

I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED ORDER
Registered Nurse License Number 623383 §
issued to JULIE EILEEN MCKAY, a/k/a §
JULIE EILEEN SMART §

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JULIE EILEEN MCKAY, a/k/a JULIE EILEEN SMART, Registered Nurse License Number 623383, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on October 8, 2019.

FINDINGS OF FACT

- 1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Respondent waived notice and hearing, and agreed to the entry of this Agreed Order.
3. Respondent's license to practice as a professional nurse in the State of Texas is in current status.
4. Respondent received an Associate Degree in Nursing from, Nebraska, on May 1, 1993. Respondent was licensed to practice professional nursing in the State of Texas on October 30, 1995.
5. Respondent's nursing employment history includes:

5/1993 - 7/1995 RN Methodist Richard Young
Omaha, Nebraska

Respondent's nursing employment history continued:

8/1995	Unknown	
9/1995 – 12/1996	RN	Lyndon B. Johnson Hospital Houston, Texas
1/1997 – 6/1997	Unknown	
7/1997 – 12/1999	RN	HealthSouth Northeast Surgery Center Humble, Texas
12/1999 – 12/2001	RN	Lincoln Endoscopy Center Lincoln, Nebraska
12/2001 – 8/2010	RN	Renaissance Surgical Center Humble, Texas
8/2010 – 10/2011	RN	Humble Surgical Hospital Humble, Texas
11/2011 – 5/2012	Unknown	
6/2012 – 8/2013	RN	Woodlands Ambulatory Surgery Center The Woodlands, Texas
8/2013 – 10/2016	RN	Apollo Hospital The Woodlands, Texas
10/2016 – 4/2019	RN/CNO	VIP Surgical Center Conroe, Texas
5/2019 – 8/2019	Unknown	
9/2019 – Present	RN	Keystone Surgicenter The Woodlands, Texas
11/2019 – Present	RN	Cypresswood Surgery Center Houston, Texas
12/2019 – Present	RN	Texas Heart and Vein Kingwood, Texas

6. At the time of the incident, Respondent was employed as the Chief Nursing Officer with VIP Surgical Center, Conroe, Texas, and had been in that position for one (1) year and one (1) month.
7. On or about November 20, 2017, through October 5, 2018, while employed as a Chief Nursing Officer with VIP Surgical Center, Conroe, Texas, Respondent falsified physicians' signatures on credentialing files. Furthermore, Respondent admitted to staff that she forged the physicians' signatures. Respondent's conduct created inaccurate credentialing files and was likely to injure patients in that the forged signatures granted medical staff privileges that could have resulted in non-efficacious treatment.
8. In response to Finding of Fact Number Seven (7), Respondent states the CEO massively mismanaged and swindled VIP and its investors by engaging in numerous fraudulent activities, which were discovered by Respondent. Respondent relates that all alleged forgeries were done at the specific demand and with the unequivocal endorsement of the CEO, who deliberately manipulated and lied to Respondent about her authorization to sign in order to avoid any potential culpability herself.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.11(1)(A)&(1)(B) and 22 TEX. ADMIN. CODE §217.12(6)(A).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 623383, heretofore issued to JULIE EILEEN MCKAY.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **WARNING WITH STIPULATIONS AND FINE** in accordance with the terms of this Order.

- A. This Order SHALL apply to any and all future licenses issued to RESPONDENT to practice nursing in the State of Texas.
- B. This Order SHALL be applicable to RESPONDENT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state.

II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Agreed Order.

III. UNDERSTANDING BOARD ORDERS

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

IV. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) within one (1) year of the effective date of this Order, unless otherwise specifically indicated:

- A. A Board-approved course in Texas nursing jurisprudence and ethics that shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft, and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. Home study and video programs will not be approved.
- B. A Board-approved course in nursing documentation that shall be a minimum of six (6) hours in length. The course's content shall include: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. Home study courses and video programs will not be approved.
- C. The course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension.

In order to receive credit for completion of this/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at www.bon.texas.gov/compliance.*

V. **MONETARY FINE**

RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars (\$250.00) within forty-five (45) days of the effective date of this Order.

Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

VI. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse in the State of Texas, providing direct patient care in a clinical healthcare setting, for a minimum of sixty-four (64) hours per month for four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until four (4) quarterly periods of employment as a nurse have elapsed. Periods of unemployment or of employment that do not require the use of a registered nurse (RN) or a vocational nurse (LVN) license, as appropriate, will not apply to this period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** RESPONDENT SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.
- C. **Indirect Supervision:** With the exception of RESPONDENT'S current position at Keystone Surgicenter, The Woodlands, Texas, where RESPONDENT may be supervised by Thomas O. Shannon, MD, RESPONDENT SHALL be supervised in all other positions by a Registered Nurse and all supervising individuals shall be on the premises. Further, should RESPONDENT'S current position at Keystone Surgicenter, The Woodlands, Texas, cease or change, RESPONDENT SHALL BE supervised in all positions by a Registered Nurse who is on the premises. Thomas O. Shannon, MD, and all supervising nurses are

not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and must be readily available to provide assistance and intervention if necessary. Each supervising individual shall have a minimum of two (2) years of experience in the same or similar practice setting to which the RESPONDENT is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. RESPONDENT'S three (3) current positions as a Registered Nurse with Texas Heart and Vein, Kingwood, Texas, with Cypresswood Surgery Center, Houston, Texas, and with Keystone Surgicenter, The Woodlands, Texas, are permitted under the terms of this Order; however, should any of RESPONDENT'S current positions cease or change, additional employers SHALL NOT be permitted and, should RESPONDENT ever have only one (1) employer, multiple employers will not be permitted.

- D. **Nursing Performance Evaluations:** RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the RESPONDENT by the Board, periodic reports as to RESPONDENT'S capability to practice nursing. These reports shall be completed by the individual who supervises the RESPONDENT and these reports shall be submitted by the supervising individual to the office of the Board at the end of each three (3) month quarterly period for four (4) quarters [one (1) year] of employment as a nurse.

VII. 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.

VIII. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Agreed Order, all encumbrances will be removed from RESPONDENT'S license(s) and/or privilege(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas

Occupations Code Chapter 304, Article III, RESPONDENT may be eligible for nurse licensure compact privileges, if any.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Texas Board of Nursing and a copy of this Order will be mailed to me once the Order becomes effective. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including possible revocation of my license(s) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

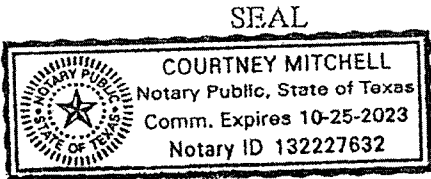
Signed this 21 day of March, 2020.

Julie Eileen McKay

JULIE EILEEN MCKAY, RESPONDENT

Sworn to and subscribed before me this 21 day of March, 2020.

Courtney Mitchell



Notary Public in and for the State of Texas

Approved as to form and substance.
Betty Smith

Betty Smith, Attorney for Respondent

Signed this 23rd day of March, 2020.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 21st day of March, 2020, by JULIE EILEEN MCKAY, Registered Nurse License Number 623383, and said Agreed Order is final.

Effective this 23rd day of April, 2020.

A handwritten signature in cursive script, appearing to read "Katherine A. Thomas".

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