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Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Registered Nurse License Number 782505 §
& Vocational Nurse License Number 194393 §
issued to JOEY LYNN LEINING § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JOEY LYNN LEINING, Registered Nurse License Number 782505 and Vocational Nurse License Number 194393, 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 May 14, 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. Respondent's license to practice as a professional nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Concord Career Institute, Arlington, Texas on July 10, 2004; and received an Associate Degree in Nursing from Excelsior College, Albany, New York on January 29, 2010. Respondent was licensed to practice vocational nursing in the State of Texas on August 19, 2004; and was licensed to practice professional nursing in the State of Texas on March 9, 2010.
5. Respondent's nursing employment history includes:

8/2004 - 9/2005 Unknown

Respondent's nursing employment history continued:

| | | |
|-------------------|------------------------|--|
| 9/2005 - 11/2006 | LVN | Trinity Hospice San Antonio, TX |
| 11/2006 - 10/2011 | RN Clinical Manager | Integra Care Hospice Bedford, TX |
| 10/2001 - 7/2013 | RN | Texas Hospice Fort Worth, TX |
| 7/2013 - 10/2017 | RN | Encompass Hospice of DFW Fort Worth, TX |
| 10/2017 - 1/2018 | Unknown | |
| 2/2018 - Present | RN | St. Gabriel's Hospice Ft. Worth, TX |

6. On or about May 21, 2007, Respondent was issued the sanction of REMEDIAL EDUCATION WITH A FINE through an Agreed Order by the Board of Nurse Examiners for the State of Texas. A copy of the Agreed Order, including the Findings of Fact, Conclusions of Law, and Order, dated May 21, 2007, is attached and incorporated herein by reference as part of this Order. Respondent successfully completed the terms of the Order on June 12, 2007.
7. At the time of the incident, Respondent was employed as a Registered Nurse with Encompass Hospice of Dallas Fort Worth, Fort Worth, Texas, and had been in that position for three (3) years and three (3) months.
8. On or about October 21, 2017 through October 22, 2017, while employed as a Registered Nurse with Encompass Hospice of Dallas Fort Worth, Fort Worth, Texas, Respondent failed to dispatch a registered nurse to Rocky Hollow Lake House, Georgetown, Texas, to assess Patient DW for the need of Ativan administration after Respondent received more than one call about patient agitation/anxiety. Respondent's conduct was likely to injure the patient, in that failing to dispatch a registered nurse to assess the patient could have resulted in the patient not receiving the care they needed.
9. On or about October 21, 2017 through October 22, 2017, while employed as a Registered Nurse with Encompass Hospice of Dallas Fort Worth, Fort Worth, Texas, Respondent approved non-licensed assisted living facility staff to administer Haldol to Patient DW without verifying the physician's orders. As a result, the assisted living facility administered Haldol to Patient DW, which had been discontinued. Respondent's conduct was likely to injure the patient, in that the administration of medications without a valid physician's order could result in the patient suffering from adverse reactions.

10. On or about October 21, 2017 through October 22, 2017, while employed as a Registered Nurse with Encompass Hospice of Dallas Fort Worth, Fort Worth, Texas, Respondent failed to ensure that the Ativan for Patient DW was re-ordered from the pharmacy after he was informed the patient was out of Ativan. Respondent's conduct was likely to injure the resident in that failure to refill medications as ordered by a physician could have resulted in non-efficacious treatment.
11. On or about October 21, 2017 through October 22, 2017, while employed as a Registered Nurse with Encompass Hospice of Dallas Fort Worth, Fort Worth, Texas, Respondent failed to dispatch a registered nurse to Patient GeHa for an assessment when he was notified by the facility staff the patient had a change in condition. Specifically, the patient developed a temperature of 99.3 and a non-productive cough. Respondent's conduct was likely to injure the patient, in that failing to dispatch a registered nurse to assess the patient could have resulted in the patient not receiving the care they needed.
12. On or about October 21, 2017 through October 22, 2017, while employed as a Registered Nurse with Encompass Hospice of Dallas Fort Worth, Fort Worth, Texas, Respondent failed to dispatch a registered nurse to Patient GIHi when the patient's husband requested help. Specifically, the husband reported he could not help the patient without hurting or dropping her due to her severe weakness and that the patient was half in her wheelchair and half sliding out. Respondent suggested to the husband he should ask for assistance from a friend. Respondent's conduct was likely to injure the patient, in that failing to dispatch a registered nurse to assess the patient could have resulted in the patient not receiving the care they needed.
13. In response to Findings of Fact Eight (8) through Twelve (12), Respondent admits to directing the facility to administer a discontinued medication. Respondent states no harm came to the patients and he advised the RNCM to follow up with their patients the following day.
14. Formal Charges were filed on February 22, 2018.
15. Formal Charges were mailed to Respondent on February 23, 2018.

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)&(3) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(4)&(11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 782505 and Vocational Nurse License Number 194393, heretofore issued to JOEY LYNN LEINING.
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 course(s) within one (1) year of the effective date of this Order, unless otherwise specifically indicated:

- 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. A Board-approved course in medication administration with a didactic portion of not less than six (6) hours and a clinical component of not less than twenty-four (24) hours. Both the didactic and clinical components must be provided by the same Registered Nurse. The course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the six (6) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The clinical component SHALL focus on tasks of medication administration only. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. Successful completion of this course requires RESPONDENT to successfully complete both the didactic and clinical portions of the course.
- C. A Board-approved course in nursing documentation that shall be a minimum of six (6) hours in length. The course's content shall include: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. Home study courses and video programs will not be approved.

- D. 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 a nurse in the State of Texas, providing direct patient care in a clinical healthcare setting, for a minimum of forty eight (48) 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:** While employed as a Registered Nurse with St. Gabriel's Hospice, Fort Worth, Texas, RESPONDENT SHALL CAUSE 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. **Indirect Supervision:** Should Respondent's employment as a Registered Nurse with St. Gabriel's Hospice, Fort Worth, Texas cease or change, RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse, who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- E. **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.

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 4 day of September, 2018.

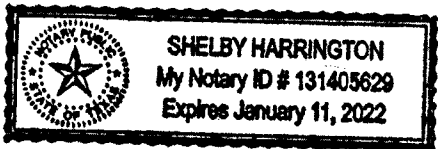
Joe Lynn Leining
JOE LYNN LEINING, Respondent

Sworn to and subscribed before me this 4th day of September, 2018.

SEAL

Shelby Harrington

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 4th day of September, 2018, by JOEY LYNN LEINING, Registered Nurse License Number 782505 and Vocational Nurse License Number 194393, and said Order is final.

Effective this 25th day of October, 2018.



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