



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

## BEFORE THE TEXAS BOARD OF NURSING

\*\*\*\*\*

In the Matter of Certified Registered	§	AGREED
Nurse Anesthetist and Registered Nurse	§	
License Number 776650 issued to	§	ORDER
OPAL MELANE JOINER	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of OPAL MELANE JOINER, Certified Registered Nurse Anesthetist (CRNA) and Registered Nurse License Number 776650, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(1),(10),(12)&(13) and 301.453, Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on August 24, 2012, 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 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 a Baccalaureate Degree in Nursing from Beth-EL College of Nursing, Colorado Springs, Colorado, on August 1, 1995. Respondent was licensed to practice professional nursing in the State of Texas on October 19, 2009. Respondent completed requirements for advanced practice recognition at Barry University, Miami Shores, Florida, on May 5, 2007. Respondent received recognition as an advanced practice nurse in the State of Texas, with the specialty role of Nurse Anesthetist on December 1, 2009. Respondent was granted prescriptive authority as a Nurse Anesthetist in the State of Texas on December 30, 2009.

5. Respondent's professional nursing employment history includes:

1998 - 1999	RN	Centura Healthcare System Colorado Springs, CO
2000 - 2002	Unknown	
2002 - 2003	RN	Memorial Hospital Colorado Springs, CO
01/03 - 01/05	RN	Bay Pines VA Hospital St. Petersburg, FL
05/05 - 10/07	RN	Unicom Tampa, FL
10/07 - 07/09	CRNA	Anesthesia Association of Pinellas County Clearwater, FL
07/09 - 10/09	CRNA	Spartan Anesthesia Assoc Sarasota, FL
03/10 - 04/10	CRNA	North Star Anesthesia Arlington, TX
06/10- 04/11	CRNA	Centrix Group San Marcos, TX
05/11 - Present	Unknown	

6. At the time of the initial incident referenced in Finding of Fact Number Seven (7), Respondent was employed as a Certified Registered Nurse Anesthetist with North Star Anesthesia, Arlington, Texas, and had been in this position for approximately one (1) month.

7. On or about April 21, 2010, while employed as a Certified Registered Nurse Anesthetist with North Star Anesthesia, Arlington, Texas, Respondent may have lacked fitness to practice professional nursing in that she was observed as having red, watery eyes, being sleepy and appearing confused during an epidural placement. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

8. On or about April 23, 2010, while employed as a Certified Registered Nurse Anesthetist with North Star Anesthesia, Arlington, Texas, Respondent may have failed to properly assess and verify the placement of an endotracheal tube after intubating Patient MR #468316, as required. Subsequently, although the patient's oxygen saturation was at 98%, it was determined that the endotracheal tube was in the Patient's esophagus instead of the trachea. Respondent's failure may have exposed Patient MR #468316 to a risk of harm, including, but not limited to: aspiration, gastric distention, and denial of rescue ventilation.
9. On or about April 23, 2010, while employed as a Certified Registered Nurse Anesthetist with North Star Anesthesia, Arlington, Texas, Respondent lacked fitness to practice professional nursing in that Respondent had blood shot eyes, was wearing sunglasses while working with patients, seemed to be disoriented, confused, and was unfocused. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
10. On or about April 4, 2011, while employed as a Certified Registered Nurse Anesthetist with Centrix Group, San Marcos, Texas, and assigned to Valley Baptist Health System, Brownsville, Texas, Respondent provided false, deceptive, and/or misleading information in that she submitted an altered license verification page. Respondent's conduct deceived residents, their families, fellow care givers, and her employer in that they believed Respondent was a legal practitioner and her nursing practice was in compliance with the Nursing Practice Act and all Board Rules and Regulations.
11. In response to Finding of Fact Number Eight (8), Respondent states the anesthesiologist was present during the intubation pursuant to policy and he checked placement of the endotracheal tube, noting bilateral breath sounds even after Respondent pointed out the CO2 waveforms were abnormal. However, due to the presence of breath sounds, the anesthesiologist continued to bag the patient. Respondent explains CO2 waveforms and breath sounds are the ways of verifying placement of the endotracheal tube. Because the anesthesiologist confirmed the breath sounds and acknowledged abnormal CO2 waveform, Respondent then left the room, after turning patient care over to anesthesiologist, to obtain equipment. While out of the room the anesthesiologist continued to bag the patient based on hearing breath sounds but it was noted the CO2 waveforms were missing by the relieving CRNA and it was discovered the endotracheal tube was in the esophagus. Respondent states she was not in the room to take corrective action on the misplaced tube, nor was she present to note the now missing CO2 waveforms and if she was she would have taken corrective action.
12. In response to Findings of Fact Numbers Seven (7) and Nine(9), Respondent states that she has been diagnosed with Iritis in both eyes, which caused her eyes to become red, sensitive to light, painful and tearing. Respondent states her eye medication typically avoids symptoms, but on the days in question, Respondent's prescription was mixed up at the

