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Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Advanced Practice Registered Nurse License Number AP110786 §
with Prescription Authorization Number 4316 and §
Registered Nurse License Number 555032, §
issued to SHERYL MALONE-THOMAS § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of SHERYL MALONE-THOMAS, Advanced Practice Registered Nurse License Number AP110786 with Prescription Authorization Number 4316 and Registered Nurse License Number 555032, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Sections 301.452(b)(10) & (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 September 10, 2014, 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(s).
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 and is currently Board authorized to practice as a Family Nurse Practitioner with Prescription Authorization in the State of Texas.
4. Respondent received a Baccalaureate Degree in Nursing from Lamar University, Beaumont, Texas on May 1, 1989. Respondent was licensed to practice professional nursing in the State of Texas on August 25, 1989. Respondent completed a post-graduate Family Nurse Practitioner program at Houston Baptist University, Houston, Texas on November 17, 2000.

Respondent was recognized as a Family Nurse Practitioner in the State of Texas on February 4, 2001, and was granted Prescription Authorization in the State of Texas on January 7, 2002.

5. Respondent's nursing employment history includes:

05/90 - 05/00	RN/Nurse Manager/ Nurse Educator	Texas Children's Hospital Houston, Texas
01/01 - 06/01	FNP	Houston Department of Health & Human Services Houston, Texas
05/01 - 05/02	Clinical Instructor	San Jacinto College South - LVN/ Paramedic to RN Mobility Program Houston, Texas
06/02 - 07/02	Unknown	
08/02 - 01/03	FNP	Health Essentials, Inc. Louisville, Kentucky
01/03 - 10/03	FNP	Baylor College of Medicine Houston, Texas
10/03 - 10/04	FNP	Memorial Hermann Hospital - Texas Liver Center Houston, Texas
11/04 - 04/05	Unknown	
05/05 - 11/10	FNP	Memorial Hermann Hospital - Neighborhood Health Center SW Houston, Texas
08/05 - 08/11	Clinical Instructor/ Clinical Skills Lab Instructor/Lecturer	Lone Star College - North Harris Houston, Texas
06/09 - 03/10	FNP	Affordable Medical Clinic Webster, Texas
07/11 - 10/11	FNP	ADS Medical Clinic Houston, Texas

Respondent's nursing employment history continued:

10/11 - 04/13

FNP

YOK Medical Concepts
Houston, Texas

04/13 - Current

Unknown

6. On or about January 1, 2011, through March 29, 2013, while employed as a Family Nurse Practitioner at York Medical Concepts, Houston, Texas, Respondent's practice fell below the minimum standards of nursing practice in that she engaged in non-therapeutic prescribing practices. During this time period, Respondent issued prescriptions to patients for controlled substances without conducting proper assessments to justify the need for the prescriptions. This type of prescribing falls below the standard of care in that the combination of dangerous controlled substances in unsupported quantities has more risks than therapeutic benefit. Respondent also failed to adequately collaborate with a delegating physician, to appropriately monitor the patients for abusive and/or drug seeking behavior, and to completely and/or accurately document in the patients' medical files.
7. In response to Finding of Fact Number Six (6), Respondent states that as a condition to issuance of a narcotic prescription, urine drug screens and a comprehensive metabolic panel (CMP) were performed on her patients. Additionally, Respondent states that each patient was also required to complete a "Pain Journal" to assist in the amount of medication the patient was receiving. Respondent admits to not having any formal training in pain management.

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(s) of §§217.11(1)(A), (B), (1)(C), (1)(D), & (4); 217.12 (1)(A), (1)(B), (1)(C), (4), & (11)(B); 221.3, 221.12, 221.13; and 222.2, 222.4, 222.6, and 222.12.
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10) & (13), Texas Occupations Code, to take disciplinary action against Advanced Practice Registered Nurse License Number AP110786 with Prescription Authorization Number 4316 and Registered Nurse License Number 555032, heretofore issued to SHERYL MALONE-THOMAS, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Prescription Authorization Number 4316, heretofore issued to SHERYL MALONE-THOMAS, is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

