



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 648906 §
issued to BURNEY HERMAN §
§

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BURNEY HERMAN, Registered Nurse License Number 648906, 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)(1)&(10), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on March 4, 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 an Associate Degree in Nursing from Midland College, Midland, Texas, on December 1, 1997. Respondent was licensed to practice professional nursing in the State of Texas on February 24, 1998.
5. Respondent's nursing employment history includes:

1998 – 2000	Staff Nurse	Physicians and Surge Hospital Westwood Medical Center, Midland, Texas
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Respondent's nursing employment history continued:

8/2000 – 8/2002	Staff Nurse	Northwest Texas Healthcare Amarillo, Texas
8/2002 – 3/2006	Staff Nurse	Hendrick Medical Center Abilene, Texas
3/2006 – 4/2007	Staff Nurse	Abilene Regional Medical Center Abilene, Texas
11/2006 – 3/2007	Circulating Nurse	West Texas Hospital Abilene, Texas
5/2007 – 10/2009	Charge Nurse	Stamford Memorial Hospital Stamford, Texas
8/2009 – 11/2010	Staff Nurse	Hill Country Memorial Hospital Fredericksburg, Texas
10/2010 – 7/2010	Circulating Nurse	Mission Trial Baptist Hospital San Antonio, Texas
12/2010 – 10/2012	Unknown	
11/2012 – 7/2014	Staff Nurse	Mission Trial Baptist Hospital San Antonio, Texas
8/2014 – 11/2018	Not employed in nursing	
12/2018 – 2/2020	Unknown	
3/2020 – Present	RN	Coronado Health & Rehab Abilene, Texas

6. On or about December 12, 2013, Respondent was required to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN) through an Order of the Board. A copy of the December 12, 2013, Order is attached and incorporated herein by reference as part of this Agreed Order.
7. On or about July 23, 2014, the Board accepted the Voluntary Surrender of Respondent's license(s) to practice nursing in the State of Texas through an Order of the Board. A copy of the July 23, 2014, Order is attached and incorporated herein by reference as part of this Agreed Order.

8. On or about November 13, 2018, Respondent's license(s) to practice nursing in the State of Texas was Reinstated through an Order of the Board. A copy of the November 13, 2018, Order is attached and incorporated herein by reference as part of this Agreed Order.
9. On or about May 19, 2020, through January 19, 2021, Respondent failed to comply with Agreed Order issued to her by the Texas Board of Nursing on November 13, 2018. Non-compliance is the result of Respondent's failure to comply with Section VII, "DRUG AND ALCOHOL RELATED REQUIREMENTS" Part B, of the Agreed Order dated August 21, 2018, which states in pertinent part:

"While working as a nurse under the terms of this Order, PETITIONER SHALL submit to random periodic screens for alcohol, nalbuphine, propofol and all controlled substances.

... PETITIONER SHALL, on a daily basis, call or login online to the Board's designated drug and alcohol testing vendor to determine whether or not PETITIONER has been selected to produce a specimen for screening that day ..."

Respondent failed to call or login online to the Board's designated drug and alcohol testing vendor to see if she was required to provide a specimen for random drug testing on the following fifteen (15) dates:

May 19, 2020	November 5, 2020	December 13, 2020
July 14, 2020	November 19, 2020	December 31, 2020
July 25, 2020	November 28, 2020	January 10, 2021
September 20, 2020	November 29, 2020	January 11, 2021
October 27, 2020	December 9, 2020	January 19, 2021

10. In response to Finding of Fact Number Nine (9), Respondent states he has a daily routine to ensure everything is done. He and his wife have a wholesale pie business that they run, so his plate is full when he is not working. On his days away from his nursing job, he has a different routine and has on occasion missed checking in online. There has been days missed when it just slips his mind.

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 (11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1)&(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 648906, heretofore issued to BURNEY HERMAN.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

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

- A. This Order SHALL apply to any and all future licenses issued to RESPONDENT to practice nursing in the State of Texas.
- B. This Order SHALL be applicable to RESPONDENT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" 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. COMPLIANCE WITH PRIOR ORDER

The Reinstatement Agreed Order issued to RESPONDENT on November 13, 2018, is still in effect in its entirety and RESPONDENT SHALL be responsible for completing the terms of that Reinstatement Agreed Order.

