

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse License Number 143206 § AGREED
issued to REUBEN EDWARD DOWNTON § 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.
Katherine A. Thomas
Executive Director of the Board

An investigation by the Texas Board of Nursing, hereinafter referred to as the Board, produced evidence indicating that REUBEN EDWARD DOWNTON, Vocational Nurse License Number 143206, hereinafter referred to as Respondent, may have violated Section 301.452 (b)(10)&(13), Texas Occupations Code.

An informal conference was held on July 27, 2010, at the office of the Texas Board of Nursing, in accordance with Section 301.464, Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Nancy Roper Willson, Attorney at Law. In attendance were Katherine A. Thomas, MN, RN, Executive Director; Nikki Hopkins, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; and Kevin G. Freemyer, 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 William Beaumont Army Medical Center, El Paso, Texas, on August 1, 1977. Respondent was licensed to practice vocational nursing in the State of Texas on October 20, 1993.

5. Respondent's vocational nursing employment history includes:

06/93 - 02/98	LVN	Horizon Specialty Hospital El Paso, TX
03/98 - 05/07	LVN	Riovista Physical Rehab (Division of Tenet Corp)/Sierra Providence Physical Rehab El Paso, TX
05/07 - 05/10	LVN Charge Nurse	Mentis Neuro Rehab El Paso, TX
05/10 - Current	LVN	Highland Rehab Hospital El Paso, TX

6. At the time of the incidents in Findings of Fact Numbers Seven (7) and Eight (8), Respondent was employed as a Licensed Vocational Nurse with Riovista Physical Rehab (Division of Tenet Corp)/Sierra Providence Physical Rehab, El Paso, Texas, and had been in this position for approximately nine (9) years and one (1) month.

7. On or about April 4, 2007, through April 24, 2007, while employed as a Licensed Vocational Nurse at Sierra Providence Physical Rehabilitation Hospital, El Paso, Texas, Respondent withdrew medication from the medication dispensing system (PYXIS) for patients, but failed to document, or accurately document, including the signs, symptoms and responses to the narcotics administered, in the patients' medical records, and/or failed to properly waste unused portions, if any, of the medication, for the following:

Date	Patient Acct. No.	Medication Dispensing System Records (Pyxis)
4/04/07	6734941	(1) Hydrocodone 7.5mg W/APAP 500mg Tab @ 20:53
4/04/07	6731087	(1) Propoxyphene Napsylate-APAP Tab @ 21:31
4/05/07	6735138	(1) Temazepam 15mg/1 Cap @ 21:38
4/05/07	6735492	(2) Hydrocodone-APAP 5/500 Tab @ 21:44
4/06/07	6735492	(2) Hydrocodone-APAP 5/500 Tab @ 02:55
4/06/07	6735633	(2) Propoxyphene Napsylate-APAP Tab @ 21:49
4/07/07	6735633	(2) Propoxyphene Napsylate-APAP Tab @ 04:14
4/12/07	6735492	(2) Hydrocodone 7.5mg W/APAP 500mg Tab @ 00:11
4/12/07	6735492	(1) Hydrocodone 7.5mg W APAP 500mg Tab @ 03:52
4/12/07	6735278	(1) Hydrocodone-APAP 10/500 Tab @ 05:10
4/14/07	6735898	(2) Pregabalin 50mg/ 1 Cap @ 03:06
4/14/07	6735898	(2) Hydromorphone HCL 2mg/1 Tab @ 03:07

4/16/07	6736524	(2) Oxycodone HCL - Acetaminophen 1 Tab @ 21:45
4/20/07	6736359	(1) Propoxyphene Napsylate - APAP Tab @ 5:00
4/21/07	6736359	(2) Propoxyphene Napsylate - APAP Tab @ 04:12
4/24/07	6736508	(1) Hydrocodone- APAP 5/500 Tab @ 20:29
4/24/07	6736524	(1) Temazepam 7.5mg/ 1 Cap @ 22:24
4/24/07	6736524	(1) Oxycodone HCL- Acetaminophen 1 Tab @ 22:25

Respondent's conduct was likely to injure the patient in that subsequent care givers would rely on his documentation to further medicate the patient which could result in an overdose and/or 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).

