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Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Advanced Practice Registered § AGREED
Nurse License Number AP120339 with §
Prescription Authorization Number 11299 §
& Registered Nurse License Number 807741, §
issued to ESTHER BARINAADAA KEKII § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of ESTHER BARINAADAA KEKII, Advanced Practice Registered Nurse License Number AP120339 with Prescription Authorization Number 11299 and Registered Nurse License Number 807741, 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), &(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 May 17, 2016.

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. Respondent's license to practice as an advanced practice registered nurse in the State of Texas and prescriptive authorization are in current status.
4. Respondent received an Associate Degree in Nursing from Barnes Jewish College of Nursing and Allied Health, St. Louis, Missouri, on May 20, 2006, and received a Master's Degree in Nursing from Goldfarb School of Nursing, St. Louis, Missouri, on May 1, 2010. Respondent was licensed to practice professional nursing in the State of Missouri on August 25, 2006;

was licensed to practice professional nursing in the State of Texas on September 2, 2011; and was licensed to practice advanced practice registered nursing in the role of Adult Nurse Practitioner with prescription authorization in the State of Texas on June 3, 2011.

5. Respondent's complete nursing employment history is unknown.
6. During approximately August 2012 through August 2013, Respondent engaged in the non-therapeutic and excessive prescribing of narcotics to patients. Over the period of approximately twelve (12) months, Respondent issued 4,678 prescriptions for controlled substances, including hydrocodone, Soma, and benzodiazepines, to patients, the majority of which were at their maximum available dosages. Respondent repeatedly prescribed the same strength, dose, and quantity of hydrocodone, Soma, and/or a benzodiazepine to patients. Such prescribing practices indicate a failure to individually assess each patient and develop an appropriate treatment plan in response to each patient's individual assessment and would not typically be seen within a legitimate medical clinic.

Further, prescribing the maximum doses of hydrocodone, Soma, and benzodiazepines in such large quantities falls below the minimum standard of care because when mixed together in such unsupported quantities, these Central Nervous System (CNS) depressants have greater risks than therapeutic benefit.

7. On or about August 2012 through September 5, 2013, while practicing as an Adult Nurse Practitioner at Victory Medical & Wellness Center, Houston, Texas, Respondent's practice fell below the minimum applicable nursing standards of practice in that she engaged in non-therapeutic prescribing practices. During this time period, Respondent prescribed dangerous drug cocktails to patients, including patients CB, CBr, GG, JN, OR, BS, and CW, without conducting appropriate assessments and/or individualized treatment plans to justify her prescribing practices. Prescribing CNS depressants in such unsupported quantities falls below the minimum standards of nursing practice because CNS depressants have greater risks than therapeutic benefit when mixed together. Additionally, Respondent failed to exhaust low-risk, evidence based treatments before resorting to high-risk, non-evidence based treatments. Respondent further failed to collaborate and/or document collaboration with a delegating/collaborating physician, as required, in the patients' medical records. Respondent failed to monitor the patients for abusive or drug-seeking behavior. Finally, Respondent failed to document and/or accurately document in the patients' medical records.
8. Formal Charges were filed on September 10, 2015.

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)& (4); 217.12 (1)(A), (1)(B) & (4); 221.12 (effective 2/25/01 to current); 221.13 (effective 2/25/01 to current); 222.4 (effective 2/14/10 to 11/20/13); & 222.8 (effective 2/14/10 to 11/20/13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1),(10)&(13), Texas Occupations Code, to take disciplinary action against Advanced Practice Registered Nurse License Number AP120339 with Prescription Authorization Number 11299 and Registered Nurse License Number 807741, heretofore issued to ESTHER BARINAADAA KEKII, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

TERMS OF ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Advanced Practice Registered Nurse License Number AP120339 with Prescription Authorization Number 11299 and Registered Nurse License Number 807741, previously issued to ESTHER BARINAADAA KEKII, 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:

- (1) RESPONDENT's Prescription Authorization Number 11299, heretofore issued to ESTHER BARINAADAA KEKII, is LIMITED by the Texas Board of Nursing. In connection with this restriction, the Board imposes the following conditions:

- (A) While under the terms of this Order, RESPONDENT SHALL NOT prescribe any controlled substances under Prescription Authorization Number 11299, and SHALL NOT prescribe or order any controlled substances.
- (B) RESPONDENT shall surrender all DEA Controlled Substances Registration Certificate(s) and DPS Controlled Substances Registration Certificate(s) on or before 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 successfully completed all of the terms and requirements of this Order and petitioned the Board and received written authorization from the Board.
- (C) Before petitioning for reinstatement of RESPONDENT'S unrestricted prescription authorization, RESPONDENT SHALL satisfy all then existing requirements including completion of ten (10) hours of continuing education approved by the Board that relates to diagnosis and treatment of chronic pain. The topics covered by such continuing education must include: risk assessment, urine drug testing, addictions, evidence based conservative treatment options, care of patients with mental health co-morbidities and accidental lethal drug overdose. These continuing education requirements are in addition to the probationary stipulations outlined herein and any continuing education requirements the Board may require for licensure renewal.

