



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.
Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED ORDER
Registered Nurse License Number 716876 §
issued to MICHAEL BRIAN NEELEY §
§

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MICHAEL BRIAN NEELEY, Registered Nurse License Number 716876, 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)(9),(10),(12)&(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 August 3, 2020.

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 a Baccalaureate Degree in Nursing from University of Texas, Austin, Texas, on May 13, 2005. Respondent was licensed to practice professional nursing in the State of Texas on June 16, 2005.
5. Respondent's nursing employment history includes:

06/2005 – 11/2009	RN	Seton Northwest Hospital Austin, Texas
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Respondent's nursing employment history continued:

12/2009 – 07/2011	RN	Seton Medical Center Austin, Texas
07/2011 – 10/2015	RN	University Medical Center Brackenridge Austin, Texas
10/2015 – 03/2016	RN	Lakeway Regional Medical Center Lakeway, Texas
04/2016 – 02/2019	RN	Baylor St. Luke's Medical Center Houston, Texas
01/2020 – Present	RN	PAM Rehabilitation Hospital of Round Rock Round Rock, Texas

6. On or about August 19, 2016, Respondent was required to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN) through an Order of the Board. Respondent completed the terms of this order. A copy of the August 19, 2016, Order is attached and incorporated herein by reference as part of this Agreed Order.
7. At the time of the incident, Respondent was employed as a Registered Nurse with Baylor St. Luke's Medical Center, Houston, Texas, and had been in that position for two (2) years and ten (10) months.
8. On or about February 10, 2019, while employed as a Registered Nurse in the Intensive Care Unit of Baylor St. Luke's Medical Center, Houston, Texas, Respondent withdrew four (4) injections of Fentanyl 50mcg from the medication dispensing system for a patient but failed to document and/or accurately and completely document the administration of the medication in the patient's Medication Administration Record (MAR) and/or Nurses' Notes. Respondent's conduct was likely to injure the patient, in that subsequent care givers would rely on his documentation to further medicate the patient, which could result in an overdose. Additionally, Respondent's conduct placed the hospital in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
9. On or about February 10, 2019, while employed as a Registered Nurse in the Intensive Care Unit of Baylor St. Luke's Medical Center, Houston, Texas, Respondent withdrew two (2) injections of Fentanyl 50mcg from the medication dispensing system for a patient but failed to follow the facility's policy and procedure for wastage of the unused portions of the medications. Respondent's conduct left medications unaccounted for, was likely to deceive the hospital pharmacy, and placed the pharmacy in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.

10. On or about February 10, 2019, while employed as a Registered Nurse in the Intensive Care Unit of Baylor St. Luke's Medical Center, Houston, Texas, Respondent misappropriated two (2) injections of Fentanyl 50mcg belonging to the facility or a patient thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications.
11. On or about February 10, 2019, while employed as a Registered Nurse in the Intensive Care Unit of Baylor St. Luke's Medical Center, Houston, Texas, Respondent lacked fitness to practice nursing in that he exhibited signs of impaired behavior while on duty, including, but not limited to: having difficulty responding to questions, appearing drowsy, and falling asleep. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
12. In response to Findings of Fact Numbers Eight (8) through Eleven (11), Respondent states that he takes full responsibility for his actions. Due to the emotional stress of his spouse being diagnosed with aggressive adenocarcinoma, he suffered a relapse. Upon confrontation by his nurse manager at Baylor St. Luke's, he immediately admitted to his behavior. Respondent states he has been sober since February 14, 2019, and since that time has completed an intensive outpatient treatment program, attends several support group meetings per week, and engages in weekly therapy sessions. Respondent has been formally enrolled in TPAPN since July 26, 2019 and is in full compliance.
13. Formal Charges were filed on March 4, 2020.
14. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.11 (1)(A),(1)(B),(1)(D)&(1)(T) and 22 TEX. ADMIN. CODE §217.12 (1)(A),(1)(B),(1)(C),(1)(E),(4),(5),(6)(G),(8),(10)(A),(10)(C),(10)(E)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(9),(10),(12)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 716876, heretofore issued to MICHAEL BRIAN NEELEY.

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.
6. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that Registered Nurse License Number 716876, previously issued to MICHAEL BRIAN NEELEY, to practice nursing in the State of Texas is/are hereby **SUSPENDED** and said suspension is **ENFORCED** until RESPONDENT:

- A. **Applies to, is accepted into, and completes enrollment in the Texas Peer Assistance Program for Nurses (TPAPN), including payment of a non-refundable participation fee to TPAPN in the amount of five hundred dollars (\$500.00), if licensed as a registered nurse, or in the amount of three hundred fifty dollars (\$350.00), if licensed as a vocational nurse;**
- B. Is **cleared to safely practice as a nurse** based on a fitness evaluation, as may be required by TPAPN; and
- C. **Waives confidentiality and provides a copy of the fully executed TPAPN participation agreement to the Board.**

IT IS FURTHER AGREED, upon verification of successful completion of the above requirements, the Suspension will be **STAYED**, and RESPONDENT will be placed on **PROBATION** for such time as is required for RESPONDENT to successfully complete the TPAPN **AND** until RESPONDENT fulfills the additional requirements of this Order.