pharmacy, causing her to run out of the medication, resulting in a flare-up. Respondent states she was going to call in sick, but realized this would leave the facility short-staffed, so she went to work. Respondent states she went to work with sunglasses due to the Iritis and she explained the situation to Dr. Tye. Although Dr. Tye was unable to allow Respondent to return home due to the short-staffing, Respondent states he did allow her time off to refill her eye medication. Respondent points out her eyes were clear, non-tearing, and without sensitivity to light by the time she was placed in the OR and no procedure was performed until her eye condition was under control. Respondent explains her Iritis does not affect her vision, only her sensitivity to light.

12. In response to Finding of Fact Number Eleven (11), Respondent states that her husband admitted to altering her license verification page. While waiting for the Texas Board of Nursing to process her renewal, Respondent states that her husband changed the date on the license verification page and faxed it to Respondent so she could show her employer in hopes of having her be able to return to work.
13. On or about October 20, 2010, Respondent underwent a Psychological Evaluation with John Lehman, Ph.D., Richardson, Texas. Dr. Lehman states that Respondent meets the diagnostic criteria for Benzodiazepine Abuse and Major Depressive Disorder. Dr. Lehman recommends Respondent be monitored with regular, random drug screens and receive therapy with a licensed mental health professional who is qualified to treat dual diagnosis patients.
14. On or between February 7, 2011 and February 25, 2011, Respondent participated in the Substance Abuse Residential Rehabilitation Treatment Program, inpatient treatment at North Texas Health Science Center through a Veteran's Administration program, and continues with counseling. Respondent provided negative hair panel drug screens dated July 15, 2010; August 16, 2010; April 6, 2011; September 3, 2011; March 3, 2012; and August 7, 2012.
15. The Board finds that there exists serious risk to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.
16. Formal Charges were filed on July 16, 2012
17. Formal Charges were mailed to Respondent on July 17, 2012.

### 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 22 TEX. ADMIN. CODE §217.11(1)(B),(C),(M)&(T), and 22 TEX. ADMIN. CODE §217.12(1)(A),(B)&(E),(4),(5),(6)(C)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1), (10), (12) & (13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 776650, heretofore issued to OPAL MELANE JOINER, including revocation of Respondent's license 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 Registered Nurse License Number 776650, previously issued to OPAL MELANE JOINER, to practice nursing in Texas is hereby SUSPENDED, with the suspension STAYED and Respondent is hereby placed on PROBATION for a period of two (2) years with the following agreed terms of probation:

IT IS FURTHER AGREED and ORDERED that, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

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 the 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.

(1) 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.

(2) 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.texas.gov/disciplinaryaction/stipscourses.html>.

