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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 AP118431, §
Registered Nurse License Number 709977, §
& Vocational Nurse License Number 172989 §
issued to KELLY BURROWS WENGER § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of KELLY BURROWS WENGER, Advanced Practice Registered Nurse License Number AP118431, Registered Nurse License Number 709977, and Vocational Nurse License Number 172989, 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 10, 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 delinquent status. 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 is in current status.
4. Respondent received a Certificate in Vocational Nursing from Odessa College, Odessa, Texas, on August 12, 1999; an Associate Degree in Nursing from Odessa College, Odessa, Texas, on May 31, 2000; and a Master's Degree in Nursing from Texas Tech University

Health Science Center, Lubbock, Texas, on August 22, 2009. Respondent was licensed to practice vocational nursing in the State of Texas on September 15, 1999; and was licensed to practice professional nursing in the State of Texas on September 17, 2004; and was licensed to practice advanced practice registered nursing in the role of Family Nurse Practitioner in the State of Texas on November 6, 2009; and was granted Prescriptive Authority in the State of Texas on November 6, 2009.

5. Respondent's nursing employment history includes:

09/99 - 05/00	Unknown	
06/00 - 03/05	Staff RN	Permian Pediatrics Odessa, Texas
03/05 - 11/09	Staff RN	Odessa Regional Medical Center Odessa, Texas
11/09 - 03/11	FNP	Naidu Clinic Odessa, Texas
03/11 - 11/12	FNP	West Loop Family Practice Odessa, Texas
11/12 - 10/14	FNP	Odessa General Surgery Odessa, Texas
11/14 - Present	FNP	Maria Cole Family Practice Odessa, Texas

6. At the time of the initial incident, Respondent was employed as a Family Nurse Practitioner with Maria Cole Family Practice, Odessa, Texas, and had been in that position for one (1) year and one (1) month.

7. On or about December 14, 2015 through February 2, 2017, while employed as a Family Nurse Practitioner with Maria Cole Family Practice, Odessa, Texas, Respondent issued prescriptions to Patient MC, a co-worker, for phentermine, pristiq, and spironolactone, without conducting appropriate assessments to justify her prescribing practices, and/or failed to completely and accurately document her assessments and indication for the medications in the medical record of Patient MC. Respondent's conduct unnecessarily exposed the patient to a risk of harm from an incorrectly prescribed controlled substance, created an incomplete medical record, and was likely to injure the patient in that subsequent providers would not have complete information to base their decisions for further medical care.

8. On or about January 3, 2017, while employed as a Family Nurse Practitioner with Maria Cole Family Practice, Odessa, Texas, Respondent engaged in non-therapeutic prescribing practices in that she prescribed Phentermine to Patient CW for weight loss when the patient had a normal body mass index of 24.3. Additionally, Respondent incorrectly documented in the medical record of Patient CW that she prescribed the Phentermine for the off-label use and treatment of the patient's ADHD. Respondent's conduct created an inaccurate medical record, and unnecessarily exposed the patient to a risk of adverse reactions, including tachycardia, insomnia, and potential for abuse/dependence.
9. In response to Findings of Fact Numbers Seven (7) and Eight (8), regarding Patient MC, Respondent asserts that all medications with documentation are in MC's paper chart and states MC was adamant about not documenting assessments in the electronic medical record. Regarding Patient CW, Respondent states the mother's main concern was CW's excessive sleeping and the patient's weight gain over the past four months. Respondent further states CW's mother asked about possibly using Phentermine to lose some of the weight she had gained. Respondent adds that when she populated CW's problem list from the EMR, it pulled up ADHD, Anxiety, Social Phobia, and Acne. Respondent states when she typed in Phentermine, it automatically placed in into the first diagnosis which was ADHD. Respondent states she called the medication into the pharmacy, not realizing it was linked to an ADHD diagnosis. Respondent admits she should have corrected it and added a overweight diagnosis and moved the Phentermine to the correct diagnosis.

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)(C),(1)(D)&(4) and 217.12(1)(A),(1)(B),(1)(C)&(4).
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 AP118431, Registered Nurse License Number 709977, and Vocational Nurse License Number 172989, heretofore issued to KELLY BURROWS WENGER.
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** 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. 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.*

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 four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until four (4) quarterly periods of employment as an advanced practice registered nurse have elapsed. 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.

- D. Nursing Performance Evaluations:** RESPONDENT SHALL CAUSE each supervising 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 the RESPONDENT and these reports shall be submitted by the supervising Advanced Practice Registered Nurse or Physician 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.

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RESPONDENT'S CERTIFICATION

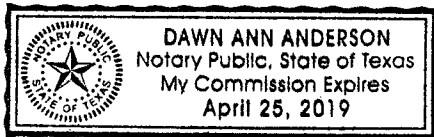
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said 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 28 day of May, 2018.

Kelly Burrows Wenger
KELLY BURROWS WENGER, Respondent

Sworn to and subscribed before me this 28 day of May, 2018.


SEAL



Dawn Ann Anderson
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 28th day of May, 2018, by KELLY BURROWS WENGER, Advanced Practice Registered Nurse License Number AP118431, Registered Nurse License Number 709977, and Vocational Nurse License Number 172989, and said Order is final.

Effective this 19th day of July, 2018.



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