



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 802962 §
issued to KATHERINE LOIS LINDEN §
§

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of KATHERINE LOIS LINDEN, Registered Nurse License Number 802962, 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),(3),(8),(9)&(10), and 304.0015, Article V, 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 January 11, 2021.

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 Texas A&M Health Science Center, College Station, Texas, on May 20, 2011. Respondent was licensed to practice professional nursing in the State of Texas on June 21, 2011.
5. Respondent's nursing employment history is unknown.

6. On or about September 4, 2019, while utilizing a Privilege to Practice nursing from Texas, and employed as a Registered Nurse with PPR Travel Nursing, Jacksonville Beach, Florida, and on assignment with Billings Clinic, Billings, Montana, Respondent misappropriated Morphine, Hydrocodone, and Oxycodone belonging to the facility and patients thereof, in that she admitted to such misappropriation for her personal use. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications, and the unlawful possession of Morphine, Hydrocodone, and Oxycodone is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Morphine, Hydrocodone, and Oxycodone by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and 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.

On or about August 27, 2020, Respondent entered a plea of guilty to three (3) counts of CRIMINAL POSSESSION OF DANGEROUS DRUGS, a felony offense, and one (1) count of CRIMINAL POSSESSION OF DRUG PARAPHERNALIA, a misdemeanor offense, in the Montana Thirteenth Judicial Court, Yellowstone County, Montana, under Cause Number DC20-0179. On or about October 22, 2020, Respondent was convicted; for the three (3) counts of felony CRIMINAL POSSESSION OF DANGEROUS DRUGS, the imposition of the sentence was deferred for a period eighteen (18) months; and for the one (1) count of misdemeanor CRIMINAL POSSESSION OF DRUG PARAPHERNALIA, the imposition of the sentence was deferred for a period of six (6) months.

On or about December 10, 2020, Respondent was issued a Notice of Proposed Board Action and Opportunity for Hearing by the Montana Board of Nursing, Helena, Montana. A copy of the Montana Board of Nursing's Notice of Proposed Board Action and Opportunity for Hearing, dated December 10, 2020, is attached and incorporated as part of this Order.

7. Regarding the conduct outlined in Finding of Fact Number Six (6), Respondent states she is ashamed of her actions, and through treatment she has developed healthy coping skills. She states she completed inpatient treatment at Sierra Tucson in Arizona, followed by intensive outpatient treatment. Respondent understands the seriousness of her actions and takes full responsibility, and she seeks an opportunity to enroll in the Texas Peer Assistance Program for Nurses (TPAPN).
8. 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 §217.12(1)(A),(1)(B),(4),(5),(6)(G),(8),(10)(E)&(11)(B).
4. The evidence received is sufficient cause pursuant to Sections 301.452(b)(3),(8),(9)&(10), and 304.0015, Article V, Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 802962, heretofore issued to KATHERINE LOIS LINDEN.
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 802962, previously issued to KATHERINE LOIS LINDEN, 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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CONTINUED ON NEXT PAGE.

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 26th day of March, 2021.

Katharine Linden
KATHERINE LOIS LINDEN, 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.

George C. Johnson Jr.
George C. Johnson Jr., Attorney for Respondent

Signed this 26th day of March, 2021.

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 26th day of March, 2021, by KATHERINE LOIS LINDEN, Registered Nurse License Number 802962, and said Agreed Order is final.

Effective this 29th day of March, 2021.



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

Michele L. Peterson-Cook
Sara J. Hanson-Baiamonte
Special Assistant Attorneys General
DEPARTMENT OF LABOR AND INDUSTRY
Office of Legal Services
301 South Park Avenue
P.O. Box 200514
Helena, MT 59620-0514
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E-mail: dlibsdllegalservices@mt.gov

**BEFORE THE BOARD OF NURSING
STATE OF MONTANA**

In the Matter of KATHERINE LINDEN, Registered Nurse, Texas License No. 802962.	Case No. 2019-NUR-CMP-671 NOTICE OF PROPOSED BOARD ACTION AND OPPORTUNITY FOR HEARING
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On December 1, 2020, the Screening Panel of the Montana Board of Nursing (Board), considered information presented by the Montana Department of Labor and Industry (Department), and directed issuance of this *Notice of Proposed Board Action and Opportunity for Hearing* (Notice), to Katherine Linden (Respondent).

A. FACT ASSERTIONS

1. Katherine Linden holds a registered nurse (RN) license, Texas number 802962, issued on or about June 21, 2011. Ms. Linden's license is active through August 31, 2021.

2. Under the Nurse Licensure Compact (NLC), Ms. Linden holds a multi-state compact license authorizing her to practice nursing in Texas, her home state, and Montana (and other compact states) under a practice privilege.

3. The Department received a complaint against Ms. Linden from Laurie Smith, Chief Nursing Officer of Billings Clinic, in Billings, Montana. The complaint alleged Ms. Linden diverted controlled substances from the Emergency Department (ED) at Billings Clinic.

