

In the Matter of
THOMAS EDISON LEARY,
Advanced Practice Registered Nurse License
Number AP120438 with Prescription
Authorization Number 11386
& Registered Nurse License Number 731425

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BEFORE THE TEXAS

BOARD OF NURSING

NUNC PRO TUNC ORDER OF THE BOARD

An Agreed Order was entered for THOMAS EDISON LEARY on December 10, 2019. The Order, however, contained an error on page 5. Upon notice and hearing, administrative agencies, like the Courts, have the power to enter nunc pro tunc orders where it can be seen by reference to a record that what was intended to be entered, but was omitted by inadvertence or mistake, can be corrected upon satisfactory proof of its rendition provided that no intervening rights will be prejudiced. *Railroad Comm'n v. McClain*, 356 S.W.2d 330, 334 (Tex. App.--Austin 1962, no writ) (citing *Frankfort Ky. Nat. Gas Co. v. City of Frankfort*, 276 Ky. 199, 123 S.W.2d 270, 272).

The Executive Director, as agent of the Texas Board of Nursing, after review and due consideration of the record and the facts therein submits and enters the corrected Agreed Order. Respondent received due process regarding his license; therefore, his rights have not been prejudiced.

NOW, THEREFORE, IT IS ORDERED that the corrected Agreed Order is hereby approved and entered on the dates set forth below.

Order effective December 10, 2019.

Entered this 7th day of April, 2020.

BY:



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	AGREED ORDER
Advanced Practice Registered Nurse License	§	
Number AP120438 with Prescription	§	
Authorization Number 11386	§	
& Registered Nurse License Number 731425	§	
issued to THOMAS EDISON LEARY	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of THOMAS EDISON LEARY, Advanced Practice Registered Nurse License Number AP120438 with Prescription Authorization Number 11386, and Registered Nurse License Number 731425, 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),(8)&(10), 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 July 15, 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 11386 in current status.
4. Respondent received an Associate Degree in Nursing from Phoenix College, Phoenix, Arizona, on May 11, 2005. Respondent completed a Family Nurse Practitioner Program from Baylor University, Dallas, Texas, on May 1, 2011. Respondent was licensed to practice professional nursing in the State of Texas on July 12, 2006. 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 June 24, 2011.

5. Respondent's nursing employment history includes:

7/06 – 11/07	Nurse Manager	Greenville Surgery Center Dallas, Texas
11/07 – 6/11	RN	Baylor University Medical Center Dallas, Texas
4/11 – 7/11	FNP	Agape Clinic Dallas, Texas
7/11 – 2/16	FNP	Uptown Physicians Group Dallas, Texas
3/16 – 4/17	FNP	Spectrum Medical Group Phoenix, Arizona
5/17 – 6/17		Unknown
7/17 – 10/17	FNP	Wellspring Medical Phoenix, Arizona
10/17 – 1/18	FNP	Camelback Health Care Phoenix, Arizona
2/18 – 8/18	FNP	Ava Pain Management, formerly known as White Cranes Medical Center Tempe, Arizona
8/18 – 10/18	Clinical Operations Director	House Call Medical Group Phoenix, Arizona
11/18 – Present	Clinical Director	RestoreDOC Dallas, Texas

6. On or about November 29, 2018, Respondent submitted a Delinquent (Expired) License Renewal Form to the Texas Board of Nursing, in which you provided false, deceptive, and/or misleading information, in that Respondent answered "No" to the question:

Are you currently the target or subject of a grand jury or governmental agency investigation?

Respondent failed to disclose that he was under investigation by the Arizona Board of Nursing.

7. On or about January 24, 2019, Respondent's licenses to practice Advance Practice Registered Nursing and Professional nursing in the State of Arizona was issued a Consent Agreement and Order of Probation by the Arizona Board of Nursing, Phoenix, Arizona. The Findings of Fact from the January 24, 2019, Arizona Order include, in pertinent part:
 - a. From in or around April 2016 through February 2017, while employed as an FNP at Spectrum in Phoenix, Arizona, Respondent admitted to having difficulty learning the agency's Electronic Medical Record (EMR) system resulting in him needing improvement in his quality of work. Respondent's issues with EMR continued and he continued to fall behind in charting. ...
 - b. From in or around April 2017 through July 2017, while employed as a FNP at DMG in Phoenix, Arizona, Respondent was required to submit to a neuropsychiatric evaluation and resigned in lieu of termination due to complications that Respondent admitted were due to anxiety, all of which poses a risk to patients.
 - c. From in or around August 2017 through October 2017, while employed as a FNP at Wellsprings, also known as Harmony in, Tempe, Arizona, Respondent was observed by clinic staff as having difficulty with routine nursing tasks.
 - d. From in or around February 2018 through August 2018, while employed as a FNP at AVA Pain Management (formerly White Cranes Medical Center), Respondent admitted to inappropriately prescribing and over prescribing controlled substances to chronic pain patients and without appropriate education and training in pain management. ...
 - e. On or about November 29, 2018, Respondent submitted his Texas renewal application. On the renewal he answered "No" to the question which reads: "Are you currently the target or subject of a grand jury or governmental agency investigation?" Respondent has been under investigation with the Arizona Board of Nursing since August 21, 2018. ...

A copy of the Consent Agreement, Findings of Fact, Conclusions of Law and Order dated January 24, 2019, is attached and incorporated by reference as part of this Order.

8. In response to Findings of Fact Numbers Six (6) and Seven (7), Respondent did not intend to provide false information. He has always answered "no" to the questions and was not thinking of the Arizona Board as a governmental agency investigation. His attorney and the Arizona Board of nursing was aware of his plans on moving back to Texas and his intent on completing any disciplinary action in Texas.
9. On or about April 4, 2019, Respondent submitted to a Neuropsychological Evaluation completed by Wayne Dees, Psy.D., Dr. Dee's summary is that the Respondent appears to

generally be able to manage his tasks as a nurse, but due to the reported difficulties below it is highly suggested that Respondent appears to be an appropriate candidate for psychopharmacological intervention, with target symptoms of depression, anxiety and stress. His current medication use should be reevaluated for effectiveness. There is no indication of substance use or dependence disorder or history of overuse. He is also an appropriate candidate for individual psychotherapy as the second of two interventions. Respondent should maintain CEU's for his practice in Pharmacology, Opioid Prescribing and Substance Use Disorders for nurse. Respondent's overall cognitive skills are within normal limits.

10. On September 1, 2019, Respondent completed two (2) quarters under the Arizona Board Order, which the Board of Nursing is crediting towards 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 §217.12 (6)(I).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2),(8)&(10), Texas Occupations Code, to take disciplinary action against Advanced Practice Registered Nurse License Number AP120438 with Prescription Authorization Number 11386, and Registered Nurse License Number 731425, heretofore issued to THOMAS EDISON LEARY.
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 11386, previously issued to THOMAS EDISON LEARY, is **LIMITED** and **RESPONDENT SHALL NOT** prescribe or order

any controlled substances with the sole exception of PHENTERMINE, which the Respondent is permitted to prescribe while under the terms of this order. Further, RESPONDENT SHALL cause his 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, to be **LIMITED** to only prescribe **PHENTERMINE** , on or before the effective date of this Order; and

Advanced Practice Registered Nurse License Number AP120438, and Registered Nurse License Number 731425, previously issued to THOMAS EDISON LEARY, 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 one and half (1.5) 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.

- D. **The course "Prescriptive Authority for APRNs,"** a 1.2 contact hour online program provided by the Texas Board of Nursing. Information about this course is available at <https://www.bon.texas.gov/catalog/product/#bon-course-rx> or from the "CNE Workshops/Webinars" section of the Board's website under "News" menu.
- E. **The course "Determining APRN Scope of Practice,"** a 1.4 contact hour online program provided by the Texas Board of Nursing. Information about this course is available at <https://www.bon.texas.gov/catalog/product/#bon-course-aprnscope> or from the "CNE Workshops/Webinars" section of the Board's website under "News" menu.

