



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 § AGREED  
Vocational Nurse License Number 192556 §  
issued to JANA LYNN EARNEST § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JANA LYNN EARNEST, Vocational Nurse License Number 192556, 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)(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 April 12, 2018.

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 vocational nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Texas State Technical College, Breckenridge, Texas, on December 18, 2003. Respondent was licensed to practice vocational nursing in the State of Texas on February 13, 2004.
5. Respondent's nursing employment history includes:

2/2004-9/2004	Staff Nurse	Villa Haven Health and Rehabilitation Breckenridge, Texas
---------------	-------------	--

Respondent's nursing employment history continued:

9/2004-7/2005	Office Nurse	Rural Care Clinic Albany, Texas
7/2005-3/2007	Office Nurse	Family Medicine Clinic Breckenridge, Texas
3/2007-4/2016	Staff Nurse	Breckenridge Medical Center Breckenridge, Texas
5/2016-Present	Clinic Supervisor	Breckenridge Medical Center Breckenridge, Texas

6. At the time of the incident, Respondent was employed as a Clinic Supervisor at Breckenridge Medical Center, Breckenridge, Texas, and had been in that position for one (1) year and one (1) month.
7. On or about June 5, 2017, through June 16, 2017, while employed as a Clinic Supervisor at Breckenridge Medical Center, Breckenridge, Texas, Respondent used a physician's username and password to submit fifty-six (56) electronic patient prescriptions to the pharmacy, under the physician's name, while the physician was out of the country. Respondent's conduct exceeded her scope of practice, and was misleading to the pharmacy.
8. In response to the incident in Finding of Fact Number Seven (7), Respondent states that before the physician left on vacation, they discussed procedures while he was gone, including handling patient refill requests. Respondent states that the physician authorized the handling of refill requests to her, and gave Respondent his login and password for the computer system to complete refill requests. Respondent states that the physician authorized her to approve refill requests for medically necessary medications such as blood pressure, diabetes, and thyroid medication, but no controlled substances. Respondent states that the doctor told her to contact him on the phone if she had any concerns. Respondent adds that she entered the refill requests because she thought she was working under the doctor's delegation.
9. On March 24, 2018, Respondent completed a Board approved course in Nursing Jurisprudence and Ethics, which would have been a requirement of this Order.
10. On March 24, 2018, Respondent completed a Board approved course in Sharpening Critical Thinking Skills, which would have been a requirement of this Order.

## 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)(T) and 22 TEX. ADMIN. CODE §217.12(1)(E)&(6)(H).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 192556, heretofore issued to JANA LYNN EARNEST.
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

### I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **WARNING WITH STIPULATIONS AND A FINE** in accordance with the terms of 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. As a result of this Order, Respondent's license(s) will be designated "single state" and Respondent may not work outside the State of Texas in another nurse licensure compact party state.

### 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. UNDERSTANDING BOARD ORDERS

Within thirty (30) days of entry of this Order, RESPONDENT must successfully complete the Board's online course, "Understanding Board Orders," which can be accessed on the Board's website from the "Discipline & Complaints" drop-down menu or directly at: <http://www.bon.texas.gov/UnderstandingBoardOrders/index.asp>. Upon successful completion, RESPONDENT must submit the course verification at the conclusion of the course, which automatically transmits the verification to the Board.

### IV. MONETARY FINE

RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500.00) within forty-five (45) days of 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.

### V. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a 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 four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until four (4) quarterly periods of employment as a nurse have elapsed. Periods of unemployment or of employment that do not require the use of a registered nurse (RN) or a vocational nurse (LVN) license, as appropriate, will not apply to this period and will not count towards completion of this requirement.

- A. Notifying Present and Future Employers:** RESPONDENT SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.
- C. Incident Reporting:** RESPONDENT SHALL CAUSE each employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.
- D. Nursing Performance Evaluations:** 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 individual who supervises the RESPONDENT and these reports shall be submitted by the supervising individual to the office of the Board at the end of each three (3) month quarterly period for four (4) quarters [one (1) year] of employment as a nurse.

**VI. 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, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, RESPONDENT may be eligible for nurse licensure compact privileges, if any.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

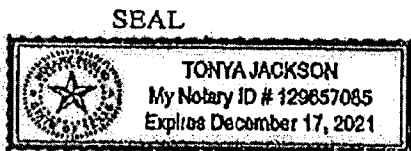
CONTINUED ON NEXT PAGE.

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 20<sup>th</sup> day of April, 2018.  
Jana Lynn Earnest  
JANA LYNN EARNEST, Respondent

Sworn to and subscribed before me this 20<sup>th</sup> day of April, 2018.



Tonya Jackson  
Notary Public in and for the State of Texas

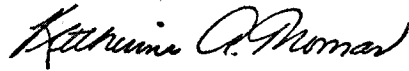
Approved as to form and substance.

Taralynn R. Mackay  
Taralynn Mackay, Attorney for Respondent

Signed this 8<sup>th</sup> day of May, 2018.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 20th day of April, 2018, by JANA LYNN EARNEST, Vocational Nurse License Number 192556, and said Order is final.

Effective this 12<sup>th</sup> day of June, 2018.



---

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