4. The Department received concurrence from a Screening Panel member to investigate the complaint.

5. The Department forwarded a copy of the complaint to Ms. Linden and directed her to respond to the allegations. By and through her legal counsel, Ms. Linden elected not to respond to the complaint. Therefore, the allegations in this complaint remain unrefuted.

6. Ms. Linden began working for Billings Clinic as a travel nurse on May 6, 2019.

7. On September 4, 2019, Billings Clinic ED Coordinator, Tami Grewell, found Ms. Linden's purse in the ED staff bathroom. The purse contained several empty vials and empty carpjects of different narcotic medications, including morphine and hydromorphone, and various tablets of narcotic medications, including acetaminophen/oxycodone and acetaminophen/hydrocodone. The lot numbers for some of the vials and tablets matched current lot numbers of vials and tablets contained in existing Billings Clinic stock.

8. Ms. Linden was removed from patient care and asked to empty her pockets. Ms. Linden removed a morphine 10mg/ml vial and a morphine 4 mg/ml carpject, both of which contained clear liquid, and numerous other hospital supplies. One of the syringes had a needle attached to it and what appeared to be a small amount of blood back filled into the syringe.

9. Review of hospital records showed Ms. Linden failed to follow hospital policy for wasting controlled substances on several occasions.

a. The Billings Clinic Controlled Substance Medication Waste Policy and Procedure requires nurses draw the full volume of the medication, determine the ordered

dose, and then waste excess medication. The nurse should waste the excess medication as soon as possible, not more than one hour from when the medication was dispensed.

b. Ms. Linden's wasting of medications often occurred more than one hour after the medication was dispensed, on average approximately 133 minutes, and sometimes took place at different Omnicells than where the medication was dispensed. The Medication Administration Policy and Procedure encourages nurses to waste excess medication at the Omnicell the medication is dispensed from.

c. Additionally, the Billings Clinic Medication Administration Policy and Procedure requires nurses to document medication administrations in the medication administration record (MAR) at the time the medication is administered and when excess medication is wasted the waste must be co-signed/witnessed by another approved individual.

d. The Medication Administration Policy and Procedure also requires nurses to return discontinued or refused unopened medications to the Omnicell. Ms. Linden wasted the entire unopened medication rather than returning it to the Omnicell. Of note, the policy also does not allow nurses to pull as needed (PRN) medication in anticipation of a patient's need but rather only when requested by the patient.

e. Ms. Linden received training on the Controlled Substance Medication Waste Policy and Procedure and the Medication Administration Policy and Procedure and was aware of specifics of the policies mentioned here.

10. Co-workers of Ms. Linden's expressed discomfort in wasting with Ms. Linden.

a. One co-worker reported feeling uncomfortable, "something seemed off," when Ms. Linden had her witness the wasting of 3 different vials of morphine. Ms.

Linden pulled the three vials of morphine over a period of approximately two hours and twenty-minutes, then wasted the excess morphine from each vial over an hour after the last vial of morphine was dispensed. Each of the medications were documented as administered within ten minutes of Ms. Linden pulling them from the Omnicell, but not wasted until much later. Additionally, each of the morphine vials were pulled from various Omnicells.

b. The co-worker noted the timeframe of Ms. Linden's waste seemed off, commenting that at Billings Clinic nurses are always oriented to waste immediately or soon after.

c. The co-worker also noted that Ms. Linden would disappear for long amounts of time while working but indicated even with her unexplained disappearances Ms. Linden always carried her weight.

11. A review of patient records revealed various patients in which Ms. Linden pulled narcotics and then wasted the excess outside of the policy guidelines.

a. On August 28, 2019, Ms. Linden pulled hydromorphone for patient SC three separate times. The first two times she pulled the medication it took her over one hour to waste the excess medication. Additionally, when Ms. Linden wasted all three doses it was after the medication was administered to the patient.

b. On August 24, 2019, Ms. Linden pulled morphine for patient RW. Ms. Linden wasted the excess morphine over three hours and twenty minutes after she pulled and administered the medication to the patient. Additionally, the waste type chosen was for a discharged patient.

c. On August 28, 2019, Ms. Linden pulled morphine for patient JJ. Ms. Linden wasted the excess morphine over two hours after she pulled and administered it to the patient.

d. On August 29, 2019, Ms. Linden pulled hydromorphone for patient GT. Ms. Linden wasted the excess hydromorphone after she administered the medication to the patient.

e. On August 4, 2019, Ms. Linden pulled hydromorphone for patient PR. Ms. Linden wasted the excess hydromorphone over one hour and twenty minutes after she pulled and then administered the medication to the patient.

f. On August 30, 2019, Ms. Linden pulled morphine for patient KM. Ms. Linden documented wasting the entire vial of morphine two hours after the medication was dispensed. Then almost two hours and thirty minutes after Ms. Linden documented wasting the medication, under administration she documented that the morphine was not given because it was not appropriate at that time.

12. Patient records also show, Ms. Linden was aware of how to properly follow the policies described above. For example, for two different patients, who were prescribed lorazepam, Ms. Linden documented pulling and wasting excess medication prior to administering it and then immediately documenting administering the medication in the MAR.

13. On September 4, 2019, when Billings Clinic requested Ms. Linden submit to a urine drug screen or blood test, she refused.