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. APRN 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 six (6) quarterly periods [one and half (1.5) years] of employment. This requirement will not be satisfied until six (6) 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 six (6) quarters [one and half (1.5) years] of employment as a nurse.

VII. NEUROPSYCH THERAPY REPORTS

While working as a nurse under the terms of this Order, RESPONDENT SHALL participate in therapeutic sessions with a neuropsychologist possessing credentials approved by the Board. RESPONDENT SHALL CAUSE the neuropsychologist to submit written reports, on forms provided by the Board, as to the RESPONDENT'S progress and capability to safely practice nursing. The report must indicate whether or not the RESPONDENT'S stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended beyond the initial three (3) months, the reports shall then be required at the end of each three (3) month quarterly period for the remainder of the stipulation probation period, or until RESPONDENT is dismissed from therapy.

VIII. SUBSEQUENT CRIMINAL PROCEEDINGS

IT IS FURTHER AGREED, should the RESPONDENT'S conduct, as outlined in the findings of fact of this Agreed Order, result in subsequent judicial action, including a deferred disposition, RESPONDENT may be subject to further disciplinary action, up to,

and including, revocation of RESPONDENT'S license(s) to practice nursing in the State of Texas.

IX. 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.

X. 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

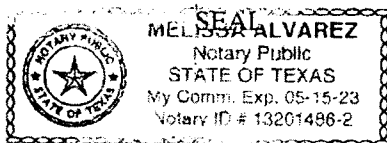
I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that 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.

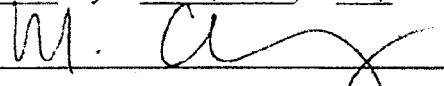
Signed this 30th day of October, 20 19.



THOMAS EDISON LEARY, RESPONDENT

Sworn to and subscribed before me this 30th day of October, 20 19.





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 30th day of October, 2019, by THOMAS EDISON LEARY, Advanced Practice Registered Nurse License Number AP120438 with Prescription Authorization Number 11386, and Registered Nurse License Number 731425, and said Agreed Order is final.

Effective this 10th day of December, 2019.

A handwritten signature in black ink, reading "Katherine A. Thomas". The signature is written in a cursive style with a horizontal line underneath.

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

BEFORE THE ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF REGISTERED NURSE
LICENSE NO. RN134228 AND ADVANCED
PRACTICE CERTIFICATE NO. AP8332
ISSUED TO:

THOMAS EDISON LEARY,
RESPONDENT

**CONSENT AGREEMENT
AND
ORDER NO. 1808040**

CONSENT AGREEMENT

A complaint charging Thomas Edison Leary ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements and the responsibilities of the Board, and pursuant to A.R.S. § 41-1092.07(F)(5), the undersigned parties enter into this Consent Agreement as a final disposition of this matter.

Based on the evidence before it, the Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent holds Board issued registered nurse license no. RN134228, and advanced practice certificate no. AP8332.
2. On or about August 21, 2018, the Board received a complaint from an anonymous source alleging Respondent is prescribing large amounts of pain and anxiety medications through "AVA Pain Management," formerly known as White Cranes Medical Center. Based on the information contained in the complaint, the Board conducted an investigation.
3. From in or around April 2016 through February 2017, while employed as an FNP at Spectrum in Phoenix, Arizona, Respondent admitted to having difficulty learning the agency's Electronic Medical Record (EMR) system resulting in him needing improvement in his quality of work. Respondent's issues with EMR continued and he continued to fall behind in charting. This resulted several areas of "Needs Improvement" on his evaluation on December 11, 2016.

4. From in or around April 2017 through July 2017, while employed as an FNP at DMG in Phoenix, Arizona, Respondent was required to submit to a neuropsychiatric evaluation and resigned in lieu of termination due to complications that Respondent admitted were due to anxiety, all of which poses a risk to patients.

5. From in or around August 2017 through October 2017, while employed as an FNP at Wellsprings, also known as Harmony in, Tempe, Arizona, Respondent was observed by clinic staff as having difficulty with routine nursing tasks.

6. From in and around February 2018 through August 2018, while employed as a FNP at AVA Pain Management (formerly White Cranes Medical Center), Respondent admitted to inappropriately prescribing and over prescribing controlled substances to chronic pain patients and without appropriate education and training in pain management. Respondent acknowledged during an interview with Board staff on October 19, 2018, that he had no training or experience in pain management before starting his position with AVA Pain Management.

7. On November 29, 2018, Respondent submitted his Texas renewal application. On the renewal he answered "No" to the question which reads: "Are you currently the target or subject of a grand jury or governmental agency investigation?" Respondent has been under investigation with the Arizona Board of Nursing since August 21, 2018. Respondent engaged in fraud, misrepresentation, or deceit in his Texas renewal application for a license.

CONCLUSIONS OF LAW

Pursuant to A.R.S. §§ 32-1606, 32-1663 and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances described in the Findings of Fact constitute violations of A.R.S. § 32-1663 (D) currently cited as defined in § 32-1601 (26) "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere: (d) Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public, (g) Willfully or repeatedly violating a provision of this chapter or a rule adopted pursuant to this chapter and (j) Violating this chapter or a rule that is adopted by the board pursuant to this chapter (effective

August 9, 2017), and currently cited as A.A.C. R4-19-403 (1) A pattern of failure to maintain minimum standards of acceptable and prevailing nursing practice; (7) Failing to maintain for a patient record that accurately reflects the nursing assessment, care, treatment, and other nursing services provided to the patient; (12) Assuming patient care responsibilities that the nurse lacks the education to perform, for which the nurse has failed to maintain nursing competence, or that are outside the scope of practice of the nurse and (31) Practicing in any other manner that gives the Board reasonable cause to believe the health of a patient or the public may be harmed (adopted effective January 31, 2009).

The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. § 32-1664(N) to revoke, suspend or take other disciplinary action against Respondent's license to practice as a registered nurse in the State of Arizona.

Respondent admits the Board's Findings of Fact and Conclusions of Law.

In lieu of a formal hearing on these issues, Respondent agrees to issuance of the attached Order and waives all rights to a hearing, rehearing, appeal or judicial review relating to this matter. Respondent further waives any and all claims or causes of action, whether known or unknown, that Respondent may have against the State of Arizona, the Board, its members, officers, employees and/or agents arising out of this matter.

Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

Respondent understands that the admissions in the Findings of Fact are conclusive evidence of a violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any future disciplinary matter.

Respondent understands the right to consult legal counsel prior to entering into this Consent Agreement and such consultation has either been obtained or is waived.

Respondent understands that this Consent Agreement is effective upon its acceptance by the Board or its Designee and by Respondent as evidenced by the respective signatures thereto.

Respondent's signature obtained via facsimile shall have the same effect as an original signature. Once signed by Respondent, the Agreement cannot be withdrawn without the Board's approval or by stipulation between Respondent and the Board's designee. The effective date of this Order is the date the Consent Agreement is signed by Respondent and accepted by the Board or its Designee.

Board Date: 1/24/2019

[Signature]
Thomas Edison Leary, Respondent

Dated: 1/23/2019

[Signature]
Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director
ARIZONA STATE BOARD OF NURSING

Acceptance Date: 1/24/2019

SEAL

DAHNRN134228/AP83327/LEARY.T

ORDER

In view of the above Findings of Fact, Conclusions of Law and the consent of Respondent, the Board hereby issues the following Order:

A. Respondent's consent to the terms and conditions of the Order and waiver of public hearing is accepted.

B. Respondent's license is placed on probation not to exceed 18 months, and for a minimum, 12 months. Prior to termination of probation, Respondent shall work as an advanced practice nurse for a minimum of 12 months (not less than 16 hours a week).

C. This Order becomes effective upon the Board and Respondent's acceptance of the Consent Agreement. The effective date of this Order is the date the Consent Agreement is signed by Respondent and accepted by the Board or its designee. If the Consent Agreement is

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THOMAS EDISON LEARY

signed on different dates, the later is the effective date. Probation is to commence the effective date of this Order.