- D. RESPONDENT SHALL pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.
- E. RESPONDENT SHALL **comply with all requirements of the TPAPN participation agreement** during its term and SHALL keep all applicable licenses to practice nursing in the State of Texas in current status.
- F. RESPONDENT SHALL CAUSE the TPAPN to **notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.**
- G. This Order SHALL apply to any and all future licenses issued to RESPONDENT to practice nursing in the State of Texas.
- H. This Order SHALL be applicable to RESPONDENT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- I. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" as applicable and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state using a Texas compact license.

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. 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 suspension being stayed, unless otherwise specifically indicated:**

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.

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.*

IV. 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.

V. EFFECT OF NONCOMPLIANCE

SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of RESPONDENT'S license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

VI. 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. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the entry of this Order and all conditions of said Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, and/or 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 11 day of August, 2020.
Michael Nalley
MICHAEL BRIAN NELLEY, RESPONDENT

Sworn to and subscribed before me this _____ day of _____, 20____.

SEAL

Notary Public in and for the State of _____

Approved as to form and substance,
Elisabeth Smith
Elisabeth Smith, Attorney for Respondent

Signed this 11th day of August, 2020.

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 11th day of August, 2020, by MICHAEL BRIAN NEELEY, Registered Nurse License Number 716876, and said Agreed Order is final.

Effective this 11th day of August, 2020.



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



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.
Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Registered Nurse License Number 716876 §
issued to MICHAEL BRIAN NEELEY § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MICHAEL BRIAN NEELEY, Registered Nurse License Number 716876, 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),(5)&(10) and 301.453, Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on July 19, 2016.

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 representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received a Baccalaureate Degree in Nursing from The University of Texas, Austin, Texas on May 13, 2005. Respondent was licensed to practice professional nursing in the State of Texas in June 16, 2005.
5. Respondent's registered nursing employment history is unknown.

6. On or about September 16, 2015, Respondent entered a plea of Nolo Contendere to and was convicted of DRIVING WHILE INTOXICATED, a Class B misdemeanor offense, committed on December 26, 2013, in the County Court at Law No. 5 of Travis County, Texas, under Cause Number C-1-CR-13-221707. As a result of the conviction, Respondent was sentenced to confinement in the Travis County Jail for a period of one-hundred eighty (180) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of twenty (20) months and was ordered to pay court costs.
7. In response to Finding of Fact Number Six (6), Respondent states he disclosed the incident in a letter submitted to the Texas Board of Nursing on April 8, 2014. In said letter, Respondent states he diverted Klonopin at work, and was later involved in a car accident in the garage at his place of employment. Prior to January 2013, Respondent states he had eight (8) years sobriety. Respondent further states this incident led him to rehabilitation and therapy. Respondent sought treatment at a thirty-day inpatient rehabilitation facility; was admitted into and remained compliant with TPAPN program, including an intensive outpatient program; attends AA meetings; and attends therapist and psychiatric appointments. Respondent further states he has remained sober for over two years, and is active in the recovery community.
8. On or about March 28, 2016, Respondent submitted an Online Renewal Document Registered Nurse to the Texas Board of Nursing in which he provided false, deceptive, and/or misleading information, in that he answered "No" to the question: "Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:
 - A. been arrested and have a pending criminal charge?
 - B. been convicted of a misdemeanor?
 - C. been convicted of a felony?
 - D. pled nolo contendere, no contest, or guilty?
 - E. received deferred adjudication?
 - F. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
 - G. been sentenced to serve jail, prison time, or court-ordered confinement?
 - H. been granted pre-trial diversion?
 - I. been cited or charged with any violation of the law?
 - J. been subject of a court-martial; Article 15 violation; or received any form of military judgement/punishment/action?"

Respondent failed to disclose that on or about September 16, 2015, Respondent entered a plea of Nolo Contendere to and was convicted of DRIVING WHILE INTOXICATED, a Class A misdemeanor offense, committed on December 26, 2013, in the County Court at Law No. 5 of Travis County, Texas, under Cause Number C-1-CR-13-221707.

9. In response to Finding of Fact Number Eight (8), Respondent states this was a mistake and that he was under the impression that since "I had listed and sent a letter in April 2014 explaining what had happen, that I did not need to send another letter at this renewal."
10. The Respondent's conduct as described in the preceding Finding(s) of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
11. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use disorder.
12. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, 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)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2),(5)&(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 716876, heretofore issued to MICHAEL BRIAN NEELEY, up to, and including, revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement and complete the enrollment process, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep all applicable license(s) to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

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

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Five (5) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 15th day of August, 2016.

Mich Neeley

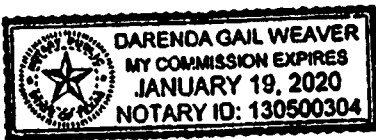
MICHAEL BRIAN NEELEY, RESPONDENT

Sworn to and subscribed before me this 15th day of August, 2016.

SEAL


Randa Weaver

Notary Public in and for the State of Texas



WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Agreed Order that was signed on the 15th day of August, 2016, by MICHAEL BRIAN NEELEY, Registered Nurse License Number 716876, and said Order is final.

Entered and effective this 19th day of August, 2016.



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