14. On August 27, 2020, Ms. Linden pled guilty to three felony counts of criminal possession of dangerous drugs and one misdemeanor count of criminal possession of drug paraphernalia.

15. In her Acknowledgment and Waiver of Rights by Plea of Guilty and Plea Agreement, Ms. Linden admitted that

On September 4, 2019, [she] was working as a nurse at a local hospital. [She] left [her] purse in a break room, and an employee discovered morphine, hydrocodone, and oxycodone in [her] purse. Each of these substances are Schedule II narcotics under the laws of the State of Montana, and [she] did not have a prescription for any of the substances. Additionally, located within [her] purse were syringes used to introduce some of these substance into the human body. [She] possessed each substance and the paraphernalia described above purposely and knowingly, outside the scope of [her] duties as a nurse, and with knowledge that it was illegal for [her] to possess these items.

See Exhibit A.

16. Ms. Linden was sentenced to an eighteen-month deferred imposition of sentence for each of the felonies (each to run concurrently), and a six-month deferred imposition of sentence for the misdemeanor (to run concurrently with the felony sentences). Additionally, Ms. Linden is subject to community supervision, and the court placed a number of requirements on her, including, among other requirements, completion a chemical dependency evaluation and mental health evaluation (credit for completion of the evaluations was given at the time the judgment was entered). See Exhibit B.

17. The Screening Panel convened its meeting on December 1, 2020. Ms. Linden's legal counsel attended the meeting by telephone. The Screening Panel found reasonable cause to believe Ms. Linden committed unprofessional conduct justifying disciplinary proceedings.

B. ASSERTIONS OF LAW

1. The Board has subject matter jurisdiction and legal authority to bring this action under Mont. Code Ann. Title 37, ch. 1 and 8, and Admin. R. Mont. Title 24, ch. 101 and 159. For disciplinary purposes, the Board retains jurisdiction over the license for two years after lapse. Mont. Code Ann. § 37-1-141.

2. The Department provides all administrative, legal, and clerical services needed by the Board, including those related to processing and issuing licenses, renewing licenses, and disciplining licensees. Mont. Code Ann. § 37-1-101.

3. The Board established a Screening Panel to determine whether there is reasonable cause to believe a licensee violated a particular statute, rule, or standard justifying disciplinary proceedings. Mont. Code Ann. § 37-1-307(1)(d).

4. In accordance with the NLC, a multistate license to practice nursing, issued by a home state to a resident in that state, will be recognized by each party state as authorizing a nurse to practice under a multistate licensure privilege in each party state. Mont. Code Ann. § 37-8-501, Art. III, (1).

5. All party states to the NLC are authorized to take adverse action against a nurse's multistate licensure privilege. Mont. Code Ann. § 37-8-501, Art. III, (4).

6. A nurse practicing in a party state to the NLC must comply with the state practice laws of the state in which the client is located at the time service is provided. Mont. Code Ann. § 37-8-501, Art. III, (5).

7. Based on the fact assertions above, the Board found reasonable cause to believe Ms. Linden violated the following statutes, rules, or standards, justifying disciplinary proceedings:

Montana Code Annotated

§ 37-1-316. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this part:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(11) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(13) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(18) conduct that does not meet the generally accepted standards of practice.

Administrative Rules of Montana

24.159.2301 CONDUCT OF NURSES

(2) Unprofessional conduct, for purposes of defining 37-1-307, MCA, in addition to unprofessional conduct listed at 37-1-316, MCA, the following being unique, is determined by the board to mean behavior (acts, omissions, knowledge, and practices) which fails to conform to the accepted standards of the nursing profession and which could jeopardize the health and welfare of the people and shall include, but not be limited to, the following:

- (a) failing to utilize appropriate judgment in administering safe nursing practice based upon the level of nursing for which the individual is licensed;
- (b) failing to exercise technical competence in carrying out nursing care;
- (c) failing to follow policies or procedures defined in the practice situation to safeguard patient care;

- (g) altering and/or manipulating drug supplies, narcotics, or patients' records;
- (h) falsifying patients' records, intentionally charting incorrectly or failing to chart;
- (i) diversion of a medication for any purpose;

(v) violating a state or federal statute while performing or attempting to perform the practice of nursing.

8. Hydrocodone, hydromorphone, morphine, and oxycodone are listed under Montana law as schedule II controlled substances. Mont. Code Ann. § 50-32-224(1)(a)(xi), (xii), (xiv), and (xvi).

9. A prescription is required for a controlled substance medication to be issued to a patient. Mont. Code Ann. § 50-32-208.

C. STATEMENT OF RIGHTS AND PROCEDURES

1. You may request a hearing to contest these charges. To exercise the right to a hearing, you must send a written request within 20 days of receipt of this Notice, addressed as follows:

Department of Labor and Industry
Office of Legal Services
301 South Park Avenue
P.O. Box 200514
Helena, MT 59620-0514

2. Failure to request a hearing within 20 days of the receipt of this Notice constitutes a default and allows the Board to enter a Final Order of discipline against you based on the facts available to it.