IV. MONETARY FINE

In addition, RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars (\$250.00) within forty-five (45) days of the effective date of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

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.

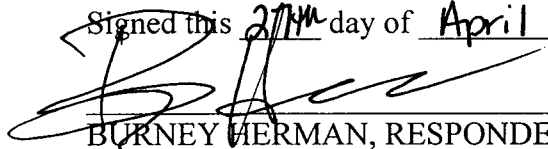
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RESPONDENT'S CERTIFICATION

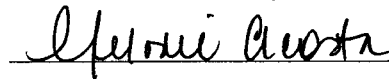
I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order,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

Signed this 27th day of April, 2021.

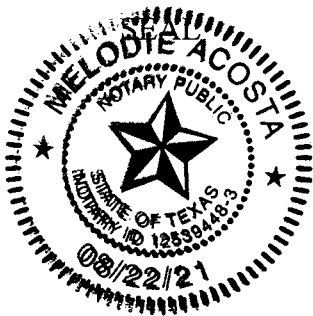


BURNLEY HERMAN, RESPONDENT

Sworn to and subscribed before me this 27th day of April, 2021.



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 27th day of April, 2021, by BURNEY HERMAN, Registered Nurse License Number 648906, and said Agreed Order is final.

Effective this 5th day of May, 2021.



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
Registered Nurse License Number 648906
issued to BURNEY HERMAN

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REINSTATEMENT
AGREED ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, consider the Petition for Reinstatement, hereinafter referred to as the Petition, of Registered Nurse License Number 648906, held by BURNEY HERMAN, hereinafter referred to as Petitioner.

Petitioner waived notice and hearing and agreed to the entry of this Reinstatement Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on September 14, 2018.

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 Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Petitioner waived notice and hearing, and agreed to the entry of this Reinstatement Agreed Order.
3. Petitioner received an Associate Degree in Nursing from Midland College, Midland, Texas, on December 1, 1997. Petitioner was licensed to practice professional nursing in the State of Texas on February 24, 1998.
4. Petitioner's nursing employment history includes:

1998 - 2000

Staff Nurse

Physicians and Surgeons
Hospital/Westwood Medical
Center, Midland, Texas

Petitioner's nursing employment history continued:

8/2000 – 8/2002	Staff Nurse	Northwest Texas Healthcare Amarillo, Texas
8/2002 – 3/2006	Staff Nurse	Hendrick Medical Center Abilene, Texas
3/2006 – 4/2007	Staff Nurse	Abilene Regional Medical Center Abilene, Texas
11/2006 – 3/2007	Circulating Nurse	West Texas Hospital Abilene, Texas
5/2007 – 10/2009	Charge Nurse	Stamford Memorial Hospital Stamford, Texas
8/2009 – 11/2010	Staff Nurse	Hill Country Memorial Hospital Fredericksburg, Texas
10/2010 – 7/2010	Circulating Nurse	Mission Trail Baptist Hospital San Antonio, Texas
12/2010 – 10/2012	Unknown	
11/2012 – 7/2014	Staff Nurse	Mission Trail Baptist Hospital San Antonio, Texas

5. On or about December 12, 2013, Petitioner was required to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN) through an Order of the Board. A copy of the December 12, 2013, Order is attached and incorporated herein by reference as part of this Reinstatement Agreed Order.
6. On or about July 23, 2014, the Board accepted the Voluntary Surrender of Petitioner's license to practice nursing in the State of Texas through an Order of the Board. A copy of the July 23, 2014, Order is attached and incorporated herein by reference as part of this Reinstatement Agreed Order.
7. On or about July 16, 2018, Petitioner submitted a Petition for Reinstatement of License to practice nursing in the State of Texas.

