



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or its 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 § AGREED
Registered Nurse License Number 716876 §
issued to MICHAEL BRIAN NEELEY § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MICHAEL BRIAN NEELEY, Registered Nurse License Number 716876, 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),(5)&(10) and 301.453, Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on July 19, 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 representation by counsel, 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 The University of Texas, Austin, Texas on May 13, 2005. Respondent was licensed to practice professional nursing in the State of Texas in June 16, 2005.
5. Respondent's registered nursing employment history is unknown.

6. On or about September 16, 2015, Respondent entered a plea of Nolo Contendere to and was convicted of DRIVING WHILE INTOXICATED, a Class B misdemeanor offense, committed on December 26, 2013, in the County Court at Law No. 5 of Travis County, Texas, under Cause Number C-1-CR-13-221707. As a result of the conviction, Respondent was sentenced to confinement in the Travis County Jail for a period of one-hundred eighty (180) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of twenty (20) months and was ordered to pay court costs.
7. In response to Finding of Fact Number Six (6), Respondent states he disclosed the incident in a letter submitted to the Texas Board of Nursing on April 8, 2014. In said letter, Respondent states he diverted Klonopin at work, and was later involved in a car accident in the garage at his place of employment. Prior to January 2013, Respondent states he had eight (8) years sobriety. Respondent further states this incident led him to rehabilitation and therapy. Respondent sought treatment at a thirty-day inpatient rehabilitation facility; was admitted into and remained compliant with TPAPN program, including an intensive outpatient program; attends AA meetings; and attends therapist and psychiatric appointments. Respondent further states he has remained sober for over two years, and is active in the recovery community.
8. On or about March 28, 2016, 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 arrested and have a pending criminal charge?
 - B. been convicted of a misdemeanor?
 - C. been convicted of a felony?
 - D. pled nolo contendere, no contest, or guilty?
 - E. received deferred adjudication?
 - F. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
 - G. been sentenced to serve jail, prison time, or court-ordered confinement?
 - H. been granted pre-trial diversion?
 - 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 judgement/punishment/action?"

Respondent failed to disclose that on or about September 16, 2015, Respondent entered a plea of Nolo Contendere to and was convicted of DRIVING WHILE INTOXICATED, a Class A misdemeanor offense, committed on December 26, 2013, in the County Court at Law No. 5 of Travis County, Texas, under Cause Number C-1-CR-13-221707.

9. In response to Finding of Fact Number Eight (8), Respondent states this was a mistake and that he was under the impression that since "I had listed and sent a letter in April 2014 explaining what had happen, that I did not need to send another letter at this renewal."
10. The 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.
11. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use disorder.
12. 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 violation(s) of 22 TEX. ADMIN. CODE §217.12(6)(I)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2),(5)&(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 716876, heretofore issued to MICHAEL BRIAN NEELEY, up to, and 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.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT 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 TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement and complete the enrollment process, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) 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.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

(5) RESPONDENT SHALL **pay a monetary fine in the amount of two-hundred fifty dollars (\$250.00). RESPONDENT SHALL pay this fine within 45 days.** 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 and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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.

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, Respondent may not work outside the State of Texas pursuant to a multistate licensure 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.

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 EMERGENCY 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.

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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 Findings of Fact, Conclusions of Law, and Conditions One (1) through Five (5) 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 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 15th day of August, 2016.

Mich Neeley

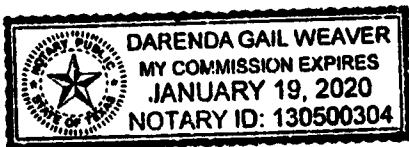
MICHAEL BRIAN NEELEY, RESPONDENT

Sworn to and subscribed before me this 15th day of August, 2016.

SEAL

Darenda Gail Weaver

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 accept and enter the Agreed Order that was signed on the 15th day of August, 2016, by MICHAEL BRIAN NEELEY, Registered Nurse License Number 716876, and said Order is final.

Entered and effective this 19th day of August, 2016.



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