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Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED ORDER
Advanced Practice Registered Nurse License §
Number AP122956 with Prescription §
Authorization Number 13553 & §
Registered Nurse License Number 720249 §
issued to GARY DALE SACKETT §
§

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of GARY DALE SACKETT, Advanced Practice Registered Nurse License Number AP122956 with Prescription Authorization Number 13553, and Registered Nurse License Number 720249, 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 Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on April 8, 2019.

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 Agreed 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 with authorization as a Family Nurse Practitioner is in current status with Prescription Authorization Number 13553 in current status.

4. Respondent received a Diploma in Nursing from Covenant School of Nursing, Lubbock, Texas, on May 27, 2005. Respondent completed a Family Nurse Practitioner Program from Texas Tech University Health Science Center, Lubbock, Texas, on August 18, 2012. Respondent was licensed to practice professional nursing in the State of Texas on August 25, 2005. Respondent was licensed to practice advanced practice registered nursing in the State of Texas with authorization as a Family Nurse Practitioner on December 10, 2012. Respondent was licensed to practice advanced practice registered nursing in the State of Texas with authorization as a Family Nurse Practitioner with Prescription Authorization on December 10, 2012.

5. Respondent's nursing employment history includes:

01/2005 – 05/2006	RN SICU	Covenant Medical Center Lubbock, Texas
04/2006 – 07/2008	RN Branch Manager	HomeCare Solutions Slaton, Texas
01/2008 – 08/2008	RN ER	University Medical Center Lubbock, Texas
07/2008 – 09/2009	RN Branch Manager/ Clinical Supervisor	NursCare Home Health Slaton, Texas Tahoka, Texas
09/2009 – 06/2012	RN Instructor	Covenant School of Nursing Lubbock, Texas
12/2009 – 06/2012	CICU RN	Covenant School of Nursing Lubbock, Texas
05/2012 – 05/2013	RN Charge Nurse/ ER	Lynn County Hospital District Tahoka, Texas
08/2012 – 03/2017	FNP	Slaton Family Medical, PLLC Slaton, Texas
08/2015 – Unknown	FNP	The Kids Clinic Lubbock, Texas

6. On or about December 2, 2013, through March 31, 2017, while employed as a Family Nurse Practitioner and owner of Slaton Family Medical Clinic a/k/a Oasis Medical Clinic, Slaton, Texas, Respondent's practice fell below the minimum standards of nursing practice in that he engaged in non-therapeutic prescribing practices. More specifically, Respondent issued prescriptions for controlled substances to patients: AC, AZ, CA, DB, ET, HS, JB, JiBe, JV, KH, KW, LM, MW, PG, RC, RP, RW, SG, SR, TJ without conducting appropriate assessments to justify his prescribing practices. Respondent continually prescribed controlled substances without regard to therapeutic benefit; failed to exhaust evidence-based, low-risk treatments before resorting to non-evidence based, high-risk treatments; and failed to appropriately monitor the patients for aberrant, drug-taking behavior after repeatedly prescribing controlled substances to the patients.
7. In response to Finding of Fact Number Six (6) Respondent states he worked at Slaton Family Medical Clinic from August 2012 through July 15, 2015. Respondent states the clinic is located in Slaton, Texas, a rural town that is located on the outskirts of Lubbock, Texas, and has a population of just over 6,000 people. The clinic provided medical care for an underserved area. During the period in question, the clinic's patient load increased significantly because another clinic nearby closed their doors. Many patients were left without treating physicians and the clinic accepted scores of new patients. While at the clinic, Respondent worked under the supervision of the medical director. Respondent states that due to the volumes of patient complaints, an Addendum to the Prescriptive Authority was executed on July 20, 2014, that allowed providers to prescribe 90 day supplies of narcotics at the provider's discretion. Respondent states the clinic implemented several tools to monitor safe prescription practice, including: sporadic urine drug screens, ordering of routine labs, close interaction with the medical director, execution of a Narcotic Agreement, monitoring the patient's profiles through DPS, and referrals to specialists.