II. COMPLIANCE WITH LAW AND APPLICABILITY

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.

- A. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- B. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. 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.

III. 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 courses **within one (1) year of the effective date of this Order, unless otherwise specifically indicated:**

- A. **A 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.*

IV. MONETARY FINE

RESPONDENT SHALL **pay a monetary fine in the amount of five thousand dollars (\$5,000.00) within one (1) year of the effective date 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.

V. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as an

advanced practice registered nurse in the State of Texas, providing direct patient care in a clinical healthcare setting, for a minimum of sixty-four (64) hours per month for eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) quarterly periods of employment as an advanced practice registered nurse have elapsed. Any quarterly period without continuous employment as an advanced practice registered nurse with the same employer for all three (3) months will not count towards completion of this requirement. Periods of unemployment or of employment that do not require the use of a advanced practice registered nurse (APRN) license will not apply to this period and will not count towards completion of this requirement. Further, Respondent may not work as a registered nurse (RN) or a vocational nurse (LVN) license, as applicable, while under the terms of this Order.

- A. Notifying Present and Future Employers, Practice Sites and Credentialing Agencies:** RESPONDENT SHALL notify each present employer, practice site and/or credentialing agency in nursing of this Order of the Board and the stipulations 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. While under the terms of this Order, RESPONDENT SHALL notify all future employers, practice sites and/or credentialing agencies in nursing and present a complete copy of this Order, including all attachments, if any, to each future employer, practice site and/or credentialing agency in nursing prior to accepting an offer of employment and/or assignment.

- B. Notification of Employment Forms:** 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.

- C. **Monitored Practice:** RESPONDENT'S advanced practice registered nursing must be monitored by a Physician or an Advanced Practice Registered Nurse in the same advanced role and population focus area as Respondent who has been approved by the Board. RESPONDENT MUST, within ten (10) days of entry of this Order or within (10) days of employment as an advanced practice registered nurse, provide to the Board a list of three (3) Advanced Practice Registered Nurses and/or three (3) Physicians from which the Board shall select an approved monitor. For each Advanced Practice Registered Nurse and Physician, the list must include 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 approved 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. Meetings may be longer and more frequent if the monitor determines necessary. Multiple employers are prohibited.

Additionally, while under the terms of this Order, RESPONDENT agrees not to provide treatment/medication(s) to patients for chronic pain.

- D. **Nursing Performance Evaluations:** RESPONDENT SHALL CAUSE each supervising/monitoring Advanced Practice Registered Nurse or Physician 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 Advanced Practice Registered Nurse or Physician who supervises/monitors the RESPONDENT and these reports shall be submitted by the supervising/monitoring Advanced Practice Registered Nurse or Physician to the office of the Board at the end of each three (3) month quarterly period for eight (8) quarters [two (2) years] of employment as a nurse.

VI. 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.

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.

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RESPONDENT'S CERTIFICATION

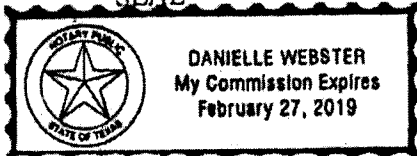
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that when this Order becomes final and the terms of this Order become effective, 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 possible revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 20th day of MAY, 2016.

ESTHER BARINAADAA KEKII, Respondent

Sworn to and subscribed before me this 20th day of MAY, 2016.

SEAL



Danielle Webster
Notary Public in and for the State of TEXAS

Approved as to form and substance.

Don E. Lewis, Attorney for Respondent

Signed this 23 day of May, 2016.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 20th day of May, 2016, by ESTHER BARINAADAA KEKII, Advanced Practice Registered Nurse License Number AP120339 with Prescription Authorization Number 11299 and Registered Nurse License Number 807741, and said Order is final.

Effective this 14th day of June, 2016.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas".

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