D. While this Order is in effect and/or Respondent's license/certificate is subject to discipline, up to and including revocation or voluntary surrender, Respondent is not eligible to renew any other expired license or certificate previously held by Respondent without prior review and approval by the Board.

E. If Respondent is noncompliant with any of the terms of the Order, Respondent's noncompliance shall be reviewed by the Board for consideration of possible further discipline on Respondent's nursing license.

F. If Respondent is convicted of a felony, Respondent may request and sign a 3-year voluntary surrender of Respondent's license, or Respondent's license shall be automatically revoked. The revocation period is 5 years, by law. Respondent may apply for reissuance after a minimum period of 3 years, if a voluntary surrender, or 5 years, if a revocation, after a minimum of 3 years have passed since absolute discharge of the felony conviction, or the felony conviction has been reduced to a misdemeanor, set aside, or the equivalent. Respondent waives any and all rights to a hearing, rehearing or judicial review of any revocation imposed pursuant to this paragraph.

G. Probation is subject to the following terms and conditions:

TERMS OF PROBATION

1. License(s) and Certificate(s) on Probation

While this Order is in effect, if the Board issues any licenses or certificates authorized by statute except a nursing assistant certificate, such certificate or license shall be marked "Probation." Respondent is not eligible for a multistate "Compact" license.

While this Order is in effect, any license or certificate that Respondent presents to any employer or other member of the public shall be clearly marked "Probation."

2. Neuropsychological Evaluation/Treatment

Within 30 days of the effective date of the Order Respondent shall make an appointment to undergo a neuropsychological evaluation by a Board-approved psychologist with expertise to be completed within 60 days of the effective date of the Order. Respondent shall execute the appropriate release of information form(s) to allow the evaluator to communicate information to the Board or its designee. Prior to the evaluation, Respondent shall furnish a copy of this Consent Agreement and Order to the evaluator who shall verify receipt of the documents in a written report on letterhead to the Board. Respondent consents to the Board providing the evaluator with any documents deemed pertinent by the Board or its designee, which may include the Board's investigative report. Respondent shall direct the evaluator to provide a report to the Board summarizing the evaluation within thirty days after the evaluation is completed summarizing the evaluation and any resulting recommendations within 30 days after the evaluation is completed.

If it is recommended that Respondent undergo psychological treatment and/or psychological therapy or counseling, Respondent shall, within 7 days of notification of the recommendation(s), provide to the Board or its designee for prior approval, the name and qualifications of treatment professional(s) with appropriate level of expertise of Respondent's choice. Upon approval of the treatment professional(s), Respondent shall provide a copy of the entire consent agreement which the treatment professional(s) shall verify in writing on letterhead in their first report to the Board. Respondent shall undergo and continue treatment until the treatment professional(s) determines and reports to the Board in writing and on letterhead, that treatment is no longer considered necessary. Respondent shall have the treatment professional(s) provide written reports to the Board every three months. The reports are due as noted on the Quarterly Reporting Due Date form. The Board reserves the right to amend this Order based on

the evaluation results or the treatment professional's recommendations. Respondent shall complete all acute treatment recommendations made by the evaluator within 6-months of the effective date of the Order, or the license shall be automatically revoked.

3. Certification Review/Clinical Update Course for FNP

Within 30 days of the effective date of this Order, Respondent shall submit to the Board or its designee a plan for enrollment into a Board-approved course ("Program") for FNP Certification Review/Clinical Update, a minimum of 30 CEUs; this course may be taken online. Upon approval of Respondent's plan for enrollment, by the Board or its designee, Respondent shall provide a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law to the Program Director. Prior to or on the date of acceptance into the Program, or if Respondent is currently in a Program, the Program Director shall be notified within 72 hours of the effective date of this Order. Respondent shall cause the Program Director to inform the Board in writing, and on Program letterhead, acknowledgment of the Program's receipt of a copy of the Order. Respondent shall provide written proof from the instructor or provider of the course verifying enrollment, attendance, and successful completion of the course/program.

4. Advance Practice Pharmacology Course

Within 30 days of the effective date of this Order, Respondent shall submit to the Board or its designee for prior approval, Board-approved Advanced Practice Pharmacology course ("Program"), a minimum 45 CEU's to include a minimum of 8-hours on schedule II drugs requirement. The pharmacology course may be completed online, tele-seminar, or in the classroom and must contain proof of competency, such as a post-test demonstrating 80% proficiency or better. Upon approval of Respondent's plan for enrollment by the Board or its designee, Respondent shall provide a copy of this Consent Agreement and Order to include

Findings of Fact and Conclusions of Law to the Program Director. Within 7 days of enrolling in the Program, Respondent shall cause the Program Director to inform the Board in writing, and on Program letterhead, acknowledgment of the Program's receipt of a copy of the Order and Respondent's entry into the Program. Upon completion of the program, Respondent shall provide written proof from the instructor or provider of the course verifying enrollment, attendance, and successful completion of the advance practice pharmacology course.

5. Advanced Practice Physical Assessment Course

Within 30 days of the effective date of this Order, Respondent shall submit to the Board or its designee a plan for enrollment into a Board-approved Advanced Physical Assessment Course ("Program"), a minimum, 25 CEU's. The course may be completed online, tele-seminar, or in the classroom and must contain proof of competency, such as a post-test demonstrating 80% proficiency or better. Upon approval of Respondent's plan for enrollment by the Board or its designee, Respondent shall provide a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law to the Program Director. Within 7 days of enrolling in the Program, Respondent shall cause the Program Director to inform the Board in writing, and on Program letterhead, acknowledgment of the Program's receipt of a copy of the Order and Respondent's entry into the Program. Upon completion of the program, Respondent shall provide written proof from the instructor or provider of the course verifying enrollment, attendance, and successful completion of the physical assessment course/program.

6. Safe Opioid Prescribing

Within 30 days of the effective date of this Order, Respondent shall submit to the Board or its designee a plan for enrollment into a Board-approved Safe Opioid Prescribing course ("Program") with a minimum of 3.5 CEUs; when prescribing extended-release (ER) and long-acting (LA) opioids, minimum of 2 CEUs on Foundations of Assessing and Treating Pain,

minimum of 5 CEUs Risk Reduction Strategies for ER/LA Opioids. Upon approval of Respondent's plan for enrollment by the Board or its designee, Respondent shall provide a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law to the Program Director. Prior to or on the date of acceptance into the Program, or if Respondent is currently in a Program, the Program Director shall be notified within 72 hours of the effective date of this Order. Respondent shall cause the Program Director to inform the Board in writing, and on Program letterhead, acknowledgment of the Program's receipt of a copy of the Order. Respondent shall provide written proof from the instructor or provider of the course verifying enrollment, attendance, and successful completion of the course/program.

7. Nurse Manager Guidelines for Substance Use Disorder

Within 30 days of the effective date of this Order, Respondent shall submit to the Board or its designee a plan for enrollment into a Board-approved course ("Program") for Nurse Manager Guidelines for Substance Use Disorder, a minimum of 3 CEUs; this course may be taken online. Upon approval of Respondent's plan for enrollment, by the Board or its designee, Respondent shall provide a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law to the Program Director. Prior to or on the date of acceptance into the Program, or if Respondent is currently in a Program, the Program Director shall be notified within 72 hours of the effective date of this Order. Respondent shall cause the Program Director to inform the Board in writing, and on Program letterhead, acknowledgment of the Program's receipt of a copy of the Order. Respondent shall provide written proof from the instructor or provider of the course verifying enrollment, attendance, and successful completion of the course/program.