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)(M),(1)(N),(1)(P),(1)(Q),(1)(R),(1)(T),(4)(A)&(4)(B) and 22 TEX. ADMIN. CODE §217.12 (1)(A),(1)(B),(1)(E)&(4); 221.13(a)&(b); 222.4(a); and 222.8(a)&(b).
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 AP122956 with Prescription Authorization Number 13553, and Registered Nurse License Number 720249, heretofore issued to GARY DALE SACKETT.

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, subject to ratification by the Texas Board of Nursing, that:

Prescription Authorization Number 13553, previously issued to GARY DALE SACKETT, is **LIMITED and RESPONDENT SHALL NOT prescribe or order any controlled substances**. Further, RESPONDENT SHALL surrender any and all DEA (United States Drug Enforcement Administration) Controlled Substances Registration Certificates and/or any other government issued certificates or authorizations to prescribed controlled substances, if any, on or before the effective date of this Order; and

Advanced Practice Registered Nurse License Number AP122956, and Registered Nurse License Number 720249, previously issued to GARY DALE SACKETT, to practice nursing in the State of Texas are hereby **SUSPENDED** and said suspension is **STAYED** and RESPONDENT is hereby placed on **PROBATION** for a minimum of two (2) years **AND** until RESPONDENT fulfills the additional requirements 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 Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Agreed 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 and video programs will not be approved.

- B. **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.
- C. **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. **MONETARY FINE**

RESPONDENT SHALL **pay a monetary fine in the amount of one thousand dollars (\$1000.00) within ninety (90) days 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.

VI. **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. Periods of unemployment or of employment that do not require the use of an 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 Reports:** 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.

VII. **FURTHER COMPLAINTS**

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against 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.

VIII. **RESTORATION OF UNENCUMBERED LICENSE(S) AND/OR FULL PRESCRIBING AUTHORIZATION**

With the exception of RESPONDENT'S Prescription Authorization, upon full compliance with the terms of this Agreed Order, all other 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.

Upon full compliance with the terms of this Order, RESPONDENT'S Prescription Authorization shall remain **LIMITED** and **RESPONDENT SHALL NOT be authorized to prescribe or order any controlled substances** until such time that

RESPONDENT petitions and obtains written authorization from the Board to prescribe controlled substances, subject to the following additional requirements:

- A. RESPONDENT shall not petition the Board for the authority to prescribe controlled substances until RESPONDENT has successfully completed all of the terms and requirements of this Order.
- B. Upon petitioning for reinstatement of authority to prescribe controlled substances, RESPONDENT SHALL satisfy all then existing requirements in addition to having completed ten (10) hours of continuing education (CE) approved by the Board that relates to diagnosis and treatment of chronic pain. The topics covered by such CE 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.
- C. The Board may impose additional restrictions or stipulations to accompany the re-issuance of the RESPONDENT'S authority to prescribe controlled substances, as deemed appropriate and necessary by the Board.
- D. Respondent shall not re-register or otherwise obtain a DEA Controlled Substances Registration Certificate(s) and/or any other government issued certificates or authorizations to prescribe controlled substances until Respondent obtains authorization in writing from the Board to prescribe controlled substances.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this 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 this Order is subject to ratification by the Texas Board of Nursing and a copy of this Order will be mailed to me once the Order becomes effective. 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) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 3rd day of September, 2019.

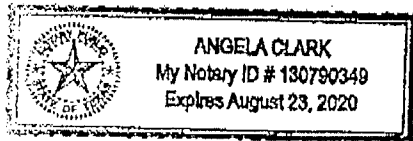
Gary Dale Sackett
GARY DALE SACKETT Respondent

Sworn to and subscribed before me this 3rd day of September, 2019.

SEAL

GARY DALE SACKETT / Angela Clark

Notary Public in and for the State of TEXAS



Approved as to form and substance.

J. Marc Calvert
J. Marc Calvert, Attorney for Respondent

Signed this 3rd day of September, 2019.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 3rd day of September, 2019, by GARY DALE SACKETT, Advanced Practice Registered Nurse License Number AP122956 with Prescription Authorization Number 13553, and Registered Nurse License Number 720249, and said Agreed Order is final.

Effective this 24th day of October, 2019.



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