BEFORE THE TEXAS BOARD OF NURSING

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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

In the Matter of Registered Nurse	§	AGREED
License Number 632927	§	
issued to MARILYN ELAINE LEE	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the B considered the matter of MARILYN ELAINE LEE, Registered Nurse License Number 63 hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9),(10)&(13), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on January 7, 2010, by Katherine A. Thomas, MN, RN, Executive Director.

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 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 an Associate Degree in Nursing from San Jacinto College, Pasadena, Texas, on May 1, 1996, and received a Baccalaureate Degree in Nursing from the University of Texas Medical Branch, Galveston, Texas, in 1998. Respondent was licensed to practice professional nursing in the State of Texas on July 31, 1996.

5. Respondent's professional nursing employment history includes:

05/96 - 02/98	Staff Nurse	Diagnostic Center Hospital Houston, Texas
12/98 - 02/00	Staff Nurse	Park Plaza Hospital Houston, Texas

Respondent's professional nursing employment history continued:

02/00 - 07/07	Staff Nurse	Christus St. John Hospital Nassau Bay, Texas
12/8/08 - Present	Staff Nurse	Bayshore Medical Center Pasadena, Texas

6. On or about November 25, 2005 and November 26, 2005, while employed with Christus St. John Hospital, Nassau Bay, Texas, Respondent withdrew Vicodin (Hydrocodone) from the Pyxis Medication Dispensing System for Patient Medical Record Number 204849, but failed to accurately and completely document the administration of the medication in the patient's Medication Administration Record (MAR), as follows:

Date/Time	Patient	Physician's Order	Pyxis Record	MAR	Wastage
11/25/05 @ 0122	204849	Vicodin 1-2 tabs PO Every 3 hrs PRN Pain	2 Hydrocodone	No	None
11/25/05 @ 1438	same	same	2 Hydrocodone	No	None
11/25/05 @ 1700	same	same	2 Hydrocodone	No	None
11/25/05 @ 1812	same	same	2 Hydrocodone	No	None
11/25/05 @ 2220	same	same	2 Hydrocodone	No	None
11/26/05 @ 0125	same	same	2 Hydrocodone	No	None
11/26/05 @ 1112	same	same	2 Hydrocodone	No	None
11/26/05 @ 1350	same	same	2 Hydrocodone	No	None
11/26/05 @ 1655	same	same	2 Hydrocodone	No	None

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

7. On or about November 25, 2005, while employed with Christus St. John Hospital, Nassau Bay, Texas, Respondent withdrew Vicodin (Hydrocodone) from the Pyxis Medication Dispensing System for Patient Medical Record Number 204849, but failed to follow the policy and procedure for the wastage of the medication. 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 Substances Act).

8. On or about November 25, 2005, while employed with Christus St. John Hospital, Nassau Bay, Texas, Respondent misappropriated Vicodin belonging to the facility and patients thereof, in that she admitted to her employer that she diverted Vicodin from the facility for her own personal use. Respondent's conduct was likely to defraud the facility and the patient of the cost of the medications.

9. On or about November 25, 2005, while employed with Christus St. John Hospital, Nassau Bay, Texas, Respondent engaged in the intemperate use of Vicodin in that she admitted to her employer that she diverted Vicodin for her own personal use. Possession of Vicodin is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Vicodin by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

10. On or about July 3, 2007, while employed with Christus St. John Hospital, Nassau Bay, Texas, Respondent engaged in the intemperate use of Vicodin, in that she admitted to her employer that she relapsed and took a Vicodin pill that belonged to her brother. Possession of Vicodin is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Vicodin by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

11. On or about July 3, 2007, while employed with Christus St. John Hospital, Nassau Bay, Texas, Respondent withdrew Dilaudid from the Pyxis Medication Dispensing System for Patient K.A, but failed to accurately and completely document the administration of the medication in the patient's Medication Administration Record. Respondent's conduct above was likely to injure the patient in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose and placed the hospital in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

12. On or about July 3, 2007, while employed with Christus St. John Hospital, Nassau Bay, Texas, Respondent withdrew Dilaudid from the Pyxis Medication Dispensing System for Patient K.A., but failed to follow the policy and procedure for the wastage of the medication. 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 Substances Act).

13. On or about January 18, 2008, while employed with Fresenius Dialysis, Baytown, Texas, Respondent engaged in the intemperate use of Alcohol in that she self-reported a relapse and admitted herself into a treatment program. The use of Alcohol by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

14. On or about March 6, 2009, while employed with Bayshore Medical Center, Pasadena, Texas, Respondent was dismissed from TPAPN and referred to the Board as a result of her failure to comply with her TPAPN contract's narcotic restriction in that she administered Hydrocodone to a patient.

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)(9),(10),&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(A),&(D), and 22 TEX. ADMIN. CODE §217.12(1)(A),(4),(5),(6)(G),(9),(10)(A),(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 632927, heretofore issued to MARILYN ELAINE LEE, including revocation of Respondent's license to practice nursing in the State of Texas.

5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

IT IS THEREFORE 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 SHALL deliver the wallet-sized license issued to MARILYN ELAINE LEE, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order.

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars ($500.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her license to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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 multistate licensure 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 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.

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 EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license and multistate licensure privileges, if any, to practice nursing in the State of Texas.

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. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, 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 1 day of Feb, 2010.

Marilyn Elaine Lee

MARILYN ELAINE LEE, Respondent

Sworn to and subscribed before me this 1 day of Feb, 2010.

SEAL

AMY SHANE
Notary Public, State of Texas
My Commission Expires:
05/08/2013

Amy Shane

Notary Public in and for the State of Texas

Approved as to form and substance.

Louis Leichter, Attorney for Respondent

Signed this 1 day of Feb, 2010.

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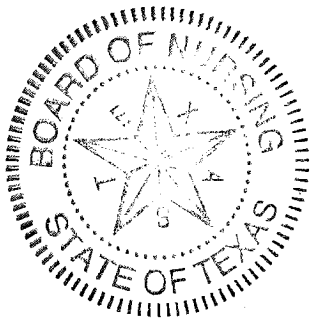
WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Agreed Order that was signed on the 1st day of February, 2010, by MARILYN ELAINE LEE, Registered Nurse License Number 632927, and said Order is final.



Entered and effective this **3rd** day of **February**, **2010**.

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