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8. Understanding Substance Use Disorder in Nursing

Within 30 days of the effective date of this Order, Respondent shall submit to the Board or its designee a plan for enrollment into a Board-approved course ("Program") for Understanding Substance Use Disorder in Nursing, a minimum of 5 CEUs; this course may be taken online. Upon approval of Respondent's plan for enrollment, by the Board or its designee, Respondent shall provide a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law to the Program Director. Prior to or on the date of acceptance into the Program, or if Respondent is currently in a Program, the Program Director shall be notified within 72 hours of the effective date of this Order. Respondent shall cause the Program Director to inform the Board in writing, and on Program letterhead, acknowledgment of the Program's receipt of a copy of the Order. Respondent shall provide written proof from the instructor or provider of the course verifying enrollment, attendance, and successful completion of the course/program.

9. Notification of Practice Settings

Any current or future setting in which Respondent is employed in any capacity requiring nursing licensure, shall be provided with a copy of the entire Order within 3 days from the date of hire, or within 3 days of the effective date of the Order, whichever comes first. Within three days of Respondent's date of hire, or within three days from the effective date of the Order if currently employed, Respondent shall cause her immediate supervisor to inform the Board, in writing and on employer letterhead, acknowledgment of the supervisor's receipt of a copy of this Consent Agreement and Order and the employer's ability to comply with the conditions of probation. In the event Respondent is attending a nursing program, Respondent shall provide a copy of the entire Consent Agreement and Order to the Program Director. Respondent shall cause the Program Director to inform the Board, in writing and on school

letterhead, acknowledgment of the program's receipt of a copy of the Consent Agreement and Order and the program's ability to comply with the conditions of probation during clinical experiences.

10. Practice Under Indirect Supervision

If working as an advanced practice nurse, Respondent shall practice as an advanced practice registered nurse only under the indirect supervision of an FNP with same education or higher, or physician in similar practice in good standing with Board. Indirect supervision is defined as having a Board-approved FNP with master's degree or higher, or a Board approved M.D. or D.O. available for in-person or telephonic consultation at all times while Respondent is on duty and who is available for consultation and is responsible for completing chart reviews and performance evaluations. The indirect supervisor shall contact Respondent 5 times every month to review practice and these interactions shall be documented and provided to the Board with the monthly chart audits. The supervising FNP shall have read this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law and Order and shall provide input on Respondent's performance evaluations to the Board. The supervising FNP shall be primarily one person, who may periodically delegate to other qualified personnel, who shall also have read this Consent Agreement and Order to include Findings of Fact, Conclusions of Law. In the event that the assigned supervising FNP is no longer responsible for the supervision required by this paragraph, Respondent shall cause his new supervising FNP to inform the Board in writing and on employer letterhead, acknowledgment of the new supervisor's receipt of a copy of this Consent Agreement and Order, to include the Findings of Fact and Conclusions of Law. The new supervising FNP shall provide a written agreement to comply with the conditions of probation within 10 days of assignment of a new a supervising FNP.

11. Monthly Performance Evaluations/Self-reports

While Respondent is practicing as an advanced practice (AP) nurse and within seven days of each assigned monthly reporting due date, Respondent shall cause her direct supervisor to submit monthly performance evaluations on the Board-approved form. The evaluations shall include documentation of five interactions/conversations between the supervisor who is providing direct supervision and Respondent. Receipt of notice of an unsatisfactory employer evaluation, verbal or written warning, counseling or disciplinary action any of which pertain to patient care practice issues, or termination from a place of employment shall be considered as noncompliance with the terms of the Order. In the event Respondent is not working in a position, which requires a RN licensure, or attending school during any quarter or portion thereof, Respondent shall provide to the Board, in writing, a self-report describing other employment or activities on the Board-approved form. Failure to provide employer evaluations/or self-reports within seven days of the reporting date shall be considered as noncompliance with the terms of the Order.

12. Random Chart Review

Within seven days of the effective date of this Order, in any setting in which Respondent is currently employed, and prior to working for any employer, Respondent shall identify and provide to the Board the name of a Family Nurse Practitioner (FNP) of same or higher education level, with prescribing privileges and in good standing with the Board or a Board approved physician. Respondent shall cause the previously identified nationally certified nurse practitioner or physician, to perform monthly and random chart reviews up to and not to exceed, 15 patients for whom Respondent has provided care during the prior 30 days (not to exceed 45 patients in a quarter). The audit shall be competency based and completed on the Board-approved form, which includes a review and confirmation of appropriate

subjective/objective assessment and treatment plan that includes following standard of care and standard treatment guidelines as appropriate. Respondent shall cause the auditor to provide to the Board, in writing, a summary of the random chart audit by the 30th of each month.

13. Out-of-State Practice/Residence

While this Consent Agreement and Order is in effect, and prior to accepting any out-of-state nursing practice/employment, Respondent shall notify the licensing/certification Board of the State(s) in which Respondent seeks to practice as a nurse of this Consent and Agreement and Order and shall obtain written permission from the licensing/certification Board(s) to practice as a nurse in another State. Respondent shall direct the licensing Board of the other State(s) to submit written authorization to the Board verifying Respondent is approved to practice nursing in that State. Once written verification is received by the Board, Respondent may submit a written request to the Board requesting an amendment to the Order to permit Respondent to fulfill the terms and conditions of this Order in that State.

Respondent shall comply with all terms and conditions of this Order whether practicing in Arizona or practicing in any other State. Respondent is permitted to fulfill his practice requirement and complete his probation in the State of Texas.

14. Release of Information Forms

Respondent shall sign all release of information forms as required by the Board or its designee and return them to the Board within 10 days of the Board's written request. Failure to provide for the release of information, as required by this paragraph constitutes non-compliance with this Order

15. Interview With the Board or Its Designee

Respondent shall appear in person or if residing out of state telephonically for interviews with the Board or its designee upon request and with notice of at least two days.

16. Renewal of License

In the event Respondent's registered/certificate nurse license is scheduled to expire while this Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualification to practice nursing in Arizona.

17. Change of Employment/Personal Address/Telephone Number

Respondent shall notify the Board, in writing, within seven days of any change in nursing employment. Changes in nursing employment includes, but is not limited to, a change in nursing supervisor, the acceptance, resignation or termination of employment.

Respondent shall notify the Board, in writing, within seven days of any change in personal address or telephone number. Written notification shall be satisfied if Respondent updates his address through the Board's secure online "My Services" portal.

18. Obey All Laws

Respondent shall obey all laws/rules governing the practice of nursing in this state and obey all federal, state and local criminal laws. Respondent shall report to the Board, within 10 days, any misdemeanor or felony arrest or conviction.

19. Costs

Respondent shall bear all costs of complying with this Order.

20. Violation of Probation

If Respondent is noncompliant with this Order in any respect, the Board or its designee may notify Respondent's employer of the noncompliance. Additionally, the Board may revoke probation and take further disciplinary action for noncompliance with this Order after affording Respondent notice and the opportunity to be heard. If a complaint or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing

jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

21. Voluntary Surrender of License

Respondent may, at any time this Order is in effect, voluntarily surrender Respondent's license.

22. Surrender of Advanced Practice Certificate and Practice under Direct Supervision

In the event Respondent chooses to voluntarily surrender his advanced practice certificate and function only in the role of a registered nurse, Respondent will practice as a registered nurse only under the direct supervision of a registered nurse in good standing with the Board. Direct supervision is defined as having a registered nurse present on the same unit with the Respondent whenever Respondent is practicing as a registered nurse. The supervising nurse shall have read this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law, and shall provide input on Respondent's employer evaluations to the Board. The supervising nurse shall be primarily one person, who may periodically delegate to other qualified personnel, who shall also have read this Consent Agreement and Order to include Findings of Fact, Conclusions of Law. In the event that the assigned supervising nurse is no longer responsible for the supervision required by this paragraph, Respondent shall cause his new supervising nurse to inform the Board, in writing and on employer letterhead, acknowledgment of the new supervisor's receipt of a copy of this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law and the new supervising nurse's agreement to comply with the conditions of probation within seven days of assignment of a new supervising nurse. If Respondent opts to voluntarily surrender her advanced practice certificate and function only under the supervision of a registered nurse licensure. All other terms and conditions of this Order must be fulfilled.