8. Petitioner presented the following in support of said petition:
 - A. Letter of support dated December 20, 2015, from Tim Frick Operations Manager, Resolute Health, New Braunfels, Texas. He states he was the operations manager in the operating room at Mission Trail Baptist Hospital where Petitioner was under his service. While employed there Petitioner was an exemplary employee; his dedication to the facility and to the care of the patients was beyond reproach. Petitioner was an asset to their department and to the facility.
 - B. Letter of support dated December 20, 2015, from James Maxey RN, Director of Peri-Operative Services Resolute Health, New Braunfels, Texas. Petitioner was always eager to pitch in and get done whatever was at hand. Petitioner was part of their transition team to relocate their existing facility to a newly constructed Greenfield Hospital. With Petitioner's valuable assistance the move to the new hospital went very smooth. Petitioner was always willing to take up slack when the need arose. Petitioner is competent, liked, and respected by their surgeons.
 - C. Documentation from Any Lab Test Now, of twelve (12) negative monthly drug screens collected from November 2015 through October 2016.
 - D. Documentation from RecoveryTrek of (10) negative monthly drug screens collected from August 25, 2017, through July 9, 2018.
 - E. Documentation of support group attendance logs dated August 1, 2017, through June 20, 2018.
 - F. Documentation of the required 20 contact hours of continuing education.
9. The Executive Director considered evidence of Petitioner's past behavior in light of the factors set out in 22 TEX. ADMIN. CODE §213.27 and determined that Petitioner currently demonstrates the criteria required for relicensure.
10. Relicensure of Petitioner poses no direct threat to the health and safety of patients or the public provided Petitioner complies with the stipulations outlined in this Order.
11. The Executive Director's review of Petitioner's eligibility for relicensure has been made on the basis of Petitioner's disclosures.

CONCLUSIONS OF LAW

1. Pursuant to Sections 301.452 and 301.555, Texas Occupations Code, the Board has jurisdiction over this matter.
2. Pursuant to Section 301.467, Texas Occupations Code, the Board may refuse to issue or renew a license, and may set a reasonable period that must lapse before reapplication. Pursuant to 22 TEX. ADMIN. CODE §213.26, the Board may impose reasonable conditions that a Petitioner must satisfy before reissuance of an unrestricted license.

3. The Board may relicense an individual upon evaluation of the factors in 22 TEX. ADMIN. CODE §213.27, and pursuant to 22 TEX. ADMIN. CODE §213.33, if the Board is satisfied that the individual is able to consistently conform his conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.
4. This Order is conditioned upon the accuracy and completeness of Petitioner's disclosures. Any subsequently discovered discrepancies will result in investigation and possible disciplinary action, up to revocation of Petitioner's license(s).

TERMS OF ORDER

I. REINSTATEMENT OF LICENSURE AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that the petition of BURNEY HERMAN for reinstatement of license to practice nursing in the State of Texas be **GRANTED** and Registered Nurse License Number 648906 is/are hereby **REINSTATED** in accordance with the terms of this Order.

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

II. COMPLIANCE WITH LAW

While under the terms of this Order, PETITIONER 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 Reinstatement Agreed Order.

III. REQUIREMENTS FOR REFRESHER COURSE, EXTENSIVE ORIENTATION, OR NURSING PROGRAM OF STUDY IN PROFESSIONAL REGISTERED NURSING

Prior to practicing as an registered nurse in the State of Texas, PETITIONER

SHALL:

- A. Apply for a Six Month Temporary Permit to Complete Refresher Course, Extensive Orientation, or Nursing Program of Study in Professional Registered Nursing for the limited purpose of completing a refresher course, extensive orientation, or nursing program of study in professional registered nursing. The application for the Six Month Temporary Permit is available on the Board's website (www.bon.texas.gov) under Forms / Applications / Six Month Permits. PETITIONER SHALL NOT, in any way, attempt to use the temporary permit for any purpose other than completing the refresher course, extensive orientation, or nursing program of study in professional registered nursing.
- B. Successfully complete a Board approved refresher course, extensive orientation, or nursing program of study for professional registered nursing. Petitioner MUST obtain Board approval of the nursing refresher course, extensive orientation, or nursing program, as applicable, prior to enrollment. In order for the course to be approved, the target audience shall include registered nurses and the course's content shall, at a minimum, include: 1) Review of NPA, Rules, Position Statements; 2) Determination of Individual Scope of Practice and role in patient safety; 3) Review of the nursing process to include assessment, planning, implementation, and evaluation; 4) Pharmacology review; 5) Medication administration; 6) Documentation, quality assurance, and legal implication for nursing practice; and, 7) Documentation of current CPR certification prior to beginning precepted clinical learning experience. The course must contain no less than a total of 80 hours of clinical practice providing direct patient care supervised by a qualified registered nurse instructor who meets or exceeds the Board's minimum criteria for eligibility as an instructor. Home study courses and video programs will not be approved.
- C. Upon completion of the refresher course, extensive orientation, or nursing program of study for professional registered nursing, PETITIONER SHALL return the temporary permit to the Board's office and PETITIONER SHALL CAUSE the sponsoring institution to notify the Board, on a form provided by the Board, of Petitioner's successful completion of the refresher course, including the required 80 hours of supervised practice.
- D. Upon verification of successful completion of the conditions as set out in Paragraphs A through C of this Section, PETITIONER SHALL submit a

completed License Reactivation Form for Registered Nurses, which is available on the Board's website (www.bon.texas.gov) under Forms / Applications / Renewals / Reactivation Renewal. PETITIONER shall pay all re-registration fees and, subject to meeting all other requirements for licensure in Texas, shall be issued the applicable license to practice registered nursing in the State of Texas, which shall be subject to the terms of this Order.

IV. REMEDIAL EDUCATION COURSE(S)

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

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

In order to receive credit for completion of this/these course(s), PETITIONER 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. PETITIONER SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at www.bon.texas.gov/compliance.*

V. MONITORING FEE

PETITIONER SHALL pay a monitoring fee in the amount of five hundred dollars (\$500.00) within forty-five (45) days of relicensure. Payment is to be made

directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order.

Partial payments will not be accepted.

VI. EMPLOYMENT REQUIREMENTS

~~In order to complete the terms of this Order, PETITIONER must work as a nurse~~
in the State of Texas, providing direct patient care in a clinical healthcare setting, for a minimum of sixty-four (64) hours per month for twelve (12) quarterly periods [three (3) years] of employment. This requirement will not be satisfied until twelve (12) quarterly periods of employment as a nurse have elapsed. Periods of unemployment or of employment that do not require the use of a registered nurse (RN) or a vocational nurse (LVN) license, as appropriate, will not apply to this period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** PETITIONER SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, PETITIONER SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** PETITIONER SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. PETITIONER SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.
- C. **No Night or Rotating Shifts, Overtime, or On-Call:** For the first year [four (4) quarters] of employment as a Nurse under this Order, PETITIONER SHALL NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which PETITIONER is regularly assigned.
- D. **No Critical Care:** For the first year [four (4) quarters] of employment as a Nurse under this Order, PETITIONER SHALL NOT practice as a nurse in any critical

care area. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

- E. **No Administration of Controlled Medications:** For the first year [four (4) quarters] of employment as a Nurse under this Order, PETITIONER SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, Propofol, or other synthetic opiates.
- F. **Direct Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this order, PETITIONER SHALL be directly supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse. Direct supervision requires another nurse, as applicable, to be working on the same unit as PETITIONER and immediately available to provide assistance and intervention. PETITIONER SHALL work only on regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- G. **Indirect Supervision:** For the remainder of the stipulation/probation period, PETITIONER SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse, who is on the premises. The supervising nurse is not required to be on the same unit or ward as PETITIONER, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years of experience in the same or similar practice setting to which the PETITIONER is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- H. **Nursing Performance Evaluations:** PETITIONER SHALL CAUSE each employer to submit, on forms provided to the PETITIONER by the Board, periodic reports as to PETITIONER'S capability to practice nursing. These reports shall be completed by the individual who supervises the PETITIONER and these reports shall be submitted by the supervising individual to the office of the Board at the end of each three (3) month quarterly period for twelve (12) quarters [three (3) years] of employment as a nurse.