3. If you request a hearing within 20 days, the Commissioner of Labor and Industry will appoint an impartial hearing examiner to conduct the hearing. The hearing examiner will notify you and the Department of the time and place of the hearing. You have the right to appear in person or by or with counsel.

4. Procedural and substantive requirements governing this matter may be found at Mont. Code Ann. Title 2, ch. 4, pt. 6 (Montana Administrative Procedure Act) and Title 37, ch. 1, pt. 1 and 3, and ch. 8, including the right to: a hearing before an impartial hearing examiner;

present evidence, testify, confront, and cross-examine witnesses at the hearing; be represented by legal counsel; subpoena witnesses; and request judicial review and appeal.

5. After a proposed decision of a hearing examiner, a default, or a stipulated agreement, the Board will issue a Final Order and may impose one or any combination of sanctions under Mont. Code Ann. § 37-1-312 or rules adopted by the Board, including:

- a. revocation of the license;
- b. suspension of the license for a fixed or indefinite term;
- c. restriction or limitation of the practice;
- d. satisfactory completion of a specific program of remedial education or treatment;
- e. monitoring of the practice by a supervisor approved by the disciplining authority;
- f. censure or reprimand, either public or private;
- g. compliance with conditions of probation for a designated period of time;
- h. payment of a fine not to exceed \$1,000.00 for each violation (deposited in the state general fund); and
- i. refund of costs and fees billed to and collected from a customer.

6. You may request judicial review of a Final Order of the Board entered after consideration of a proposed decision of a hearing examiner by filing a petition in district court within 30 days of the issuance of a Final Order.

7. In lieu of a hearing, you may enter into a stipulated agreement resolving potential or pending charges that include one or more sanctions authorized by law.

DATED this 10th day of December 2020.



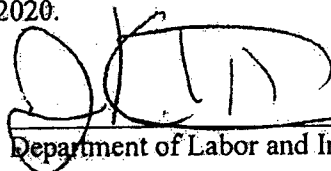
Michele L. Peterson-Cook
Special Assistant Attorney General
DEPARTMENT OF LABOR AND INDUSTRY

CERTIFICATE OF SERVICE

I certify I served a true and accurate copy of the foregoing ***NOTICE OF PROPOSED BOARD ACTION AND OPPORTUNITY FOR HEARING*** by placing it in the United States Postal Service mail, certified with return receipt requested and postage prepaid, addressed to the following:

KATHERINE LINDEN
622 44TH STREET WEST
BILLINGS MT 59106

DATED this 10th day of December 2020.



Department of Labor and Industry

CLERK OF THE
DISTRICT COURT
TERRY HALPIN

2020 AUG 27 A 11: 15

FILED
BY WSC
DEPUTY 22

MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY

STATE OF MONTANA,

Plaintiff,

CAUSE NO. DC 20-0179

vs.

JUDGE COLETTE B. DAVIES

KATHERINE LOIS LINDEN,

Defendant.

ACKNOWLEDGMENT AND WAIVER OF
RIGHTS BY PLEA OF GUILTY AND PLEA
AGREEMENT

ACKNOWLEDGMENT OF RIGHTS

I, Katherine Lois Linden, the Defendant in the above-entitled matter, have had an opportunity to examine the charges brought against me, including the investigative file, and after consultation with my attorney and being fully advised, acknowledge my rights, and agree to plead Guilty as hereinafter set forth.

I acknowledge that my attorney has explained to me and advised me of the following and I fully understand that: (initial each)

K2 1. I am charged with the offenses of:

- Count I: Criminal Possession of Dangerous Drugs (Felony)
- Count II: Criminal Possession of Dangerous Drugs (Felony)
- Count III: Criminal Possession of Dangerous Drugs (Felony)
- Count IV: Criminal Possession of Drug Paraphernalia (Misdemeanor)

K2 2. I understand the maximum possible penalties are as follows:

- Count I: 0 to 5 years and \$5,000
- Count II: 0 to 5 years and \$5,000
- Count III: 0 to 5 years and \$5,000
- Count IV: 0 to 6 months and \$500

Exhibit
A

- 1 K2 3. I have the right to plead Not Guilty, or to persist in that plea if it has already been
2 made and thereby place the burden of proving my guilt on the prosecution which must
3 prove my guilt beyond a reasonable doubt.
- 4 K2 4. I have the right to challenge the sufficiency of the Information and the Affidavit
5 supporting it.
- 6 K2 5. I have the right to object to any evidence that may have been obtained in violation of
7 the United States Constitution, the Montana Constitution, and/or prevailing law.
- 8 K2 6. I have the right to be represented by counsel at every state of the proceeding.
- 9
- 10 K2 7. I have the right to a speedy and public trial by jury or judge and at that trial I have the
11 following rights:
12 a. The right to effective assistance of counsel.
13 b. The right to confront and cross-examine witnesses against me.
14 c. The right to testify.
15 d. The right to call and have witnesses testify on my behalf.
16 e. The right not to be compelled to incriminate myself.
17 f. The right to have the charges proven beyond a reasonable doubt and to
18 appeal a finding of Guilty.
19 g. The right to argue for any lesser included offense(s).
- 20 K2 8. By pleading Guilty, I give up all of the rights in Section 3 through Section 7 (b-g)
21 listed above. By pleading Guilty I waive my right to appeal or otherwise challenge
22 my conviction by direct appeal.
- 23 K2 9. I understand that I have the right to apply for sentence review if the Court imposes an
24 incarceration sentence of one year or more.
- 25 K2 10. I have had ample time and opportunity to discuss this case with my attorney to prepare
a defense and I have received the full benefit of my attorney's advice and the possible
outcome of a trial. I am satisfied with the services of my attorney, and my attorney
has been fair to me and has represented me properly.
- K2 11. I am not suffering from any mental disease or defect or any emotional disability, nor
am I acting under the influence of alcohol, drugs, or prescription medicine. I fully
understand the consequences of signing this Agreement.
- K2 12. I have not been threatened, coerced, forced, intimidated, or influenced in any way.
- K2 13. I have entered into this Agreement freely and voluntarily and with full knowledge of
its terms and conditions.