23. Completion of Probation

Respondent is eligible for early termination of this Order after 12 months. Upon successful completion of the terms of probation, Respondent shall request formal review by the Board, and after formal review by the Board, Respondent's nursing license may be fully restored by the appropriate Board action if compliance with this Order has been demonstrated.

SEAL

Board Date: 1/24/2019

Joey Ridenour R.N. M.N. F.A.A.N.

Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director
ARIZONA STATE BOARD OF NURSING

Acceptance Date: 1/24/2019

JR/JD:dh

COPY e-mailed this 18th day of December, 2018 by First Class Mail, to:

Robert Chelle
CHELLE LAW

Attorney for

Thomas Edison Leary

By: D. Hurtado
Senior Investigator

EXECUTED SEALED COPY mailed this 24th day of January, 2019 by first class mail to:

Robert Chelle
CHELLE LAW



Attorney for

Thomas Edison Leary



By: D. Hurtado
Senior Investigator

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	AGREED ORDER
Advanced Practice Registered Nurse License	§	
Number AP120438 with Prescription	§	
Authorization Number 11386	§	
& Registered Nurse License Number 731425	§	
issued to THOMAS EDISON LEARY	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of THOMAS EDISON LEARY, Advanced Practice Registered Nurse License Number AP120438 with Prescription Authorization Number 11386, and Registered Nurse License Number 731425, 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),(8)&(10), 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 July 15, 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 11386 in current status.
4. Respondent received an Associate Degree in Nursing from Phoenix College, Phoenix, Arizona, on May 11, 2005. Respondent completed a Family Nurse Practitioner Program from Baylor University, Dallas, Texas, on May 1, 2011. Respondent was licensed to practice professional nursing in the State of Texas on July 12, 2006. 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 June 24, 2011.

5. Respondent's nursing employment history includes:

7/06 – 11/07	Nurse Manager	Greenville Surgery Center Dallas, Texas
11/07 – 6/11	RN	Baylor University Medical Center Dallas, Texas
4/11 – 7/11	FNP	Agape Clinic Dallas, Texas
7/11 – 2/16	FNP	Uptown Physicians Group Dallas, Texas
3/16 – 4/17	FNP	Spectrum Medical Group Phoenix, Arizona
5/17 – 6/17		Unknown
7/17 – 10/17	FNP	Wellspring Medical Phoenix, Arizona
10/17 – 1/18	FNP	Camelback Health Care Phoenix, Arizona
2/18 – 8/18	FNP	Ava Pain Management, formerly known as White Cranes Medical Center Tempe, Arizona
8/18 – 10/18	Clinical Operations Director	House Call Medical Group Phoenix, Arizona
11/18 – Present	Clinical Director	RestoreDOC Dallas, Texas

6. On or about November 29, 2018, Respondent submitted a Delinquent (Expired) License Renewal Form to the Texas Board of Nursing, in which you provided false, deceptive, and/or misleading information, in that Respondent answered "No" to the question:

Are you currently the target or subject of a grand jury or governmental agency investigation?

Respondent failed to disclose that he was under investigation by the Arizona Board of Nursing.

7. On or about January 24, 2019, Respondent's licenses to practice Advance Practice Registered Nursing and Professional nursing in the State of Arizona was issued a Consent Agreement and Order of Probation by the Arizona Board of Nursing, Phoenix, Arizona. The Findings of Fact from the January 24, 2019, Arizona Order include, in pertinent part:
 - a. From in or around April 2016 through February 2017, while employed as an FNP at Spectrum in Phoenix, Arizona, Respondent admitted to having difficulty learning the agency's Electronic Medical Record (EMR) system resulting in him needing improvement in his quality of work. Respondent's issues with EMR continued and he continued to fall behind in charting. ...
 - b. From in or around April 2017 through July 2017, while employed as a FNP at DMG in Phoenix, Arizona, Respondent was required to submit to a neuropsychiatric evaluation and resigned in lieu of termination due to complications that Respondent admitted were due to anxiety, all of which poses a risk to patients.
 - c. From in or around August 2017 through October 2017, while employed as a FNP at Wellsprings, also known as Harmony in, Tempe, Arizona, Respondent was observed by clinic staff as having difficulty with routine nursing tasks.
 - d. From in or around February 2018 through August 2018, while employed as a FNP at AVA Pain Management (formerly White Cranes Medical Center), Respondent admitted to inappropriately prescribing and over prescribing controlled substances to chronic pain patients and without appropriate education and training in pain management. ...
 - e. On or about November 29, 2018, Respondent submitted his Texas renewal application. On the renewal he answered "No" to the question which reads: "Are you currently the target or subject of a grand jury or governmental agency investigation?" Respondent has been under investigation with the Arizona Board of Nursing since August 21, 2018. ...

A copy of the Consent Agreement, Findings of Fact, Conclusions of Law and Order dated January 24, 2019, is attached and incorporated by reference as part of this Order.

8. In response to Findings of Fact Numbers Six (6) and Seven (7), Respondent did not intend to provide false information. He has always answered "no" to the questions and was not thinking of the Arizona Board as a governmental agency investigation. His attorney and the Arizona Board of nursing was aware of his plans on moving back to Texas and his intent on completing any disciplinary action in Texas.
9. On or about April 4, 2019, Respondent submitted to a Neuropsychological Evaluation completed by Wayne Dees, Psy.D., Dr. Dee's summary is that the Respondent appears to

generally be able to manage his tasks as a nurse, but due to the reported difficulties below it is highly suggested that Respondent appears to be an appropriate candidate for psychopharmacological intervention, with target symptoms of depression, anxiety and stress. His current medication use should be reevaluated for effectiveness. There is no indication of substance use or dependence disorder or history of overuse. He is also an appropriate candidate for individual psychotherapy as the second of two interventions. Respondent should maintain CEU's for his practice in Pharmacology, Opioid Prescribing and Substance Use Disorders for nurse. Respondent's overall cognitive skills are within normal limits.

10. On September 1, 2019, Respondent completed two (2) quarters under the Arizona Board Order, which the Board of Nursing is crediting towards 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 §217.12 (6)(I).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2),(8)&(10), Texas Occupations Code, to take disciplinary action against Advanced Practice Registered Nurse License Number AP120438 with Prescription Authorization Number 11386, and Registered Nurse License Number 731425, heretofore issued to THOMAS EDISON LEARY.
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 11386, previously issued to THOMAS EDISON LEARY, is **LIMITED** and **RESPONDENT SHALL NOT** prescribe or order

any controlled substances with the sole exception of PHENTERMINE, which the Respondent is permitted to prescribe while under the terms of this order. 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 AP120438, and Registered Nurse License Number 731425, previously issued to THOMAS EDISON LEARY, 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 one and half (1.5) 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.

- D. **The course "Prescriptive Authority for APRNs,"** a 1.2 contact hour online program provided by the Texas Board of Nursing. Information about this course is available at <https://www.bon.texas.gov/catalog/product/#bon-course-rx> or from the "CNE Workshops/Webinars" section of the Board's website under "News" menu.
- E. **The course "Determining APRN Scope of Practice,"** a 1.4 contact hour online program provided by the Texas Board of Nursing. Information about this course is available at <https://www.bon.texas.gov/catalog/product/#bon-course-apmscope> or from the "CNE Workshops/Webinars" section of the Board's website under "News" menu.

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. APRN 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 six (6) quarterly periods [one and half (1.5) years] of employment. This requirement will not be satisfied until six (6) 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 six (6) quarters [one and half (1.5) years] of employment as a nurse.

VII. NEUROPSYCH THERAPY REPORTS

While working as a nurse under the terms of this Order, RESPONDENT SHALL participate in therapeutic sessions with a neuropsychologist possessing credentials approved by the Board. RESPONDENT SHALL CAUSE the neuropsychologist to submit written reports, on forms provided by the Board, as to the RESPONDENT'S progress and capability to safely practice nursing. The report must indicate whether or not the RESPONDENT'S stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended beyond the initial three (3) months, the reports shall then be required at the end of each three (3) month quarterly period for the remainder of the stipulation probation period, or until RESPONDENT is dismissed from therapy.

