

BEFORE THE TEXAS BOARD OF NURSING



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

In the Matter of § AGREED
Registered Nurse License Number 736982 §
issued to JOHN GABRIEL CANALES § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JOHN GABRIEL CANALES, Registered Nurse License Number 736982, 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)(2),(10)&(13), Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on October 24, 2014.

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 notice and hearing and agreed to the entry of this Order.
3. Respondent's license to practice as a professional nurse in the State of Texas is in current status.
4. Respondent received an Associate Degree in Nursing from Central Texas College, Killeen, Texas, on December 15, 2006. Respondent was licensed to practice professional nursing in the State of Texas on January 23, 2007.
5. Respondent's complete nursing employment history is unknown.
6. On or about October 19, 2013, while employed as a Registered Nurse with Texas Health Resources, Central Staffing Office, Arlington, Texas, and assigned to Texas Health Harris Methodist Hospital Hurst-Eules-Bedford (HEB), Bedford, Texas, Respondent withdrew

Ativan from the Medication Dispensing System for patients, but failed to document, or completely and accurately document the administration of the medications in the patients' Medication Administration Record (MAR) and/or Nurse's Notes. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on his documentation to further medicate the patients, which could result in an overdose. Respondent's conduct placed the hospital in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.

7. On or about October 19, 2013, while employed as a Registered Nurse with Texas Health Resources, Central Staffing Office, Arlington, Texas, and assigned to Texas Health Harris Methodist Hospital Hurst-Euless-Bedford (HEB), Bedford, Texas, Respondent withdrew Ativan from the Medication Dispensing System for patients, but failed to follow the facility's policy and procedures for wastage of any of the unused portions of the medication. Respondent's conduct left medication unaccounted for, was likely to deceive the facility, and placed them in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
8. On or about October 19, 2013, while employed as a Registered Nurse with Texas Health Resources, Central Staffing Office, Arlington, Texas, and assigned to Texas Health Harris Methodist Hospital Hurst-Euless-Bedford (HEB), Bedford, Texas, Respondent misappropriated Ativan from the facility or patients thereof or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.
9. On or about October 19, 2013, while employed as a Registered Nurse with Texas Health Resources, Central Staffing Office, Arlington, Texas, and assigned to Texas Health Harris Methodist Hospital Hurst-Euless-Bedford (HEB), Bedford, Texas, Respondent engaged in the intemperate use of Morphine and Hydromorphone in that he submitted a specimen for urinalysis drug testing which resulted positive for Morphine (5054 ng/ml) and Hydromorphone (3978 ng/ml). Unlawful possession of Morphine and Hydromorphone is prohibited by Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code. The use of Morphine and Hydromorphone by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms, or changes in patients' conditions, and could have affected his 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 March 9, 2014, Respondent submitted an Online Renewal Document Registered Nurse to the Texas Board of Nursing in which he provided false, deceptive, and/or misleading information, in that he answered "No" to the question:

"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

- A. been convicted of a misdemeanor?
- B. been convicted of a felony?
- C. pled nolo contendere, no contest, or guilty?
- D. received deferred adjudication?
- E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
- F. been sentenced to serve jail or prison time? court-ordered confinement?
- G. been granted pre-trial diversion?
- H. been arrested or any pending criminal charges?
- I. been cited or charged with any violation of the law?
- J. been subject of a court-martial; Article 15 violation, or received any form of military judgment/punishment/action?"

Respondent failed to disclose that, on or about January 10, 2014, he was arrested by the Greenville Police Department, Greenville, Texas, and subsequently charged under Cause No. CR1400296 for DRIVING WHILE INTOXICATED 2ND, a Class A misdemeanor offense. The criminal was pending at the time Respondent submitted the Renewal to the Board. Respondent's conduct was deceiving and may have affected the Board's decision to renew his license.

11. On or about September 3, 2014, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED 2ND, a Class A misdemeanor offense committed on or about January 10, 2014, in the County Court at Law No. 1, Hunt County, Texas, under Cause No. CR1400296. As a result of the conviction, Respondent was sentenced to confinement in the Hunt County Jail for a period of three hundred sixty-five (365) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of twenty-four (24) months and ordered to pay a fine and court costs.
12. On or about September 8, 2014, while employed as a Registered Nurse with the Medical Center of Southeast Texas, Port Arthur, Texas, Respondent failed to adequately and completely report and document the assessment, interventions, and care he provided to Patient 000005786, including: the patient's status; signs and symptoms; nursing care rendered; administration of medications and treatments; and patient's responses. Additionally, Respondent failed to provide a verbal report on the patient to any other care giver. Respondent's conduct was likely to injure the patient in that subsequent care givers would rely on his documentation to provide further care to the patient, which could result in adverse reactions.
13. On or about September 8, 2014, while employed as a Registered Nurse with the Medical Center of Southeast Texas, Port Arthur, Texas, Respondent left his nursing assignment without notifying his supervisor or the appropriate personnel. Respondent left the facility before the end of his scheduled shift without notifying anyone that he was leaving. Respondent's conduct was likely to injure patient in that leaving his nursing assignment without giving report could have resulted in Respondent's the patient not receiving necessary medical care.