VII. DRUG AND ALCOHOL RELATED REQUIREMENTS

A. While under the terms of this Order, PETITIONER SHALL abstain from the use of alcohol, nalbuphine, propofol and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, PETITIONER SHALL CAUSE the licensed practitioner to submit a written report ~~identifying the medication, dosage and the date the medication was prescribed.~~ The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. In the event that the prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and PETITIONER SHALL submit to a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.

B. While working as a nurse under the terms of this Order, PETITIONER SHALL submit to random periodic screens for alcohol, nalbuphine, propofol and all controlled substances. The Board will provide instructions on how to enroll in the Board's drug and alcohol testing program following the entry of this Order and screening will begin when PETITIONER obtains employment and submits the Notification of Employment form to the Board.

- For the first three (3) month [1st quarter] period PETITIONER works as a nurse under the terms of this Order, random screens shall be performed at least once per week.
- For the next three (3) month [2nd quarter] period, random screens shall be performed at least twice per month.
- For the next six (6) month period [3rd & 4th quarters], random screens shall be performed at least once per month.
- For the remainder of the probation period, if any, random screens shall be performed at least once every three (3) month quarterly period.

All random screens SHALL BE conducted through urinalysis. Any test result for a period of time in which the PETITIONER is not working as a nurse under the terms of this Order will not count towards satisfaction of this requirement. All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. PETITIONER SHALL be responsible for the costs of all random drug screening during the stipulation/probation period.

Specimens shall be screened for any or all of the following substances and/or their metabolites:

Amphetamine

Methamphetamine

MDMA

MDA	Alprazolam	Diazepam
Alpha-o-alprazolam	Alpha-Hydroxytriazolam	Clonazepam
Desmethyldiazepam	Lorazepam	Midazolam
Oxazepam	Temazepam	Amobarbital
Butabarbital	Butalbital	Pentobarbital
Phenobarbital	Secobarbital	Codeine
Hydrocodone	Hydromorphone	Methadone
Morphine	Opiates	Oxycodone
Oxymorphone	Propoxyphene	Cannabinoids
Cocaine	Phencyclidine	Ethanol
Heroin	Fentanyl	Tramadol
Meperidine	Carisoprodol	Butorphanol
Nalbuphine	Ketamine	Propofol

Upon enrollment in the Board's drug and alcohol testing program, **PETITIONER SHALL, on a daily basis, call or login online to the Board's designated drug and alcohol testing vendor to determine whether or not PETITIONER has been selected to produce a specimen for screening that day** and SHALL, if selected, produce a specimen for screening that same day at an approved testing location and/or comply with any additional instructions from the vendor or Board staff. Further, **a Board representative may appear** at the PETITIONER'S place of employment at any time during the probation period and require PETITIONER to produce a specimen for screening.

Consequences of Positive or Missed Screens. Any positive result for which PETITIONER does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject PETITIONER to further disciplinary action, including TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Petitioner's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas. Further, failure to report for a drug screen, excessive dilute specimens, or failure to call in for a drug screen may be considered the same as a positive result or refusal to submit to a drug or alcohol screen.

- C. **While under the terms of this Order, PETITIONER SHALL attend at least two (2) support group meetings each week**, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. PETITIONER SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by PETITIONER. PETITIONER SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) month quarterly period. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

VIII. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Reinstatement Agreed Order, all encumbrances will be removed from PETITIONER'S license(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, PETITIONER may be eligible for nurse licensure compact privileges if any.

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PETITIONER'S CERTIFICATION

I understand this Order is conditioned upon the accuracy and completeness of my petition and disclosures. I further understand that subsequently discovered discrepancies in my petition and/or disclosures will result in investigation and possible disciplinary action, up to revocation of my license(s).

I have reviewed this Order. I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to reinstating my license(s) to practice nursing in the state of Texas. 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 REVOCATION of my license(s) and/or nurse licensure compact privileges, if any, to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 4th day of October, 2018.

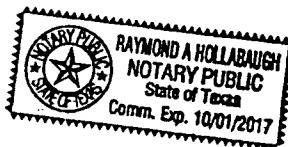
[Signature]
BURNEY HERMAN, Petitioner

Sworn to and subscribed before me this 4th day of October, 2018.