VIII. SUBSEQUENT CRIMINAL PROCEEDINGS

IT IS FURTHER AGREED, should the RESPONDENT'S conduct, as outlined in the findings of fact of this Agreed Order, result in subsequent judicial action, including a deferred disposition, RESPONDENT may be subject to further disciplinary action, up to,

and including, revocation of RESPONDENT'S license(s) to practice nursing in the State of Texas.

IX. 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.

X. 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

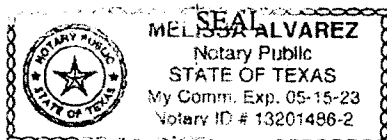
I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that 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.

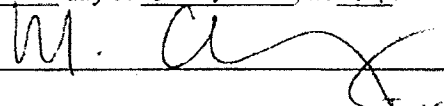
Signed this 30th day of October, 20 19.



THOMAS EDISON LEARY, RESPONDENT

Sworn to and subscribed before me this 30th day of October, 20 19.





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 30th day of October, 2019, by THOMAS EDISON LEARY, Advanced Practice Registered Nurse License Number AP120438 with Prescription Authorization Number 11386, and Registered Nurse License Number 731425, and said Agreed Order is final.

Effective this 10th day of December, 2019.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas".

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

BEFORE THE ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF REGISTERED NURSE
LICENSE NO. RN134228 AND ADVANCED
PRACTICE CERTIFICATE NO. AP8332
ISSUED TO:

**THOMAS EDISON LEARY,
RESPONDENT**

**CONSENT AGREEMENT
AND
ORDER NO. 1808040**

CONSENT AGREEMENT

A complaint charging Thomas Edison Leary ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements and the responsibilities of the Board, and pursuant to A.R.S. § 41-1092.07(F)(5), the undersigned parties enter into this Consent Agreement as a final disposition of this matter.

Based on the evidence before it, the Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent holds Board issued registered nurse license no. RN134228, and advanced practice certificate no. AP8332.
2. On or about August 21, 2018, the Board received a complaint from an anonymous source alleging Respondent is prescribing large amounts of pain and anxiety medications through "AVA Pain Management," formerly known as White Cranes Medical Center. Based on the information contained in the complaint, the Board conducted an investigation.
3. From in or around April 2016 through February 2017, while employed as an FNP at Spectrum in Phoenix, Arizona, Respondent admitted to having difficulty learning the agency's Electronic Medical Record (EMR) system resulting in him needing improvement in his quality of work. Respondent's issues with EMR continued and he continued to fall behind in charting. This resulted several areas of "Needs Improvement" on his evaluation on December 11, 2016.

4. From in or around April 2017 through July 2017, while employed as an FNP at DMG in Phoenix, Arizona, Respondent was required to submit to a neuropsychiatric evaluation and resigned in lieu of termination due to complications that Respondent admitted were due to anxiety, all of which poses a risk to patients.

5. From in or around August 2017 through October 2017, while employed as an FNP at Wellsprings, also known as Harmony in, Tempe, Arizona, Respondent was observed by clinic staff as having difficulty with routine nursing tasks.

6. From in and around February 2018 through August 2018, while employed as a FNP at AVA Pain Management (formerly White Cranes Medical Center), Respondent admitted to inappropriately prescribing and over prescribing controlled substances to chronic pain patients and without appropriate education and training in pain management. Respondent acknowledged during an interview with Board staff on October 19, 2018, that he had no training or experience in pain management before starting his position with AVA Pain Management.

7. On November 29, 2018, Respondent submitted his Texas renewal application. On the renewal he answered "No" to the question which reads: "Are you currently the target or subject of a grand jury or governmental agency investigation?" Respondent has been under investigation with the Arizona Board of Nursing since August 21, 2018. Respondent engaged in fraud, misrepresentation, or deceit in his Texas renewal application for a license.

CONCLUSIONS OF LAW

Pursuant to A.R.S. §§ 32-1606, 32-1663 and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances described in the Findings of Fact constitute violations of A.R.S. § 32-1663 (D) currently cited as defined in § 32-1601 (26) "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere: (d) Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public, (g) Willfully or repeatedly violating a provision of this chapter or a rule adopted pursuant to this chapter and (j) Violating this chapter or a rule that is adopted by the board pursuant to this chapter (effective

August 9, 2017), and currently cited as A.A.C. R4-19-403 (1) A pattern of failure to maintain minimum standards of acceptable and prevailing nursing practice; (7) Failing to maintain for a patient record that accurately reflects the nursing assessment, care, treatment, and other nursing services provided to the patient; (12) Assuming patient care responsibilities that the nurse lacks the education to perform, for which the nurse has failed to maintain nursing competence, or that are outside the scope of practice of the nurse and (31) Practicing in any other manner that gives the Board reasonable cause to believe the health of a patient or the public may be harmed (adopted effective January 31, 2009).

The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. § 32-1664(N) to revoke, suspend or take other disciplinary action against Respondent's license to practice as a registered nurse in the State of Arizona.

Respondent admits the Board's Findings of Fact and Conclusions of Law.

In lieu of a formal hearing on these issues, Respondent agrees to issuance of the attached Order and waives all rights to a hearing, rehearing, appeal or judicial review relating to this matter. Respondent further waives any and all claims or causes of action, whether known or unknown, that Respondent may have against the State of Arizona, the Board, its members, officers, employees and/or agents arising out of this matter.

Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

Respondent understands that the admissions in the Findings of Fact are conclusive evidence of a violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any future disciplinary matter.

Respondent understands the right to consult legal counsel prior to entering into this Consent Agreement and such consultation has either been obtained or is waived.

Respondent understands that this Consent Agreement is effective upon its acceptance by the Board or its Designee and by Respondent as evidenced by the respective signatures thereto.

Respondent's signature obtained via facsimile shall have the same effect as an original signature. Once signed by Respondent, the Agreement cannot be withdrawn without the Board's approval or by stipulation between Respondent and the Board's designee. The effective date of this Order is the date the Consent Agreement is signed by Respondent and accepted by the Board or its Designee.

Board Date: 1/24/2019

Thomas Edison Leary
Thomas Edison Leary, Respondent

Dated: 1/23/2019

Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director
ARIZONA STATE BOARD OF NURSING

Acceptance Date: 1/24/2019

SEAL

DAHN/RN134228/APB332/LEARY, T.

ORDER

In view of the above Findings of Fact, Conclusions of Law and the consent of Respondent, the Board hereby issues the following Order:

A. Respondent's consent to the terms and conditions of the Order and waiver of public hearing is accepted.

B. Respondent's license is placed on probation not to exceed 18 months, and for a minimum, 12 months. Prior to termination of probation, Respondent shall work as an advanced practice nurse for a minimum of 12 months (not less than 16 hours a week).

C. This Order becomes effective upon the Board and Respondent's acceptance of the Consent Agreement. The effective date of this Order is the date the Consent Agreement is signed by Respondent and accepted by the Board or its designee. If the Consent agreement is

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THOMAS EDISON LEARY

signed on different dates, the later is the effective date. Probation is to commence the effective date of this Order.

D. While this Order is in effect and/or Respondent's license/certificate is subject to discipline, up to and including revocation or voluntary surrender, Respondent is not eligible to renew any other expired license or certificate previously held by Respondent without prior review and approval by the Board.

E. If Respondent is noncompliant with any of the terms of the Order, Respondent's noncompliance shall be reviewed by the Board for consideration of possible further discipline on Respondent's nursing license.

F. If Respondent is convicted of a felony, Respondent may request and sign a 3-year voluntary surrender of Respondent's license, or Respondent's license shall be automatically revoked. The revocation period is 5 years, by law. Respondent may apply for reissuance after a minimum period of 3 years, if a voluntary surrender, or 5 years, if a revocation, after a minimum of 3 years have passed since absolute discharge of the felony conviction, or the felony conviction has been reduced to a misdemeanor, set aside, or the equivalent. Respondent waives any and all rights to a hearing, rehearing or judicial review of any revocation imposed pursuant to this paragraph.

