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BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED ORDER
Registered Nurse License Number 899113 §
issued to RYAN MATTHEW SHUMAKE §

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of RYAN MATTHEW SHUMAKE, Registered Nurse License Number 899113, 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 June 5, 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 an Associate Degree in Nursing from Baptist Health System, San Antonio, Texas, on April 1, 2016. Respondent was licensed to practice professional nursing in the State of Texas on May 24, 2016.
5. Respondent's nursing employment history includes:

4/2016 - 2/2017 RN Baptist Health System San Antonio, Texas

Respondent's nursing employment history continued:

3/2017 – 5/2017	Unknown	
6/2017 – 8/2018	RN	DaVita San Antonio, Texas
9/2018 – 10/2018	Unknown	
11/2018 – 10/2019	RN	Health by Choice Spring Branch, Texas
9/2019 – 1/2020	RN	Stone Oak Methodist Hospital San Antonio, Texas
2/2020 - Present		

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Baptist Health System, San Antonio, Texas, and had been in that position for ten (10) months.
7. On or about November 28, 2016 through January 19, 2017, while employed with Baptist Health System, San Antonio, Texas, Respondent withdrew Hydromorphone from the medication dispensing system for patients, but failed to document and/or completely and accurately document the administration of the medication in the patients' Medication Administration Records and/or nurse's notes. Respondent's conduct was likely to injure patients in that subsequent care givers would rely on his documentation to further medicate patients 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.
8. On or about November 28, 2016 through January 19, 2017, while employed with Baptist Health System, San Antonio, Texas, Respondent withdrew Hydromorphone from the medication dispensing system, but failed to follow the facility's policy and procedure for wastage of the unused portions of the medication. Respondent's conduct left medications unaccounted for, was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
9. On or about November 28, 2016 through January 19, 2017, while employed with Baptist Health System, San Antonio, Texas, Respondent misappropriated Morphine, Lorazepam, Hydrocodone, and Fentanyl in that he admitted he diverted the medications due to his addiction to prescription narcotics. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

10. On or about December 19, 2016, while employed with Baptist Health System, San Antonio, Texas, Respondent withdrew Fentanyl from the medication dispensing system for a patient, but failed to document and/or completely and accurately document the administration of the medication in the patient's Medication Administration Record and/or nurse's notes. Respondent's conduct was likely to injure patients in that subsequent care givers would rely on his documentation to further medicate patients 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.
11. On or about December 19, 2016, while employed with Baptist Health System, San Antonio, Texas, Respondent withdrew Fentanyl 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 medication. Respondent's conduct left medications unaccounted for, was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
12. On or about December 29, 2016, while employed with Baptist Health System, San Antonio, Texas, Respondent withdrew Fentanyl from the medication dispensing system for a patient, but failed to document and/or completely and accurately document the administration of the medication in the patient's Medication Administration Record and/or nurse's notes. Respondent's conduct was likely to injure patients in that subsequent care givers would rely on his documentation to further medicate patients 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.
13. On or about December 29, 2016, while employed with Baptist Health System, San Antonio, Texas, Respondent withdrew Fentanyl 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 medication. Respondent's conduct left medications unaccounted for, was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
14. On or about January 19, 2017, while employed with Baptist Health System, San Antonio, Texas, Respondent lacked fitness to practice professional nursing in that he was observed shaking, his eyes were slightly red, and his speech was a little slow. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patient's conditions and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
15. On or about January 19, 2017, while employed with Baptist Health System, San Antonio, Texas, Respondent engaged in the intemperate use of Fentanyl in that he produced a specimen for a for cause drug screen that resulted positive for Fentanyl. Additionally, Respondent admitted he diverted Fentanyl due to his addiction to prescription narcotics.

16. On or about August 17, 2018, while participating in the Texas Peer Assistance Program for Nurses (TPAPN), Respondent submitted a hair sample for a drug screen that resulted positive for Amphetamines, Opiates, Methamphetamines, Codeine, and 6-Monoacetylmorphine (MAM). Possession of Amphetamines, Opiates, and Codeine without a valid prescription is prohibited by Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patient's conditions and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
17. On or about December 11, 2019, while employed with Methodist Hospital, San Antonio, Texas, Respondent lacked fitness to practice professional nursing in that he exhibited signs of being under the influence of medication and subsequently submitted a urine specimen for a for cause drug screen that resulted positive for Amphetamines, Methamphetamines, Oxymorphone, and Buprenorphine. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patient's conditions and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
18. On or about December 12, 2019, while employed with Methodist Hospital, San Antonio, Texas, Respondent engaged in the intemperate use of Amphetamines, Methamphetamines, Oxymorphone, and Buprenorphine, in that you submitted a urine specimen for a for cause drug screen that resulted positive for Amphetamines, Methamphetamines, Oxymorphone, and Buprenorphine. Possession of Amphetamines, Oxymorphone, and Buprenorphine, without a valid prescription is prohibited by Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code. The use of Amphetamines, Methamphetamines, Oxymorphone, and Buprenorphine, by a registered nurse while subject to call or duty, could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
19. On or about April 14, 2020, while participating in the Texas Peer Assistance Program for Nurses (TPAPN), Respondent submitted a specimen for a random drug screen that resulted positive for Amphetamines and Methamphetamines. Possession of Amphetamines, without a valid prescription is prohibited by Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code. The use of Amphetamines and Methamphetamines, could impair the Respondent's ability to make rational, accurate, and appropriate decisions.
20. In response to Findings of Fact Numbers Seven (7) through Nineteen (19), Respondent acknowledges he has made many mistakes and has poorly represented the Nursing community by using drugs and diverting controlled substances in the workplace. Respondent states since his relapse he has completed a Partial Hospitalization Program and has obtained a sponsor with whom he has begun working though the 12 steps of Alcoholics Anonymous (AA). Respondent states he attends 4 AA meetings a week and has developed a strong sober support circle. Respondent also states he attended an IOP program and

graduated on June 4th, 2020. Additionally, Respondent is working with a Licensed Chemical Dependency Counselor twice weekly, attends an aftercare program weekly, and is moving into a sober living home to help strengthen his sober support circle and community. According to Respondent, he is dedicated to maintaining a strong program of recovery and is committed to staying sober. Respondent feels he is called to be a Nurse and will do whatever it takes to remain sober in order practice nursing and live out his dream every day as a Registered Nurse. Respondent requests to be admitted into the TPAPN program.

21. 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)(C),(1)(D) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C)(4),(5),(6)(G),(8),(10)(A),(10)(C),(10)(D),(10)(E)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 899113, heretofore issued to RYAN MATTHEW SHUMAKE.
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 899113, previously issued to RYAN MATTHEW SHUMAKE, 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. 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.

V. 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 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 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.

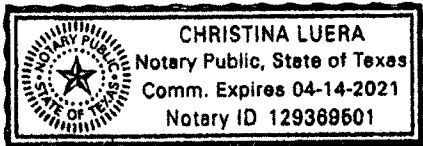
Signed this 28 day of September 2020.

Ryan Shumake
RYAN MATTHEW SHUMAKE, RESPONDENT

Sworn to and subscribed before me this 28 day of September, 2020.

SEAL

C. Luera
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 ratify and adopt the Agreed Order that was signed on the 28th day of September, 2020, by RYAN MATTHEW SHUMAKE, Registered Nurse License Number 899113, and said Agreed Order is final.

Effective this 8th day of October, 2020.



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