14. In response to Findings of Fact Numbers Six (6) through Thirteen (13), Respondent states he accepts full responsibility for the Findings. Respondent states he is extremely regretful of his actions and is willing to comply with any conditions the Board recommends in order to maintain his nursing license.
15. 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.
16. Respondent's conduct as described in the preceding Finding(s) of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
17. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use disorder.
18. 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 substance use disorder.
19. 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 301.451-301.555, 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 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B),(1)(C),(1)(D),(1)(I)&(1)(T), and 22 TEX. ADMIN. CODE §217.12 (1)(A),(1)(B),(1)(C),(1)(E),(4),(5),(6)(A),(6)(G),(6)(H),(6)(I),(8),(10)(A),(10)(B),(10)(C),(10)(D),(10)(E),(11)(B),(12)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2),(10)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 736982, heretofore issued to JOHN GABRIEL CANALES, including revocation of Respondent's license(s) 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.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Registered Nurse License Number 736982, previously issued to JOHN GABRIEL CANALES, to practice nursing in Texas is hereby **SUSPENDED** and said suspension is **ENFORCED** until Respondent:

- A. **Applies to, is accepted into, and completes enrollment in the Texas Peer Assistance Program for Nurses (TPAPN),** including payment of a non-refundable participation fee in the amount of five hundred dollars (\$500.00); and
- B. **Waives confidentiality and provides a copy of the fully executed TPAPN participation agreement to the Board.**

IT IS FURTHER AGREED, upon verification of successful completion of the above requirements, the Suspension will be **STAYED**, and **RESPONDENT** will be placed on **PROBATION** for such a time as is required for **RESPONDENT** to successfully complete the **TPAPN AND** until Respondent fulfills the additional requirements of this Order.

- C. **RESPONDENT SHALL** pay all re-registration fees, if applicable, and **RESPONDENT'S** licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.
- D. **RESPONDENT SHALL** comply with all requirements of the TPAPN participation agreement during its term and **SHALL** keep all applicable license(s) to practice nursing in the State of Texas current.
- E. **RESPONDENT SHALL CAUSE** the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.
- F. This Order **SHALL** apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- G. This Order **SHALL** be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

- H. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to 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.

III. MONETARY FINE

RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars (\$250.00) within forty-five (45) days of the suspension being stayed. 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.

VI. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) within one (1) year of the suspension being stayed:

- A. A Board-approved course in Texas nursing jurisprudence and ethics that 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. Home study courses and video programs will not be approved.

- B. 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/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at www.bon.texas.gov/compliance.*

V. FURTHER COMPLAINTS

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.

VI. EFFECT OF NONCOMPLIANCE

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 TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

VII. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice 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 waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) 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 entry of this Order and all conditions of said 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

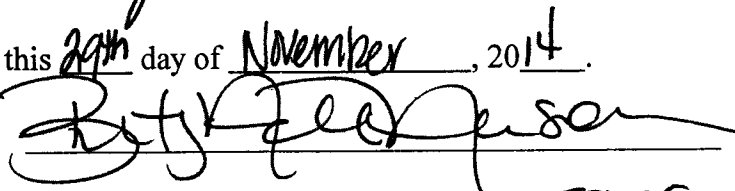
Signed this 29 day of November 2014



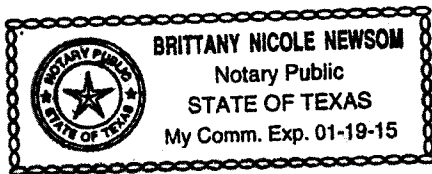
JOHN GABRIEL CANALES, Respondent

Sworn to and subscribed before me this 29th day of November, 2014.

SEAL




Notary Public in and for the State of Texas.



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 29th day of November, 2014, by JOHN GABRIEL CANALES, Registered Nurse License Number 736982, and said Order is final.

Effective this 4th day of December, 2014.



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