G. Probation is subject to the following terms and conditions:

TERMS OF PROBATION

1. **License(s) and Certificate(s) on Probation**

While this Order is in effect, if the Board issues any licenses or certificates authorized by statute except a nursing assistant certificate, such certificate or license shall be marked "Probation." Respondent is not eligible for a multistate "Compact" license.

While this Order is in effect, any license or certificate that Respondent presents to any employer or other member of the public shall be clearly marked "Probation."

2. Neuropsychological Evaluation/Treatment

Within 30 days of the effective date of the Order Respondent shall make an appointment to undergo a neuropsychological evaluation by a Board-approved psychologist with expertise to be completed within 60 days of the effective date of the Order. Respondent shall execute the appropriate release of information form(s) to allow the evaluator to communicate information to the Board or its designee. Prior to the evaluation, Respondent shall furnish a copy of this Consent Agreement and Order to the evaluator who shall verify receipt of the documents in a written report on letterhead to the Board. Respondent consents to the Board providing the evaluator with any documents deemed pertinent by the Board or its designee, which may include the Board's investigative report. Respondent shall direct the evaluator to provide a report to the Board summarizing the evaluation within thirty days after the evaluation is completed summarizing the evaluation and any resulting recommendations within 30 days after the evaluation is completed.

If it is recommended that Respondent undergo psychological treatment and/or psychological therapy or counseling, Respondent shall, within 7 days of notification of the recommendation(s), provide to the Board or its designee for prior approval, the name and qualifications of treatment professional(s) with appropriate level of expertise of Respondent's choice. Upon approval of the treatment professional(s), Respondent shall provide a copy of the entire consent agreement which the treatment professional(s) shall verify in writing on letterhead in their first report to the Board. Respondent shall undergo and continue treatment until the treatment professional(s) determines and reports to the Board in writing and on letterhead, that treatment is no longer considered necessary. Respondent shall have the treatment professional(s) provide written reports to the Board every three months. The reports are due as noted on the Quarterly Reporting Due Date form. The Board reserves the right to amend this Order based on

the evaluation results or the treatment professional's recommendations. Respondent shall complete all acute treatment recommendations made by the evaluator within 6-months of the effective date of the Order, or the license shall be automatically revoked.

3. Certification Review/Clinical Update Course for FNP

Within 30 days of the effective date of this Order, Respondent shall submit to the Board or its designee a plan for enrollment into a Board-approved course ("Program") for FNP Certification Review/Clinical Update, a minimum of 30 CEUs; this course may be taken online. Upon approval of Respondent's plan for enrollment, by the Board or its designee, Respondent shall provide a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law to the Program Director. Prior to or on the date of acceptance into the Program, or if Respondent is currently in a Program, the Program Director shall be notified within 72 hours of the effective date of this Order. Respondent shall cause the Program Director to inform the Board in writing, and on Program letterhead, acknowledgment of the Program's receipt of a copy of the Order. Respondent shall provide written proof from the instructor or provider of the course verifying enrollment, attendance, and successful completion of the course/program.

4. Advance Practice Pharmacology Course

Within 30 days of the effective date of this Order, Respondent shall submit to the Board or its designee for prior approval, Board-approved Advanced Practice Pharmacology course ("Program"), a minimum 45 CEU's to include a minimum of 8-hours on schedule II drugs requirement. The pharmacology course may be completed online, tele-seminar, or in the classroom and must contain proof of competency, such as a post-test demonstrating 80% proficiency or better. Upon approval of Respondent's plan for enrollment by the Board or its designee, Respondent shall provide a copy of this Consent Agreement and Order to include

Findings of Fact and Conclusions of Law to the Program Director. Within 7 days of enrolling in the Program, Respondent shall cause the Program Director to inform the Board in writing, and on Program letterhead, acknowledgment of the Program's receipt of a copy of the Order and Respondent's entry into the Program. Upon completion of the program, Respondent shall provide written proof from the instructor or provider of the course verifying enrollment, attendance, and successful completion of the advance practice pharmacology course.

5. Advanced Practice Physical Assessment Course

Within 30 days of the effective date of this Order, Respondent shall submit to the Board or its designee a plan for enrollment into a Board-approved Advanced Physical Assessment Course ("Program"), a minimum, 25 CEU's. The course may be completed online, tele-seminar, or in the classroom and must contain proof of competency, such as a post-test demonstrating 80% proficiency or better. Upon approval of Respondent's plan for enrollment by the Board or its designee, Respondent shall provide a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law to the Program Director. Within 7 days of enrolling in the Program, Respondent shall cause the Program Director to inform the Board in writing, and on Program letterhead, acknowledgment of the Program's receipt of a copy of the Order and Respondent's entry into the Program. Upon completion of the program, Respondent shall provide written proof from the instructor or provider of the course verifying enrollment, attendance, and successful completion of the physical assessment course/program.

6. Safe Opioid Prescribing

Within 30 days of the effective date of this Order, Respondent shall submit to the Board or its designee a plan for enrollment into a Board-approved Safe Opioid Prescribing course ("Program") with a minimum of 3.5 CEUs; when prescribing extended-release (ER) and long-acting (LA) opioids, minimum of 2 CEUs on Foundations of Assessing and Treating Pain,

minimum of 5 CEUs Risk Reduction Strategies for ER/LA Opioids. Upon approval of Respondent's plan for enrollment by the Board or its designee, Respondent shall provide a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law to the Program Director. Prior to or on the date of acceptance into the Program, or if Respondent is currently in a Program, the Program Director shall be notified within 72 hours of the effective date of this Order. Respondent shall cause the Program Director to inform the Board in writing, and on Program letterhead, acknowledgment of the Program's receipt of a copy of the Order. Respondent shall provide written proof from the instructor or provider of the course verifying enrollment, attendance, and successful completion of the course/program.

7. Nurse Manager Guidelines for Substance Use Disorder

Within 30 days of the effective date of this Order, Respondent shall submit to the Board or its designee a plan for enrollment into a Board-approved course ("Program") for Nurse Manager Guidelines for Substance Use Disorder, a minimum of 3 CEUs; this course may be taken online. Upon approval of Respondent's plan for enrollment, by the Board or its designee, Respondent shall provide a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law to the Program Director. Prior to or on the date of acceptance into the Program, or if Respondent is currently in a Program, the Program Director shall be notified within 72 hours of the effective date of this Order. Respondent shall cause the Program Director to inform the Board in writing, and on Program letterhead, acknowledgment of the Program's receipt of a copy of the Order. Respondent shall provide written proof from the instructor or provider of the course verifying enrollment, attendance, and successful completion of the course/program.

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8. Understanding Substance Use Disorder in Nursing

Within 30 days of the effective date of this Order, Respondent shall submit to the Board or its designee a plan for enrollment into a Board-approved course ("Program") for Understanding Substance Use Disorder in Nursing, a minimum of 5 CEUs; this course may be taken online. Upon approval of Respondent's plan for enrollment, by the Board or its designee, Respondent shall provide a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law to the Program Director. Prior to or on the date of acceptance into the Program, or if Respondent is currently in a Program, the Program Director shall be notified within 72 hours of the effective date of this Order. Respondent shall cause the Program Director to inform the Board in writing, and on Program letterhead, acknowledgment of the Program's receipt of a copy of the Order. Respondent shall provide written proof from the instructor or provider of the course verifying enrollment, attendance, and successful completion of the course/program.

9. Notification of Practice Settings

Any current or future setting in which Respondent is employed in any capacity requiring nursing licensure, shall be provided with a copy of the entire Order within 3 days from the date of hire, or within 3 days of the effective date of the Order, whichever comes first. Within three days of Respondent's date of hire, or within three days from the effective date of the Order if currently employed, Respondent shall cause her immediate supervisor to inform the Board, in writing and on employer letterhead, acknowledgment of the supervisor's receipt of a copy of this Consent Agreement and Order and the employer's ability to comply with the conditions of probation. In the event Respondent is attending a nursing program, Respondent shall provide a copy of the entire Consent Agreement and Order to the Program Director. Respondent shall cause the Program Director to inform the Board, in writing and on school

letterhead, acknowledgment of the program's receipt of a copy of the Consent Agreement and Order and the program's ability to comply with the conditions of probation during clinical experiences.