- 1 K2 14. I understand that a plea agreement is an agreement between a Defendant and a
2 Prosecutor that in exchange for a particular plea, the prosecutor will recommend a
3 particular sentence and/or dismissal of certain charges. I understand that the Court may
4 not participate in the making of such an agreement nor is the Court bound by the
5 Agreement pursuant to Mont. Code Ann. § 46-12-211(1)(c).
- 6 K2 15. I understand that the Court may not participate in the making of such an agreement
7 nor is the Court bound by the Agreement pursuant to Mont. Code Ann. § 46-12-
8 211(1)(c).
- 9 K2 16. I understand the Judge is not bound by any recommendations and can impose any
10 sentence up to the maximum penalties for the above-listed offense(s). I understand I
11 will not be allowed to withdraw my plea in the event the Judge rejects this Agreement.
12 I understand that if the Court rejects the sentencing recommendation, I could be
13 sentenced to the maximum punishments allowed by the applicable laws.
- 14 K2 17. I understand that the sentence to be imposed is within the sole discretion of the
15 sentencing judge and that the State does not make any promise or representation as to
16 what the sentence will be.
- 17 K2 18. I understand that if the Court does not impose the sentence recommended by the
18 Prosecutor, the Court is not required to allow me to withdraw my plea of Guilty.
- 19 K2 19. I understand that at the sentencing hearing the victim(s) of the offense(s) has a
20 statutory right that the State must honor and is not an attempt by the State to solicit
21 testimony to undercut this Agreement. I understand and agree that if the victim(s)
22 chooses to exercise this right that such testimony will not be a basis to withdraw my
23 plea.
- 24 K2 20. I understand that a presentence investigation report will be prepared.
- 25 K2 21. I understand that the Court, after a separate hearing or at sentencing has the ability to
award restitution to the victim(s) in this matter, which I may be required to pay as
part of the sentence imposed by the Court.
- K2 22. I have considered the most severe sentence that could be imposed and understand that
there are many indirect or collateral consequences of a plea, some of which include
but may not directly apply to this offense(s), loss of freedom of association,
registration as a violent offender, loss of driving privileges, the right to hold public
office, difficulty in obtaining employment, loss of the right to possess a weapon and
that this conviction may be used against me in a subsequent case.
- K2 23. I acknowledge that I have reviewed a full copy of the investigative file with my
attorney and/or attorney's investigator. I have been advised about exculpatory
evidence and inculpatory evidence.
- K2 24. I state without hesitation that my attorney has exhaustively explained to me every
aspect of the case. In those discussions we went over my testimony and the testimony
of all witnesses expected to testify on behalf of the State and on behalf of the Defense.

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K2 My attorney explained to me what the State's theory of prosecution would be in the event this case went to trial. My attorney explained to me what all the physical and expert evidence would be. My attorney carefully advised me that if this case were to proceed to trial, based on the evidence, the jury could find me Not Guilty of any or all charges, Guilty of any or all charges, or the jury could possibly not reach a verdict which would result in a mistrial. My attorney also discussed any potential lesser included offenses, which include:

K2 25. My attorney has also informed me of all offers provided by the Yellowstone County Attorney's Office.

K2 26. My attorney left the decision totally to me advising only of the consequences of going to trial.

K2 27. I believe it is in my best interest to plead Guilty.

K2 28. I understand that this Agreement is limited to the Yellowstone County Attorney's Office and cannot bind other state, local, or federal prosecuting authorities.

K2 29. This Agreement encompasses all of the understandings of the parties. No other promises have been made to me other than those specified in this Agreement.

K2 30. I acknowledge receiving a copy of this Agreement.

31. The fact and circumstances of the offense(s) to which I will plead Guilty follow:
On September 4, 2019, I was working as a nurse at a local hospital. I left my purse in a break room, and an employee discovered morphine, hydrocodone, and oxycodone in my purse. Each of these substances are Schedule II narcotics under the laws of the State of Montana, and I did not have a prescription for any of the substances. Additionally, located within my purse were syringes used to introduce some of these substances into the human body. I possessed each substance and the paraphernalia described above purposely and knowingly, outside the scope of my duties as a nurse, and with knowledge that it was illegal for me to possess these items.