SEAL

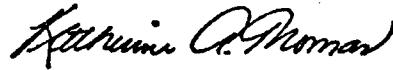
[Signature]

Notary Public in and for the State of _____



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 4th day of October, 2018, by BURNEY HERMAN, Registered Nurse License Number 648906, and said Reinstatement ~~Agreed Order is final.~~

Effective this 13th day of November, 2018.



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 recorded in the offices of the Texas Board of Nursing.
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of §
Registered Nurse License Number 648906 §
issued to BURNEY HERMAN §

ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 648906, issued to BURNEY HERMAN, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent's license to practice professional nursing in the State of Texas is currently in suspended status.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing.
3. Respondent received an Associate Degree in Nursing from Midland College, Midland, Texas, on December 1, 1997. Respondent was licensed to practice professional nursing in the State of Texas on February 24, 1998.
4. Respondent's nursing employment history includes:

02/98 - 09/10	Unknown	
10/10 - 07/12	RN	Mission Trail Baptist Hospital San Antonio, Texas

Respondent's nursing employment history continued:

08/12 - 10/12 Unknown

11/12 - Present RN Mission Trail Baptist Hospital
San Antonio, Texas

5. On or about December 12, 2013, Respondent was issued a Confidential Agreed Order for Peer Assistance Program by the Board which required him to participate and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Finding of Fact, Conclusions of Law and Confidential Agreed Order dated December 12, 2013, is attached and incorporated herein by reference as part of this Order.
6. On or about June 12, 2014, Respondent became noncompliant with the Confidential Agreed Order for Peer Assistance Program issued to him on December 12, 2013, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) participation agreement. On or about May 1, 2014, Respondent submitted a specimen for a drug screen that resulted positive for Ethyl Glucuronide (ETG) and Ethyl Sulfate (ETS), both of which are metabolites of alcohol (Ethanol). Respondent also failed to enroll into an intensive outpatient program as requested by TPAPN. Stipulation Number Three (3) of the Confidential Agreed Order dated December 12, 2013, reads:

"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."

On or about June 12, 2014, Respondent was dismissed from TPAPN and referred to the Texas Board of Nursing.
7. On or about July 21, 2014, Respondent was issued an Order of Temporary Suspension by the Board. A copy of the Order of Temporary Suspension dated July 21, 2014, is attached and incorporated, by reference as part of this Order.
8. Formal Charges were filed on July 21, 2014.
9. Formal Charges were mailed to Respondent on July 21, 2014.
10. On July 23, 2014, the Board received a notarized statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's notarized statement, dated July 13, 2014, is attached and incorporated herein by reference as part of this Order.

11. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
12. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

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(9) & (11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1) & (10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 648906, heretofore issued to BURNEY HERMAN, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

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ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 648906, heretofore issued to BURNEY HERMAN, to practice nursing in the State of Texas, is/are accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title of "registered nurse" or the abbreviation "RN" or wear any insignia identifying himself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license/s is/are surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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.

Effective this 23rd day of July, 2014.

TEXAS BOARD OF NURSING

By:



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

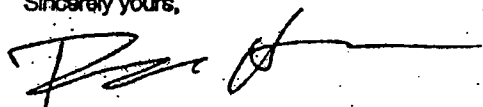
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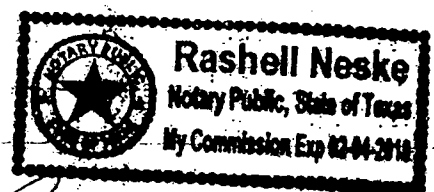
Texas State Board of Nursing
333 Guadalupe St
Suite 3-460
Austin, Tx. 78701
Attn: Paul Longoria
Date 7/13/14

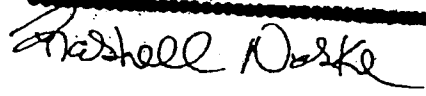
To Whom It may concern,

My name is Burney Herman. I have Been a Registered Nurse since 1997. Due to poor judgement on my part I was directed to enroll in TPAPN. I have been unable to find a nursing job since I have been in the program. I tested positive for alcohol (of which I do NOT drink) and refused to spend the several thousand dollars for "intensive outpatient therapy". Subsequently I was expelled from the program, I wish now to surrender my license with plans to apply for reinstatement after 12 months of sobriety and rehabilitation.

