BEFORE THE TEXAS BOARD OF NURSING

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|---|---|---|
| In the Matter of Registered Nurse | § | AGREED |
| License Number 670360 | § | |
| issued to BRIAN EVAN ALFORD | § | ORDER |

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

An investigation by the Texas Board of Nursing, hereinafter referred to as the B produced evidence indicating that BRIAN EVAN ALFORD, hereinafter referred to as Respon Registered Nurse License Number 670360, may have violated Section 301.452(b)(10)&(13), Texas Occupations Code.

An informal conference was held on November 16, 2010, 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 Louis Leichter, Attorney at Law. In attendance were Bonnie Cone MSN,RN, Executive Director's Designee, Nikki Hopkins, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; and Doug Boone, 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(s).

2. Respondent waived notice and hearing, and consented to the entry of this Order.

3. Respondent is currently licensed to practice professional nursing in the State of Texas.

4. Respondent received an Associate Degree in Nursing from Excelsior College, Albany, New York on May 1, 2000. Respondent was licensed to practice professional nursing in the State of Texas on July 18, 2000.

5. Respondent's complete professional nursing employment history includes:

| | | |
|---|---|---|
| 07/00 - 08/05 | RN | Scott and White Memorial Hospital<br>Temple, Texas |
| 08/05 - 11/07 | RN | Christus Spohn Hospital<br>Corpus Christi, Texas |
| 12/07 - present | unknown | |

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as a Registered Nurse with CHRISTUS Spohn Hospital, Corpus Christi, Texas, and had been in this position for two (2) years and one (1) month.

7. On or about September 4, 2007 through November 8, 2007, while employed as a Registered Nurse with CHRISTUS Spohn Hospital, Corpus Christi, Texas, Respondent withdrew Lortab, Stadol and Xanax from the Medication Dispensing System (Pyxis) for patients without valid physicians' orders as follows:

| Date | Patient | Physicians' Order | Narcotic Log/Qty./Time | MAR | Nurse's Notes |
|---|---|---|---|---|---|
| 9-4-07 | 14983 | None | Hydrocodone/ACET. 1@ 19:25 | Not Documented | Not Documented |
| 9-4-07 | 15151 | None | Hydrocodone/ACET. 1@ 22:57 | Not Documented | Not Documented |
| 9-5-07 | 15165 | None | Hydrocodone/ACET. 1@ 01:13 | Not Documented | Not Documented |
| 9-5-07 | 14818 | None | Butorhanol Tartrate 4mg/2ml Vial: 1@ 04:38 | Not Documented | Not Documented |
| 10-11-07 | 23828 | None | Alprazolam 0.5mg 2@ 20:34 | Not Documented | Not Documented |
| 10-12-07 | 23810 | None | Hydrocodone/APAP 10/500mg: 1@ 02:38 | Not Documented | Not Documented |
| 10-12-07 | 23856 | None | Hydrocodone/APAP 10/500mg: 1@ 06:38 | Not Documented | Not Documented |
| 10-18-07 | 25384 | None | Alprazolam 0.5mg; 2@ 20:34 | Not Documented | Not Documented |
| 10-18-07 | 25408 | None | Hydrocodone/APAP 10/500mg: 1@20:41 | Not Documented | Not Documented |
| 10-18-07 | 25423 | None | Hydrocodone/APAP | Not Documented | Not Documented |

| | | | | | |
|---|---|---|---|---|---|
| | | | 10/500mg: 1@ 23:41 | | |
| 10-19-07 | 25450 | None | Alprazolam 0.5mg: 2@ 02:58 | Not Documented | Not Documented |
| 10-24-07 | 26574 | None | Hydrocodone/APAP 10/500mg: 1@ 23:07 | Not Documented | Not Documented |
| 10-25-07 | 26570 | None | Hydrocodone/APAP 10/500mg: 1@ 03:05 | Not Documented | Not Documented |
| 10-25-07 | 26552 | None | Alprazolam 0.5mg: 1@03:12 | Not Documented | Not Documented |
| 10-25-07 | 26581 | None | Hydrocodone/APAP 10/500mg: 1@ 05:57 | Not Documented | Not Documented |
| 11-07-07 | 30027 | None | Hydrocodone 7.5/500mg: 2@ 00:39 | Not Documented | Not Documented |
| 11-07-07 | 30241 | None | Hydrocodone 7.5/500mg: 2@ 23:40 | Not Documented | Not Documented |
| 11-08-07 | 30297 | None | Hydrocodone/APAP 10/500mg: 1@ 01:42 | Not Documented | Not Documented |