K2 32. I understand that at the Change of Plea Hearing in this matter the Court may require me to be sworn and to testify regarding the above facts.

DATED this 27th day of August, 2020.

Katherine Loisen Linden
Katherine Lois Linden

1 AGREEMENT

2 1. I agree to enter a Guilty plea to the offense(s) of:

- 3 Count I: Criminal Possession of Dangerous Drugs (Felony)
- 4 Count II: Criminal Possession of Dangerous Drugs (Felony)
- 5 Count III: Criminal Possession of Dangerous Drugs (Felony)
- 6 Count IV: Criminal Possession of Drug Paraphernalia (Misdemeanor)

7 2. The parties agree to recommend that I should receive the following sentence

8 AS TO COUNTS I - III:

9 a. The State and Defendant will jointly recommend that imposition of sentence be deferred for a period of ~~three years~~. *Eighteen Months R# JY*

10 AS TO COUNT IV:

11 a. The State and my attorney will jointly recommend that imposition of sentence be deferred upon the condition that I pay a \$500 fine.

12 I agree to enter my plea pursuant to this Agreement and understand that if I fail to appear or change my plea on the scheduled dated that the State may withdraw from the Agreement and a warrant may be issued for my arrest.

13 OTHER PROVISIONS

14 It is further understood and agreed that:

- 15 1. The Prosecutor will abide by the terms of the pretrial Agreement throughout all proceedings relevant to the determination of sentence including sentence review and parole proceedings.
- 16 2. The Prosecutor shall not be bound to make the agreed-upon recommendation and may either withdraw from the Agreement or make a different recommendation in the event that I misrepresent material facts concerning my record, or a Court finds probable cause of additional criminal conduct or violation of bail conditions by me prior to sentencing. If I have already pled Guilty, I shall not be allowed to withdraw my plea.
- 17 3. I agree that should I abscond pending sentencing, I will be responsible for the costs incurred by the State in transporting me back to Yellowstone County.

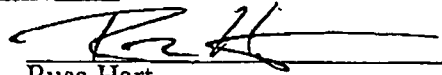
18 No additional promises, agreements, or conditions have been entered into other than those set forth in this Agreement. In the event of withdrawal or termination of this Agreement, any statements made herein shall not be admissible in any proceeding.

19 DATED this 27th day of August, 2020.

20 *Katherine Lois Linden*
21 _____
22 Katherine Lois Linden

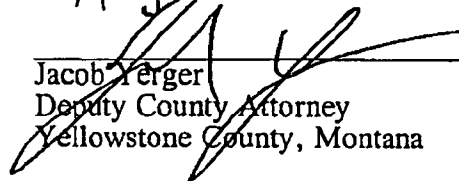
1 I certify that the Defendant has read the Agreement and I have advised the Defendant of the
2 Agreement and explained it to him. I am satisfied that he understands all of his rights and that his
3 plea of Guilty is being voluntarily made, that he understands he is waiving such rights by entry of
4 said plea, and that he is not suffering from any physical, mental or emotional disability, and that he
5 is not under the influence of any drugs or intoxicants, to the best of my knowledge and belief.

6 DATED this 27th day of August, 2020.



Russ Hart
Attorney for Defendant

7 Reviewed and accepted this 27th day of August, 2020.



Jacob Yerger
Deputy County Attorney
Yellowstone County, Montana

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20-28521
AV

MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY

<p>STATE OF MONTANA, Plaintiff,</p> <p>vs.</p> <p>KATHERINE LOIS LINDEN, Defendant.</p>	<p>CAUSE NO. DC 20-0179</p> <p>JUDGE COLETTE B. DAVIES</p> <p>JUDGMENT</p>
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On March 5, 2020, Defendant appeared in District Court for initial arraignment.

On August 27, 2020, Defendant and Counsel appeared before the Court for a change of plea hearing. A written Acknowledgement of Waiver of Rights and Plea Agreement form was filed with the Court. Defendant entered her plea of GUILTY to COUNT I: CRIMINAL POSSESSION OF DANGEROUS DRUGS (FELONY), COUNT II: CRIMINAL POSSESSION OF DANGEROUS DRUGS (FELONY), COUNT III: CRIMINAL POSSESSION OF DANGEROUS DRUGS (FELONY) and COUNT IV: CRIMINAL POSSESSION OF DRUG PARAPHERNALIA (MISDEMEANOR).

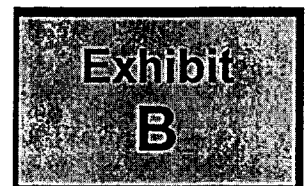
The Court made specific findings that Defendant understood her legal and Constitutional rights, voluntarily entered her plea and was not subjected to any force, threats, or promises (other than the Plea Agreement) in making her plea.

On October 22, 2020, Defendant appeared before the Court with Counsel Nicole Gallagher on behalf of Russ Hart for sentencing.

The Court inquired whether Defendant had any legal cause to show why judgment should not be pronounced. No legal cause was offered.