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment. RESPONDENT SHALL obtain Board approval of the

course prior to enrollment. 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. RESPONDENT SHALL perform physical assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The clinical component SHALL focus on tasks of physical assessment only and shall be provided by the same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. Performing assessments on mock patients or mannequins WILL NOT be accepted. 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.texas.gov/disciplinaryaction/stipscourses.html>.*

(4) 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. *Board-approved courses may be found at the following Board website address: <http://www.bon.texas.gov/disciplinaryaction/stipscourses.html>.*

**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 AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A CERTIFIED REGISTERED NURSE ANESTHETIST (CRNA) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:**

(5) RESPONDENT SHALL notify each present employer, credentialing body, and facility granting privileges in nursing of this Order of the Board and the probation 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 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 probation 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.



(6) 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.

(7) For the duration of the probationary period, RESPONDENT'S practice of professional nursing will be monitored for two (2) years by an Anesthesiologist or Certified Registered Nurse Anesthetist who has been approved by the Board. Respondent must provide a list of three (3) Anesthesiologists and/or three (3) Certified Registered Nurse Anesthetists for the Board to select. For the Anesthesiologist and/or Certified Registered Nurse Anesthetist, the list must include the following for each: name, license number or social security number, educational background and professional employment history. Monitoring shall commence no later than thirty (30) days following the date of RESPONDENT'S receipt of the name of the monitor selected by the Board. The monitor will offer guidance, advice and assistance to the RESPONDENT as necessary to ensure that deficiencies such as those set forth in this Order do not reoccur. RESPONDENT SHALL meet with the monitor at least twice a month, at least one (1) hour duration each. RESPONDENT SHALL ensure that the monitor submits reports, addressing RESPONDENT'S progress in overcoming these deficiencies to the office of the Board at the end of each three (3) month period for the two (2) year stipulation period. Meetings may be longer and more frequent if the monitor determines necessary. Multiple employers are prohibited; however, multiple practice sites are acceptable.

(8) 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 the nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for two (2) years of employment as a nurse.

(9) 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 a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.**

(10) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the probation period, random screens shall be performed at least once every three (3) months. 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 probation 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 probation 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 and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

(11) RESPONDENT SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. RESPONDENT SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT'S progress in therapy, rehabilitation and capability to safely practice nursing. The report must indicate whether

or not the RESPONDENT'S stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended beyond the initial three (3) months, the reports shall then be required at the end of each three (3) month period for the remainder of the probation period, or until RESPONDENT is dismissed from therapy.

IT IS FURTHER AGREED, THAT SHOULD RESPONDENT have any criminal action taken for any offense during the period of probation, said judicial action will result in further disciplinary action, which may include Revocation of Respondent's license to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license, the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

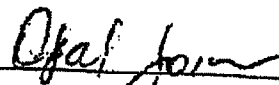
IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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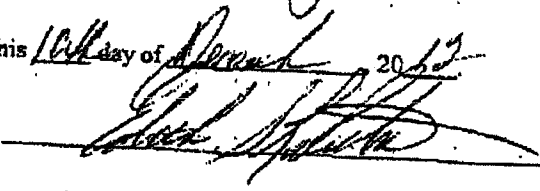
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RESPONDENT'S CERTIFICATION

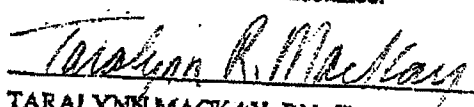
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid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

Signed this 10 day of December, 20 12  
OPAL MELANE JOINER, RespondentSworn to and subscribed before me this 10th day of December, 20 12

SEAL  
EDITH S. ROSA-POLITI  
Notary Public, State Of New York  
No. West 4786782  
Qualified in Westchester County  
Term Expires 08/31/2013

  
Notary Public in and for the State of \_\_\_\_\_

Approved as to form and substance.

  
TARALYNN MACKAY, RN, JD, Attorney for  
RespondentSigned this 10th day of December, 20 12

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Dec. 10 2012 10:20PM PT

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FROM :

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 10th day of December, 2012, by OPAL MELANE JOINER, Registered Nurse License Number 776650, and said Order is final.

Effective this 17th day of January, 2013.



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