- (1) RESPONDENT SHALL NOT prescribe or order any medication, dangerous drug, prescription drug, non-prescription drug, or controlled substance, use or wear any title, insignia, or designation which, directly or indirectly, would lead any person to believe that RESPONDENT holds prescription authorization during the period in which the prescription authorization is surrendered. RESPONDENT shall not petition for reinstatement of prescription authorization until RESPONDENT has successfully completed all of the terms and requirements of this Order.
- (2) ~~RESPONDENT shall surrender all DEA Controlled Substances Registration Certificate(s) and DPS Controlled Substances Registration Certificate(s) on the effective date of this Order. Respondent shall not re-register or otherwise obtain a DEA Controlled Substances Registration Certificate(s) or DPS Controlled Substances Registration Certificate(s) until Respondent has petitioned the Board and received written authorization from the Board. RESPONDENT shall not petition for permission to re-register or obtain a DEA Controlled Substances Registration Certificate(s) or DPS Controlled Substances Registration Certificate(s) until RESPONDENT has successfully completed all of the terms and requirements of this Order.~~
- (3) Upon petitioning for reinstatement of prescription authorization, RESPONDENT SHALL satisfy all then existing requirements. Further, the Board may impose additional restrictions or stipulations to accompany the re-issuance of the Respondent's prescription authorization, as deemed appropriate and necessary by the Board.

IT IS FURTHER AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Advanced Practice Registered Nurse License Number AP110786 and Registered Nurse License Number 555032, previously issued to SHERYL MALONE-THOMAS, to practice nursing in Texas are hereby SUSPENDED for a period of two (2) years, 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(s) is/are 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.

(4) 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.

(5) RESPONDENT SHALL, within one (1) year of the 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>.*

(6) RESPONDENT SHALL, within one (1) year of the 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>.*

(7) RESPONDENT SHALL pay a monetary fine in the amount of five thousand dollars (\$5,000.00). RESPONDENT SHALL pay this fine within three hundred and sixty five (365) days of the 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.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT MUST PROVIDE DIRECT PATIENT CARE AND PRACTICE AS AN ADVANCED PRACTICE REGISTERED NURSE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR TWO (2)

YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE STIPULATION 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 AN ADVANCED PRACTICE REGISTERED NURSE (APRN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(8) RESPONDENT SHALL notify each present employer, practice site and/or credentialing agency in nursing of this Order of the Board and the probation conditions on RESPONDENT'S license(s). 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, practice site and/or credentialing agency in nursing within five (5) days of receipt of this Order.

RESPONDENT SHALL notify all future employers, practice sites and/or credentialing agencies in nursing of this Order of the Board and the probation conditions on RESPONDENT'S license(s).

RESPONDENT SHALL present a complete copy of this Order to each future employer, practice site and/or credentialing agency in nursing prior to accepting an offer of employment and/or assignment.

(9) RESPONDENT SHALL CAUSE each present employer, practice site and/or credentialing agency in nursing to submit the Board's "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, practice site and/or credentialing agency in nursing to submit the Board's "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.

(10) RESPONDENT SHALL be supervised by a physician or another Advanced

Practice Registered Nurse or Physician who is on the premises. The supervising physician or Advanced Practice Registered Nurse may not be subject to a current disciplinary Order from a licensing entity. The supervising physician or Advanced Practice Registered Nurse or Physician is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising physician or Advanced Practice Registered Nurse or Physician shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(11) 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 Physician or Advanced Practice Registered Nurse who supervises the RESPONDENT and these reports shall be submitted to the office of the Board at the end of each three (3) month quarterly period for two (2) years of employment as a nurse.

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(s), 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(s) to practice professional nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

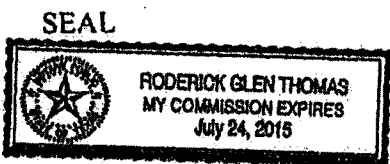
RESPONDENT'S CERTIFICATION

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 violation(s) 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 11th day of September, 2014.

Sheryl Malone-Thomas
SHERYL MALONE-THOMAS, Respondent

Sworn to and subscribed before me this 11 day of SEPT, 2014.



[Signature]
Notary Public in and for the State of TEXAS

Approved as to form and substance.

Don E Lewis
Don E. Lewis, Attorney for Respondent

Signed this 11 day of Sept., 2014.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 11th day of September, 2014, by SHERYL MALONE-THOMAS, Advanced Practice Registered Nurse License Number AP110786 with Prescription Authorization Number 4316 and Registered Nurse License Number 555032, and said Order is final.

Effective this 23rd day of October, 2014.



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