Sincerely yours,


Burney Herman





BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	CONFIDENTIAL
Registered Nurse License Number 648906	§	AGREED ORDER
issued to BURNEY HERMAN	§	FOR
	§	PEER ASSISTANCE PROGRAM

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BURNEY HERMAN, Registered Nurse License Number 648906, 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) and 301.453, Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered under the authority of Section 301.466(d), Texas Occupations Code, and approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on November 13, 2013.

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 an Associate Degree in Nursing from Midland College, Midland, Texas, on December 1, 1997. Respondent was licensed to practice professional nursing in the State of Texas on February 24, 1998.

5. Respondent's nursing employment history includes:

02/98 - 09/10	Unknown	
10/10 - 07/12	RN	Mission Trail Baptist Hospital San Antonio, Texas
08/12 - 10/12	Unknown	
11/12 - Present	RN	Mission Trail Baptist Hospital San Antonio, Texas

6. At the time of the incident, Respondent was employed as a registered nurse with Mission Trail Baptist Hospital, San Antonio, Texas, and had been in this position for nine (9) months.
7. On or about August 1, 2013, to September 26, 2013, while employed with Mission Trail Baptist Hospital, San Antonio, Texas, Respondent diverted Fentanyl belonging to the facility and patients thereof, for his personal use, in that he admitted to said diversion. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications. Respondent's conduct also placed the hospital in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
8. On or about October 1, 2013, while employed with Mission Trail Baptist Hospital, San Antonio, Texas, Respondent engaged in the intemperate use of Fentanyl in that he submitted a specimen for a drug screen which resulted positive for Fentanyl. Respondent also admitted to said intemperate use. Possession of Fentanyl is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Fentanyl 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.
9. 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.
10. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.
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(5), (8), (10)(A), (10)(D), and (11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(9) & (10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 648906, heretofore issued to BURNEY HERMAN, 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.

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 that, while RESPONDENT remains in compliance with the terms of this Order, this Order shall remain confidential in accordance with the authority outlined in Section 301.466(d), Texas Occupations Code. However, should Respondent fail to successfully complete the terms of this Order or should Respondent commit a subsequent violation of the Nursing Practice Act or Board Rules, this Order shall be treated as prior disciplinary action and will become public information.

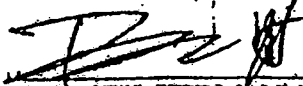
IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's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

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 Four (4) 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.

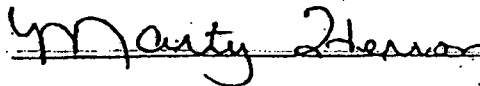
Signed this 10 day of December, 2013.



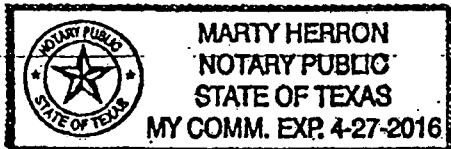
BURNEY HERMAN, RESPONDENT

Sworn to and subscribed before me this 10 day of Dec., 2013.

SEAL

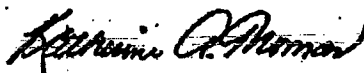


Notary Public in and for the State of TEXAS



WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Confidential Agreed Order for Peer Assistance Program that was signed on the 10th day of December, 2013, by BURNEY HERMAN, Registered Nurse License Number 648906, and said Order is final.

Entered and effective this 12th day of December, 2013.