IT IS ORDERED that for COUNT I: CRIMINAL POSSESSION OF DANGEROUS DRUGS (FELONY) the imposition of sentence is DEFERRED for a period of EIGHTEEN (18) MONTHS. The Court retains jurisdiction of this case.

IT IS FURTHER ORDERED that for COUNT II: CRIMINAL POSSESSION OF DANGEROUS DRUGS (FELONY) the imposition of sentence is DEFERRED for a period of



EIGHTEEN (18) MONTHS, to run concurrently with Count I. The Court retains jurisdiction of this case.

IT IS FURTHER ORDERED that for COUNT III: CRIMINAL POSSESSION OF DANGEROUS DRUGS (FELONY) the imposition of sentence is DEFERRED for a period of EIGHTEEN (18) MONTHS, to run concurrently with Count I and Count II. The Court retains jurisdiction of this case.

IT IS FURTHER ORDERED that for COUNT IV: CRIMINAL POSSESSION OF DRUG PARAPHERNALIA (MISDEMEANOR) the imposition of sentence is DEFERRED for a period of SIX (6) MONTHS, to run concurrently with Count I, Count II and Count III. The Court retains jurisdiction of this case. Defendant will pay a fine of FIVE HUNDRED DOLLARS (\$500.00) to be credited to the General Fund, to run concurrently with Count I, Count II and Count III.

IT IS FURTHER ORDERED that for any period of community supervision, the following conditions of probation will apply:

1. The Defendant shall be placed under the supervision of the Department of Corrections, subject to all rules and regulations of Adult Probation & Parole.
2. The Defendant must obtain prior written approval from his/her supervising officer before taking up residence in any location. The Defendant shall not change his/her place of residence without first obtaining written permission from his/her supervising officer or the officer's designee. The Defendant must make the residence open and available to an officer for a home visit or for a search upon reasonable suspicion. The Defendant will not own dangerous or vicious animals and will not use any device that would hinder an officer from visiting or searching the residence.
3. The Defendant must obtain permission from his/her supervising officer or the officer's designee before leaving his/her assigned district.
4. The Defendant must seek and maintain employment or maintain a program approved by the Board of Pardons and Parole or the supervising officer. Unless otherwise directed by his/her supervising officer, the Defendant must inform his/her employer and any other person or entity, as determined by the supervising officer, of his/her status on probation, parole, or other community supervision.
5. Unless otherwise directed, the Defendant must submit written monthly reports to his/her supervising officer on forms provided by the probation and parole bureau. The Defendant must personally contact his/her supervising officer or designee when directed by the officer.
6. The Defendant is prohibited from using, owning, possessing, transferring, or controlling any firearm, ammunition (including black powder), weapon, or chemical agent such as oleoresin capsicum or pepper spray.
7. The Defendant must obtain permission from his/her supervising officer before engaging in a business, purchasing real property, purchasing an automobile, or incurring a debt until all fines and fees are paid in full.

8. Upon reasonable suspicion that the Defendant has violated the conditions of supervision, a probation and parole officer may search the person, vehicle, residence of the Defendant, and the Defendant must submit to such search. A probation and parole officer may authorize a law enforcement agency to conduct a search, provided the probation and parole officer determines reasonable suspicion exists that the Defendant has violated the conditions of supervision.
9. The Defendant must comply with all municipal, county, state, and federal laws and ordinances and shall conduct himself/herself as a good citizen. The Defendant is required, within 72 hours, to report any arrest or contact with law enforcement to his/her supervising officer or designee. The Defendant must be cooperative and truthful in all communications and dealings with any probation and parole officer and with any law enforcement agency.
10. The Defendant is prohibited from using or possessing alcoholic beverages and illegal drugs. The Defendant is required to submit to bodily fluid testing for drugs or alcohol on a random or routine basis and without reasonable suspicion.
11. The Defendant is prohibited from gambling.
12. The Defendant shall pay all fines, fees, and restitution ordered by the sentencing court.
13. The Defendant shall pay the following fees and/or charges:
 - a. The Probation & Parole Officer shall determine the amount of supervision fees (§46-23-1031, MCA) to be paid each month in the form of money order or cashier's check to the Department of Corrections Collection Unit, P.O. Box 201350, Helena, MT 59620 (\$50 per month if the Defendant is sentenced under §45-9-202, MCA, dangerous drug felony offense and placed on ISP). The DOC shall take a portion of the Defendant's inmate account if the Defendant is incarcerated.
 - b. Surcharge of \$15 for each misdemeanor. [§46-18-236(1)(a), MCA]
 - c. Surcharge of the greater of \$20 or 10% of the fine for each felony offense. [§46-18-236(1)(b), MCA]
 - d. \$10.00 for court information technology fee. (§3-1-317, MCA)
 - e. A \$50 fee at the time a PSI report is completed, unless the court determines the Defendant is not able to pay the fee within a reasonable time (§46-18-111, MCA). The Defendant shall submit this payment to the Department of Corrections Collection Unit, P.O. Box 201350, Helena, MT 59620. The Defendant did not pay the PSI fee.
 - f. The Defendant shall pay a fine(s) over and above any amount credited for pre-conviction incarceration as ordered and directed by the court. (§46-18-231, MCA)
Recommended net fine to be paid to the Clerk of District Court: Count II: \$500.00

