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Katherine A. Thomas  
Executive Director of the Board

BEFORE THE BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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In the Matter of Registered Nurse License Number 703599 §     AGREED  
issued to FRANK ANTHONY TAMARIZ                                     §     ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as Board, considered the matter of FRANK ANTHONY TAMARIZ, Registered Nurse License Num 703599, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived informal conference, notice and hearing, and agreed to the entry of this Order offered February 14, 2007, 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 conference, 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 Del Mar College, Corpus Christi, Texas, on December 19, 2003. Respondent was licensed to practice professional nursing in the State of Texas on February 26, 2004.
5. Respondent's professional nursing employment history includes:

02/04 - 07/06	RN	Christus Spohn Shoreline Corpus Christi, Texas
08/06 - present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Christus Spohn Shoreline, Corpus Christi, Texas, and has been in this position for approximately two (2) years and two (2) months.
7. On or about April 8, 2006, through June 26, 2006, while employed at Christus Spohn Shoreline, Corpus Christi, Texas, Respondent withdrew Dilaudid from the Medication Dispensing System (Pyxis) for patients, but failed to document, or accurately document the administration of the medications in the patients' Medication Administration Records (MARs), Nurses Notes, or both, as follows:

Date/Time	Patient	Medication Dispensing System (Pyxis)	Physician's Order	Medication Administration Record	Nurses Notes	Waste
4/8/06 @ 0904	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	0800	None
4/8/06 @ 1257	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	1200	None
4/8/06 @ 1547	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	1600	None
4/9/06 @ 1612	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	3 mg @ 1600	None
4/16/06 @ 0937	0000805524	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 2 H PRN PAIN	Not Documented	Not Documented	None
4/18/06 @ 2316	0000805524	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 2 H PRN PAIN	Not Documented	Not Documented	None
6/17/06 @ 1502	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/18/06 @ 1024	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/18/06 @ 1436	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/18/06 @ 0940	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/19/06 @ 1606	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1023	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1445	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1835	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None

Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on his 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).

8. On or about April 8, 2006, through June 26, 2006, while employed at Christus Spohn Shoreline, Corpus Christi, Texas, Respondent withdrew Dilaudid from the Medication Dispensing System (Pyxis) for patients in excess frequency of the physicians' orders, as follows:

Date/Time	Patient	Medication Dispensing System (Pyxis)	Physician's Order	Medication Administration Record	Nurses Notes	Waste
4/8/06 @ 1257	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	1200	None
4/8/06 @ 1547	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	1600	None
4/9/06 @ 0850	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	0800	3 mg @ 0800	None
4/9/06 @ 1148	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	1200	3 mg @ 1200	None
4/16/06 @ 0841	0000805524	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 2 H PRN PAIN	0900	4 mg @ 0900	None
4/16/06 @ 0937	0000805524	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 2 H PRN PAIN	Not Documented	None	None
6/26/06 @ 1023	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1332	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	4 mg @ 1345	None
6/26/06 @ 1445	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1835	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1846	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	1900	1900	None

Respondent's conduct was likely to injure the patients in that the administration of Dilaudid in excess frequency of the physicians' orders could result in the patients suffering from adverse reactions, including respiratory depression, and is in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

9. On or about April 8, 2006, through June 26, 2006, while employed at Christus Spohn Shoreline, Corpus Christi, Texas, Respondent withdrew Dilaudid from the Medication Dispensing System (Pyxis) for patients, but failed to follow the facility's policy and procedure for the wastage of the medications, as follows:

Date/Time	Patient	Medication Dispensing System (Pyxis)	Physician's Order	Medication Administration Record	Nurses Notes	Waste
4/8/06 @ 0904	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	0800	None