Respondent's conduct was likely to injure the patient, in that the administration of Lortab, Stadol and Xanax without a valid physician's order could result in the patients experiencing respiratory depression and is in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

8. On or about September 4, 2007 through November 8, 2007, while employed as a Registered Nurse with CHRISTUS Spohn Hospital, Corpus Christi, Texas, Respondent withdrew Lortab, Stadol and Xanax from the Medication Dispensing System (Pyxis) for patients, but failed to document, or accurately document the administration, including signs, symptoms and responses to the medications in the patients' Medication Administration Record (MAR) and/or Nurse's Notes as follows:

| **Date** | **Patient** | **Physicians' Order** | **Narcotic Log/Qty./Time** | **MAR** | **Nurse's Notes** |
|---|---|---|---|---|---|
| 9-4-07 | 14983 | None | Hydrocodone/ACET. 1@ 19:25 | Not Documented | Not Documented |
| 9-4-07 | 15151 | None | Hydrocodone/ACET. 1@ 22:57 | Not Documented | Not Documented |
| 9-5-07 | 15165 | None | Hydrocodone/ACET. 1@ 01:13 | Not Documented | Not Documented |
| 9-5-07 | 14818 | None | Butorhanol Tartrate 4mg/2ml Vial: 1@ | Not Documented | Not Documented |

| | | | | | |
|---|---|---|---|---|---|
| | | | 04:38 | | |
| 10-11-07 | 23828 | None | Alprazolam 0.5mg 2@ 20:34 | Not Documented | Not Documented |
| 10-12-07 | 23810 | None | Hydrocodone/APAP 10/500mg: 1@ 02:38 | Not Documented | Not Documented |
| 10-12-07 | 23856 | None | Hydrocodone/APAP 10/500mg: 1@ 06:38 | Not Documented | Not Documented |
| 10-18-07 | 25384 | None | Alprazolam 0.5mg; 2@ 20:34 | Not Documented | Not Documented |
| 10-18-07 | 25408 | None | Hydrocodone/APAP 10/500mg: 1@20:41 | Not Documented | Not Documented |
| 10-18-07 | 25423 | None | Hydrocodone/APAP 10/500mg: 1@ 23:41 | Not Documented | Not Documented |
| 10-19-07 | 25450 | None | Alprazolam 0.5mg: 2@ 02:58 | Not Documented | Not Documented |
| 10-24-07 | 26574 | None | Hydrocodone/APAP 10/500mg: 1@ 23:07 | Not Documented | Not Documented |
| 10-25-07 | 26570 | None | Hydrocodone/APAP 10/500mg: 1@ 03:05 | Not Documented | Not Documented |
| 10-25-07 | 26552 | None | Alprazolam 0.5mg: 1@03:12 | Not Documented | Not Documented |
| 10-25-07 | 26581 | None | Hydrocodone/APAP 10/500mg: 1@ 05:57 | Not Documented | Not Documented |
| 11-07-07 | 30027 | None | Hydrocodone 7.5/500mg: 2@ 00:39 | Not Documented | Not Documented |
| 11-07-07 | 30241 | None | Hydrocodone 7.5/500mg: 2@ 23:40 | Not Documented | Not Documented |
| 11-08-07 | 30297 | None | Hydrocodone/APAP 10/500mg: 1@ 01:42 | Not Documented | Not Documented |