10. Practice Under Indirect Supervision

If working as an advanced practice nurse, Respondent shall practice as an advanced practice registered nurse only under the indirect supervision of an FNP with same education or higher, or physician in similar practice in good standing with Board. Indirect supervision is defined as having a Board-approved FNP with master's degree or higher, or a Board approved M.D. or D.O. available for in-person or telephonic consultation at all times while Respondent is on duty and who is available for consultation and is responsible for completing chart reviews and performance evaluations. The indirect supervisor shall contact Respondent 5 times every month to review practice and these interactions shall be documented and provided to the Board with the monthly chart audits. The supervising FNP shall have read this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law and Order and shall provide input on Respondent's performance evaluations to the Board. The supervising FNP shall be primarily one person, who may periodically delegate to other qualified personnel, who shall also have read this Consent Agreement and Order to include Findings of Fact, Conclusions of Law. In the event that the assigned supervising FNP is no longer responsible for the supervision required by this paragraph, Respondent shall cause his new supervising FNP to inform the Board in writing and on employer letterhead, acknowledgment of the new supervisor's receipt of a copy of this Consent Agreement and Order, to include the Findings of Fact and Conclusions of Law. The new supervising FNP shall provide a written agreement to comply with the conditions of probation within 10 days of assignment of a new a supervising FNP.

11. Monthly Performance Evaluations/Self-reports

While Respondent is practicing as an advanced practice (AP) nurse and within seven days of each assigned monthly reporting due date, Respondent shall cause her direct supervisor to submit monthly performance evaluations on the Board-approved form. The evaluations shall include documentation of five interactions/conversations between the supervisor who is providing direct supervision and Respondent. Receipt of notice of an unsatisfactory employer evaluation, verbal or written warning, counseling or disciplinary action any of which pertain to patient care practice issues, or termination from a place of employment shall be considered as noncompliance with the terms of the Order. In the event Respondent is not working in a position, which requires a RN licensure, or attending school during any quarter or portion thereof, Respondent shall provide to the Board, in writing, a self-report describing other employment or activities on the Board-approved form. Failure to provide employer evaluations/or self-reports within seven days of the reporting date shall be considered as noncompliance with the terms of the Order.

12. Random Chart Review

Within seven days of the effective date of this Order, in any setting in which Respondent is currently employed, and prior to working for any employer, Respondent shall identify and provide to the Board the name of a Family Nurse Practitioner (FNP) of same or higher education level, with prescribing privileges and in good standing with the Board or a Board approved physician. Respondent shall cause the previously identified nationally certified nurse practitioner or physician, to perform monthly and random chart reviews up to and not to exceed, 15 patients for whom Respondent has provided care during the prior 30 days (not to exceed 45 patients in a quarter). The audit shall be competency based and completed on the Board-approved form, which includes a review and confirmation of appropriate

subjective/objective assessment and treatment plan that includes following standard of care and standard treatment guidelines as appropriate. Respondent shall cause the auditor to provide to the Board, in writing, a summary of the random chart audit by the 30th of each month.

13. Out-of-State Practice/Residence

While this Consent Agreement and Order is in effect, and prior to accepting any out-of-state nursing practice/employment, Respondent shall notify the licensing/certification Board of the State(s) in which Respondent seeks to practice as a nurse of this Consent and Agreement and Order and shall obtain written permission from the licensing/certification Board(s) to practice as a nurse in another State. Respondent shall direct the licensing Board of the other State(s) to submit written authorization to the Board verifying Respondent is approved to practice nursing in that State. Once written verification is received by the Board, Respondent may submit a written request to the Board requesting an amendment to the Order to permit Respondent to fulfill the terms and conditions of this Order in that State.

Respondent shall comply with all terms and conditions of this Order whether practicing in Arizona or practicing in any other State. Respondent is permitted to fulfill his practice requirement and complete his probation in the State of Texas.

14. Release of Information Forms

Respondent shall sign all release of information forms as required by the Board or its designee and return them to the Board within 10 days of the Board's written request. Failure to provide for the release of information, as required by this paragraph constitutes non-compliance with this Order

15. Interview With the Board or Its Designee

Respondent shall appear in person or if residing out of state telephonically for interviews with the Board or its designee upon request and with notice of at least two days.

16. Renewal of License

In the event Respondent's registered/certificate nurse license is scheduled to expire while this Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualification to practice nursing in Arizona.

17. Change of Employment/Personal Address/Telephone Number

Respondent shall notify the Board, in writing, within seven days of any change in nursing employment. Changes in nursing employment includes, but is not limited to, a change in nursing supervisor, the acceptance, resignation or termination of employment.

Respondent shall notify the Board, in writing, within seven days of any change in personal address or telephone number. Written notification shall be satisfied if Respondent updates his address through the Board's secure online "My Services" portal.

18. Obey All Laws

Respondent shall obey all laws/rules governing the practice of nursing in this state and obey all federal, state and local criminal laws. Respondent shall report to the Board, within 10 days, any misdemeanor or felony arrest or conviction.

19. Costs

Respondent shall bear all costs of complying with this Order.

20. Violation of Probation

If Respondent is noncompliant with this Order in any respect, the Board or its designee may notify Respondent's employer of the noncompliance. Additionally, the Board may revoke probation and take further disciplinary action for noncompliance with this Order after affording Respondent notice and the opportunity to be heard. If a complaint or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing

jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

21. Voluntary Surrender of License

Respondent may, at any time this Order is in effect, voluntarily surrender Respondent's license.

22. Surrender of Advanced Practice Certificate and Practice under Direct Supervision

In the event Respondent chooses to voluntarily surrender his advanced practice certificate and function only in the role of a registered nurse, Respondent will practice as a registered nurse only under the direct supervision of a registered nurse in good standing with the Board. Direct supervision is defined as having a registered nurse present on the same unit with the Respondent whenever Respondent is practicing as a registered nurse. The supervising nurse shall have read this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law, and shall provide input on Respondent's employer evaluations to the Board. The supervising nurse shall be primarily one person, who may periodically delegate to other qualified personnel, who shall also have read this Consent Agreement and Order to include Findings of Fact, Conclusions of Law. In the event that the assigned supervising nurse is no longer responsible for the supervision required by this paragraph, Respondent shall cause his new supervising nurse to inform the Board, in writing and on employer letterhead, acknowledgment of the new supervisor's receipt of a copy of this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law and the new supervising nurse's agreement to comply with the conditions of probation within seven days of assignment of a new supervising nurse. If Respondent opts to voluntarily surrender her advanced practice certificate and function only under the supervision of a registered nurse licensure. All other terms and conditions of this Order must be fulfilled.

23. Completion of Probation

Respondent is eligible for early termination of this Order after 12 months. Upon successful completion of the terms of probation, Respondent shall request formal review by the Board, and after formal review by the Board, Respondent's nursing license may be fully restored by the appropriate Board action if compliance with this Order has been demonstrated.

SEAL

Board Date: 1/24/2019

Joey Ridenour R.N. M.N. F.A.A.N.

Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director
ARIZONA STATE BOARD OF NURSING

Acceptance Date: 1/24/2019

JR/JD:dh

COPY e-mailed this 18th day of December, 2018 by First Class Mail, to:

Robert Chelle
CHELLE LAW

Attorney for

Thomas Edison Leary

By: D. Hurtado
Senior Investigator

EXECUTED SEALED COPY mailed this 24th day of January, 2019 by first class mail to:

Robert Chelle
CHELLE LAW

[REDACTED]

Attorney for

Thomas Edison Leary

[REDACTED]

By: D. Hurtado
Senior Investigator