- g. The Defendant shall pay costs of legal fees and expenses defined in §25-10-201, MCA, plus costs of jury service, prosecution, and pretrial, probation, or community service supervision or \$100 per felony case or \$50 per misdemeanor case, whichever is greater. (§46-18-232, MCA)
14. The Defendant, convicted of a felony offense, shall submit to DNA testing. (§44-6-103, MCA)
15. The Defendant shall not be given credit against the time served in jail prior to or after conviction. (§46-18-403, MCA)
16. The Defendant shall not be given credit against the fine for time served in jail prior to conviction. (§46-18-403, MCA)
17. The Defendant shall not abscond from supervision. Absconding is a non-compliance violation as defined in §46-23-1001(1), MCA.
18. The Defendant shall obtain a chemical dependency evaluation by a state-approved evaluator. The Defendant shall pay for the evaluation and follow all of the evaluator's treatment recommendations. **Credit given.**
19. The Defendant shall obtain a mental health evaluation/assessment by a state-approved evaluator. The Defendant shall pay for the evaluation and follow all of the evaluator's treatment recommendations. **Credit given.**
20. The Defendant shall participate in any program or counseling deemed necessary by the supervising PO that is supported or identified through the administration of a validated risk and need assessment or subsequent secondary assessment.
21. The Defendant shall not enter any bars.
22. The Defendant shall not enter any casinos.
23. The Defendant shall not knowingly associate with probationers, parolees, prison inmates, or persons in the custody of any law enforcement agency without prior approval from the Probation & Parole Officer outside a work, treatment, or self-help group setting. The Defendant shall not associate with persons as ordered by the court or BOPP.
24. The Defendant shall advise all medical personnel of addiction history/conviction, including all prescribed narcotics and/or medical marijuana.
25. The Defendant shall inform the Probation & Parole Officer of all prescriptions obtained from medical personnel prior to filling them. The Defendant shall take all prescription medications as prescribed and in the manner in which they were prescribed.
26. The Defendant shall comply with all sanctions given as a result of an intervention, on-site (preliminary), or disciplinary hearing.

27. The PSI report shall be released, upon order of the Court, by the Department to certain persons, such as treatment providers, mental health providers, and/or medical providers, as needed for the Defendant's rehabilitation.

If Defendant fails to comply with any of the above-listed conditions, the Court will issue a Bench Warrant of Arrest, apprehend the Defendant and require her to appear before the Court for further proceedings.

Sentence was deferred for the following reasons:

1. The Court considered the contents and recommendation of the pre-sentence report along with any corrections / modifications made at Sentencing Hearing.
2. The Court considered Defendant's statement presented at the Sentencing Hearing.
3. The Court considered the following criteria for sentencing: non-violent circumstances of the offense, Defendant's age, Defendant's lack of employment, Defendant pled Guilty and accepted responsibility, Defendant's lack of criminal history and amount of pre-trial incarceration / detention time served along with the recommendations / arguments of counsel.
4. The Court, for the above-stated reasons, and recognizing that Defendant has no prior felony convictions, believes Defendant is entitled to a deferred imposition of sentence. This type of commitment carries a heavier burden on Defendant to demonstrate to the Court that Defendant can successfully follow the above-listed conditions / rules and earning no felony conviction on her record.

The Bond, if any, is exonerated.

Pursuant to § 46-18-208, MCA, the Defendant may file a Petition to Terminate Time Remaining on the Sentence if the Defendant has served one-half of the sentence and has demonstrated compliance with supervision requirements. The Court may hold a hearing on the Petition on its own motion or upon request of the Prosecutor or the Defendant. The Court may grant the Petition if it finds that: 1) termination of the remainder of the sentence is in the best interests of the Defendant and society; 2) termination of the remainder of the sentence will not present an unreasonable risk of danger to the victim of the offense; and 3) the Defendant has paid all restitution and court-ordered financial obligations in full.

Pursuant to § 46-8-113, MCA, if you were ordered to pay all or a portion of the cost of Public Defender representation as a condition of this Judgment - payments can be made online at <http://svc.mt.gov/opd/ClientPayments> OR by mailing a money order, certified check or cashier's check payable to OPD to Office of the State Public Defender, 44 W. Park Street, Butte, MT 59701. Please include your District Court case number, address and phone number with payment.

If the written Judgment differs from the sentence the Judge pronounced orally, then the State or Defendant has only One Hundred Twenty (120) days to contest the written Judgment as set forth in § 46-18-116, MCA. If no party contests the written judgment within One Hundred Twenty (120) days, the written Judgment is presumed correct.

DONE IN OPEN COURT on October 22, 2020.

cc: YCAO cadocs@co.yellowstone.mt.gov - wc
Billings Police Department (C&O 19-65294)

Probation & Parole CORP&PREGIV@mt.gov
Defense - Russ Hart
Defense - Herman A. "Chuck" Watson
Defense – Nicole Gallagher