04	Staff Nurse	Children's Medical Center Dallas, Texas
7/04 - present	Unknown	

6. At the time of the incidents in Findings of Fact Numbers Seven (7) through Nine (9), Respondent was employed as a Staff Nurse with Children's Medical Center, Dallas, Texas, and had been in this position for one (1) year and three (3) months.
7. On or about May 6, 2004 through May 16, 2004, while employed at Children's Medical Center, Dallas, Texas, Respondent withdrew Morphine from the OmniCell Medication Dispensing System, but failed to properly waste unused portions of the medications. Respondent's conduct placed the hospital pharmacy in violation of Chapter 481 of the Health and Safety Code (Controlled Substances Act).
8. On or about May 6, 2004 through May 16, 2004, while employed at Children's Medical Center, Dallas, Texas, Respondent exhibited strange and unusual behavior, which included a change in personality. Respondent's condition may have prevented him from delivering safe nursing care.
9. On or about May 19, 2004, while employed at Children's Medical Center, Dallas, Texas, Respondent admitted that he had inadvertently placed a vial of Fentanyl in his scrub pocket and had taken it home after being confronted with the fact that four (4) 50 ml Fentanyl vials were missing after he had completed his shift on May 6, 2004 and May 16, 2004. Respondent's conduct failed to take precautions and prevent the loss of medications and was in violation of Chapter 481 of the Health and Safety Code (Controlled Substances Act).

10. On July 20, 2005, Respondent underwent a polygraph examination by Donald W. Ramsey, M.A., Polygraph Examiner, Dalhousie Polygraph Services. The objective of the polygraph examination was to determine if Respondent had misappropriated any controlled substances or used any drugs illegally while he was employed at Children's Medical Center. Prior to the examination, Respondent submitted to a urine drug screen which was negative. During the examination, Respondent reported that he had inadvertently left a vial of Fentanyl in his scrubs pocket, which he discovered after he had left the hospital. Respondent also acknowledged that he had not properly recorded wastage of Morphine, but he denied he had misappropriated or used any of the unused portions of Morphine. The results of the polygraph examination indicated no deception and that Respondent was truthful.
11. On July 21, 2005, Respondent underwent a forensic psychological evaluation by John Lehman, Ph.D. Dr. Lehman's findings indicate that Respondent does not appear to be suffering from a chemical dependency or chemical abuse disorder. Dr. Lehman does find that Respondent is suffering from a significant depression which is untreated and he feels that psychological and psychiatric treatment is needed immediately. Dr. Lehman concludes that Respondent is **not** fit to practice in his current state; however, if he engages in treatment and is responsive, he should be able to regain fitness within a fairly short time.
12. On September 30, 2005, Respondent underwent a follow-up psychiatric assessment by Robert Allister, M.D., Psychiatrist. Dr. Allister reviewed Dr. Lehman's psychological evaluation prior to conducting Respondent's assessment. Dr. Allister states that Respondent has been in on-going counseling with the Employee Assistance Program. Dr. Allister concludes that Respondent does not require medications because it appears he is receiving results from the counseling he has been receiving.
13. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
14. The Board finds that there exists serious risks to public health and safety as a result of possible impaired nursing care due to the inappropriate use of substances.
15. Respondent's conduct described in Findings of Fact Numbers Seven (7) through Nine (9) was significantly influenced by Respondent's abuse of substances and/or mental illness.
16. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

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) & (12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1), (12), (18) & (19).
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 643249, heretofore issued to ROBERT ROY WITTMER, 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 Board of Nurse Examiners, that Professional Nurse License Number 643249 previously issued to ROBERT ROY WITTMER, to practice professional nursing in Texas is hereby SUSPENDED and said suspension is enforced until such time that Respondent complies with the requirements of Stipulation Number One (1).

IT IS FURTHER AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). Respondent's suspension will be stayed upon Respondent's compliance with the requirements of Stipulation Number One (1). Once said suspension is stayed, Respondent's license shall be probated until Respondent completes all requirements of this final order.

(1) RESPONDENT SHALL, make a payment of a non-refundable participation fee in the amount of five hundred dollars (\$500) payable to TPAPN at time of application and entry into the TPAPN program.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Board of Nurse Examiners.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privileges, if any, to practice professional 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 State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

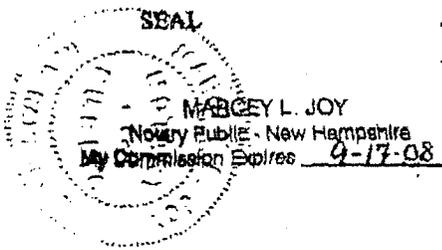
IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including revocation of Respondent's license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

RESPONDENTS CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 29 day of March, 2006
Robert Roy Wittmer
ROBERT ROY WITTMER, Respondent

Sworn to and subscribed before me this 29th day of March, 2006



Marcy L. Joy
Notary Public in and for the State of _____

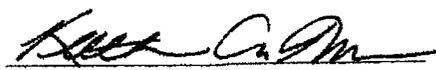
Approved as to form and substance.

Taralynn R. Mackay
TARALYNN MACKAY, Attorney for Respondent

Signed this 10th day of March, 2006.

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 29th day of March, 2006, by ROBERT ROY WITTMER, Registered Nurse License Number 643249, and said Order is final.

Effective this 20th day of April, 2006.



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