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

In the Matter of
Permanent Registered Nurse
License Number 648906
Issued to BURNEY HERMAN,
Respondent

§ BEFORE THE TEXAS
§
§
§
§ BOARD OF NURSING

ORDER OF TEMPORARY SUSPENSION

TO: BURNEY HERMAN
707 E REYNOLDS
STAMFORD, TX 79553

TO: BURNEY HERMAN
PO BOX 912
STAMFORD, TX 79553

A public meeting of the Texas Board of Nursing was held on July 21, 2014 at 333 Guadalupe, Room 3-460, Austin, Texas, in which the Temporary Suspension of Permanent Registered Nurse License Number 648906, issued to BURNEY HERMAN was considered pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE. Staff of the Texas Board of Nursing appeared and presented evidence and information concerning the conduct of BURNEY HERMAN and whether his continued practice as a nurse would constitute a continuing and imminent threat to the public welfare.

After review and due consideration of the evidence and information presented, the Board finds that the following charge is substantiated:

CHARGE I.

On or about June 12, 2014, Respondent became noncompliant with the Confidential Agreed Order for Peer Assistance Program issued to him on December 12, 2013, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) participation agreement. On or about May 1, 2014, Respondent submitted a specimen for a drug screen that resulted positive for Ethyl Glucuronide (ETG) and Ethyl Sulfate (ETS), both of which are metabolites of alcohol (Ethanol). Respondent also failed to enroll into an intensive outpatient program as requested by TPAPN.

Stipulation Number Three (3) of the Confidential Agreed Order dated December 12, 2013, reads:

"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."

On or about June 12, 2014, Respondent was dismissed from TPAPN and referred to the Texas Board of Nursing.

The Texas Board of Nursing further finds that, given the nature of the charge concerning his fitness to practice, the continued practice of nursing by BURNEY HERMAN constitutes a continuing and imminent threat to public welfare and that the temporary suspension of Permanent Registered Nurse License Number 648906, is justified pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE.

NOW, THEREFORE, IT IS ORDERED that Permanent Registered Nurse License Number 648906, issued to BURNEY HERMAN, to practice nursing in the State of Texas be, and the same is/are, hereby SUSPENDED IMMEDIATELY in accordance with Section 301.4551, TEXAS OCCUPATIONS CODE.

IT IS FURTHER ORDERED that a probable cause hearing be conducted in accordance with Section 301.455(c) not later than seventeen (17) days following the date of the entry of this order, and a final hearing on the matter be conducted in accordance with 301.455(d) not later than the 61st day following the date of the entry of this order.

Entered this 21st day of July, 2014.

TEXAS BOARD OF NURSING

BY:



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR

In the Matter of
Permanent Registered Nurse
License Number 648906
Issued to BURNEY HERMAN,
Respondent

§
§
§
§
§

BEFORE THE TEXAS

BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(p), Texas Occupations Code. Respondent, BURNEY HERMAN, is a Registered Nurse holding License Number 648906, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about June 12, 2014, Respondent became noncompliant with the Confidential Agreed Order for Peer Assistance Program issued to him on December 12, 2013, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) participation agreement. On or about May 1, 2014, Respondent submitted a specimen for a drug screen that resulted positive for Ethyl Glucuronide (ETG) and Ethyl Sulfate (ETS), both of which are metabolites of alcohol (Ethanol). Respondent also failed to enroll into an intensive outpatient program as requested by TPAPN. Stipulation Number Three (3) of the Confidential Agreed Order dated December 12, 2013, reads:

"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."

On or about June 12, 2014, Respondent was dismissed from TPAPN and referred to the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Confidential Agreed Order dated December 12, 2013, is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) & (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(9) & (11)(B).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand

two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.texas.gov.

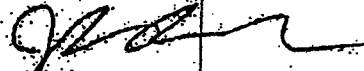
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, and for Fraud, Theft and Deception, which can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.texas.gov/disciplinaryaction/discp-matrix.html.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order dated December 12, 2013.

Filed this 21st day of July, 2014.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Abel, Assistant General Counsel
State Bar No. 24036103

John R. Griffith, Assistant General Counsel
State Bar No. 24079751

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

John F. Legris, Assistant General Counsel
State Bar No. 00785533

John Vanderford, Assistant General Counsel
State Bar No. 24086670

333 Guadalupe, Tower III, Suite 460

Austin, Texas 78701

P: (512) 305-6811

F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Board dated December 12, 2013

D/2014.05.23