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

9. On or about September 4, 2007 through November 8, 2007, while employed as a Registered Nurse with CHRISTUS Spohn Hospital, Corpus Christi, Texas, Respondent withdrew Lortab, Stadol and Xanax from the Medication Dispensing System (Pyxis) for patients, but failed to follow the facility's policy and procedure regarding wastage of any of the unused portions of the medications as follows:

| Date | Patient | Physicians' Order | Narcotic Log/Qty./Time | MAR | Nurse's Notes | Waste |
|---|---|---|---|---|---|---|
| 9-4-07 | 14983 | None | Hydrocodone/ACET. 1@ 19:25 | Not Documented | Not Documented | None |
| 9-4-07 | 15151 | None | Hydrocodone/ACET. 1@ 22:57 | Not Documented | Not Documented | None |
| 9-5-07 | 15165 | None | Hydrocodone/ACET. 1@ 01:13 | Not Documented | Not Documented | None |
| 9-5-07 | 14818 | None | Butorhanol Tartrate 4mg/2ml Vial: 1@ 04:38 | Not Documented | Not Documented | None |
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| 10-18-07 | 25384 | None | Alprazolam 0.5mg; 2@ 20:34 | Not Documented | Not Documented | |
| 10-18-07 | 25408 | None | Hydrocodone/APAP 10/500mg: 1@20:41 | Not Documented | Not Documented | None |
| 10-18-07 | 25423 | None | Hydrocodone/APAP 10/500mg: 1@ 23:41 | Not Documented | Not Documented | None |
| 10-19-07 | 25450 | None | Alprazolam 0.5mg: 2@ 02:58 | Not Documented | Not Documented | None |
| 10-24-07 | 26574 | None | Hydrocodone/APAP 10/500mg: 1@ 23:07 | Not Documented | Not Documented | None |
| 10-25-07 | 26570 | None | Hydrocodone/APAP 10/500mg: 1@ 03:05 | Not Documented | Not Documented | None |
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| 10-25-07 | 26581 | None | Hydrocodone/APAP 10/500mg: 1@ 05:57 | Not Documented | Not Documented | None |
| 11-07-07 | 30027 | None | Hydrocodone 7.5/500mg: 2@ 00:39 | Not Documented | Not Documented | None |
| 11-07-07 | 30241 | None | Hydrocodone 7.5/500mg: 2@ 23:40 | Not Documented | Not Documented | None |

| | | | | | | |
|---|---|---|---|---|---|---|
| 11-08-07 | 30297 | None | Hydrocodone/APAP 10/500mg: 1@ 01:42 | Not Documented | Not Documented | None |

Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substance Act).

10. In response to Finding of Fact Numbers Seven (7) through Nine (9), Respondent states he was not given the opportunity to give a drug screen at the time of the incidents and was not afforded the opportunity to participate in peer review.

11. 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 301.451-301.455, 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)(10)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A)(B)(C)&(D), and 22 TEX. ADMIN. CODE §217.12(1)(A)(B),(4),(10)(C)&(11)(B).

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 670360, heretofore issued to BRIAN EVAN ALFORD, including revocation of Respondent's license(s) 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 RESPONDENT SHALL receive the sanction of a WARNING 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(s) is/are 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 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) 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.*

(2) 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.*

(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://www.learningext.com/products/generalce/critical/ctabout.asp.*

**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 ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE 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 stipulation 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.

(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 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.

(7) 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 Respondent's direct supervisor. These reports shall be submitted by the supervisor to the office of the Board at the end of each three (3) month period for one (1) year of employment as a nurse.

(8) 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.**

(9) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the (12) month period, random screens shall be performed at least once per month. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are 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 stipulation 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 stipulation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

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

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CONTINUED ON NEXT PAGE.

## 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 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 6th day of December, 2010.

BRIAN EVAN ALFORD, Respondent

Sworn to and subscribed before me this 6th day of December, 2010.

SEAL

Ida M. Aliseda

Notary Public in and for the State of Texas

IDA MENDOZA ALISEDA
My Commission Expires
December 7, 2014

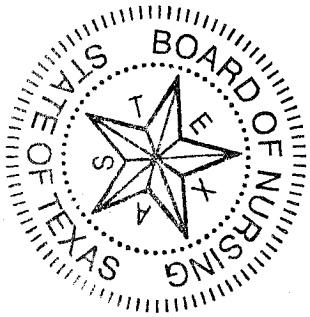
Approved as to form and substance.

LOUIS LEICHTER, Attorney for Respondent

Signed this 6 day of Dec, 20___.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 6th day of December, 20 10, by BRIAN EVAN ALFORD, Registered Nurse License Number 670360, and said Order is final.

Effective this 27th day of January, 20 11.




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