8. In response to Findings of Fact Number Seven (7), Respondent states that they were constantly understaffed on the unit and had problems with both the Pyxis machine and the Pharmacy. Additionally, Respondent states that he was a preceptor and was training two (2) new LVN staff members. Respondent states that he had given his Pyxis password to several employees who would withdraw medications under his name and password. Respondent states that when a medication was removed from the PYXIS system, a record automatically was made as to the date, time and medication removed, which could serve as an alert to subsequent caregivers. Respondent admits that he failed to fully document the administration of medications in the medical records. Respondent states that he volunteered to submit a specimen for a drug screen once he was notified of the allegations. On or about May 9, 2007, Respondent submitted a specimen for a drug screen which yielded negative results.
9. On or about June 16, 2010, Respondent underwent a psychological evaluation performed by Richard Lee Wall, Ph.D., H.S.P., R.C.E., Lubbock, Texas. Dr. Wall states the history, clinical presentation, and testing are consistent in presenting Respondent as a man without significant psychopathology. Dr. Wall states that he is unable to find any psychological characteristics or any enduring pattern of behavior which Respondent has exhibited during his professional career which would suggest lack of care or irresponsibility in the delivery of his professional services.
10. Formal Charges were filed on June 22, 2009.
11. Formal Charges were mailed to Respondent on June 23, 2009.

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 of Section 301.452(b)(10)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A),(B)&(D)(iv), 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 Vocational Nurse License Number 143206, heretofore issued to REUBEN EDWARD DOWNTON, including revocation of Respondent's license to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of a REMEDIAL EDUCATION WITH A FINE, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, 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 deliver the wallet-sized license issued to REUBEN EDWARD DOWNTON to the office of the Texas Board of Nursing within ten (10) days of the date of ratification of this Order.

(2) RESPONDENT SHALL pay a monetary fine in the amount of five hundred (\$500) dollars. RESPONDENT SHALL pay this fine within forty-five (45) days of entry of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(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) 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 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. The didactic portion of this course shall be a minimum of sixty-four (64) hours in length and the course shall include a minimum of forty-eight (48) hours in clinical practice 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>.

(5) 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>.

(6) 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, 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.

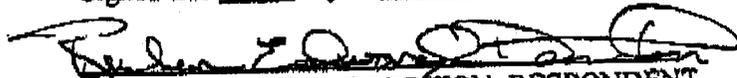
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RESPONDENT'S CERTIFICATION

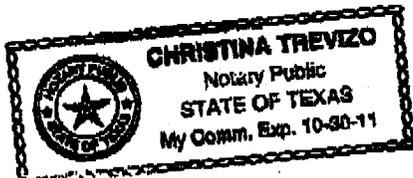
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that when this Order becomes final and the terms of this Order become effective, 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 nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 27 day of October, 2010


REUBEN EDWARD DOWNTON, RESPONDENT

Sworn to and subscribed before me this 27 day of October, 2010.

SEAL



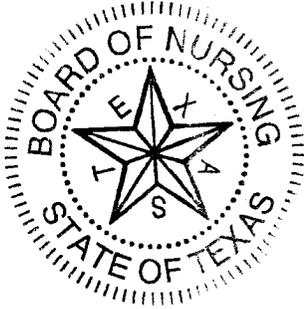

Notary Public in and for the State of Texas


Approved as to form and substance.


NANCY ROYER WILLSON, Attorney for Respondent

Signed this 28th day of October, 2010

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby ratify and adopt the Agreed Order that was signed on the 27th day of October, 20 10, by REUBEN EDWARD DOWNTON, Vocational Nurse License Number 143206, and said Order is final.



Effective this 2nd day of November, 20 10.

Katherine A. Thomas

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