Date/ Time	Patient	Medication Dispensing System (Pyxis)	Physician's Order	Medication Administration Record	Nurses Notes	Waste
4/8/06 @ 1257	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	1200	None
4/8/06 @ 1547	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	1600	None
4/9/06 @ 0850	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	0800	3 mg @ 0800	None
4/9/06 @ 1148	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	1200	3 mg @ 1200	None
4/9/06 @ 1612	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	3 mg @ 1600	None
4/10/06 @ 0805	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4-6 mg PO Q 4 H PRN, may alternate w/ IV Dilaudid	0800	3 mg @ 0800	None
4/10/06 @ 1409	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4-6 mg PO Q 4 H PRN, may alternate w/ IV Dilaudid	1400	3 mg @ 1400	None
4/10/06 @ 1740	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4-6 mg PO Q 4 H PRN, may alternate w/ IV Dilaudid	1800	3 mg @ 1800	None
4/19/06 @ 0057	0000805524	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 2 H PRN PAIN	0200	None	None
4/19/06 @ 0411	0000805524	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 2 H PRN PAIN	0500	None	None
6/17/06 @ 1502	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/18/06 @ 1024	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/18/06 @ 1436	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/18/06 @ 0940	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/19/06 @ 1606	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1023	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1445	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1835	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	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 Substances Act).

10. On or about April 8, 2006, through June 26, 2006, while employed at Christus Spohn Shoreline, Corpus Christi, Texas, Respondent misappropriated Dilaudid from the facility and patients thereof, in that Respondent admitted to his employer that he misappropriated Dilaudid from the facility and patients thereof for his personal use. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
11. On or about April 8, 2006, through June 26, 2006, while employed at Christus Spohn Shoreline, Corpus Christi, Texas, Respondent engaged in the intemperate use of Dilaudid in that Respondent admitted to his employer that he misappropriated Dilaudid from the facility and patients thereof for his own personal use. Possession of Dilaudid is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Dilaudid 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 patients in potential danger.
12. On December 11, 2006, Respondent was seen by Dr. Troy Martinez, Psy.D, for a forensic psychological evaluation with a chemical dependency component and a polygraph test. The polygraph test concluded that deception was indicated on the following questions: 1. Did you in any way falsify your statement to the Texas BNE, 2. Did you steal any medication while employed by Christus Spohn? 3. Did you ever take any medications without authorization while with Christus Spohn 4. While at Christus Spohn did you ever fabricate any entry on your MAR's? Results of the PAI and SASSI-3 were rendered invalid due to excessive defensiveness/guardedness. Dr. Martinez states that the current findings would not support the conclusion that Respondent would be able to consistently behave in accordance with the requirements of the minimum standards set by the Board's Rules. Dr. Martinez states that it is unclear whether or not Respondent has a substance abuse/dependence problem or other type of psycho-pathology that contributes to problems operating within a professional nursing capacity, though several sources of data certainly imply serious problems.
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 impaired nursing care due to intemperate use of controlled substances or chemical dependency.
15. Formal Charges were filed on March 9, 2007.
16. Formal Charges were mailed to Respondent on March 13, 2007.
17. Respondent's conduct described in Findings of Fact Numbers Seven (7) through Twelve (12) was significantly influenced by Respondent's dependency on chemicals.
18. 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 301.451-301.455, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove a violations of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(C)&(D) and §217.12(4),(6)(G),(8),(10)(A),(B),(C)&(E), and (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 703599, heretofore issued to FRANK ANTHONY TAMARIZ, including revocation of Respondent's professional 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):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500) payable to TPAPN.

(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.

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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. 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 Board of Nurse Examiners, 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<sup>th</sup> day of June, 2007.

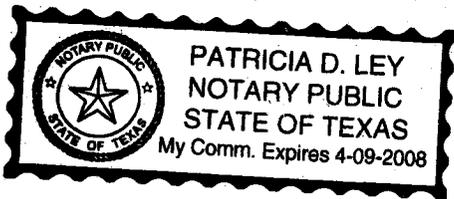
Frank Anthony Tamarez  
FRANK ANTHONY TAMAREZ, Respondent

Sworn to and subscribed before me this 29<sup>th</sup> day of June, 2007.

SEAL

Patricia D. Ley

Notary Public in and for the State of Texas



Approved as to form and substance.

Chris Malish  
CHRISTOPHER MALISH, Attorney for Respondent

Signed this 3 day of July, 2007.

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby accept and enter the Agreed Order that was signed on the 29th day of June, 2007, by FRANK ANTHONY TAMARIZ, Registered Nurse License Number 703599, and said Order is final.

Entered and effective this 13th day of July, 2007.

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