

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	AGREED ORDER
Registered Nurse License Number 964816	§	
issued to NICOLE FITZSIMMONS	§	
	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of NICOLE FITZSIMMONS, Registered Nurse License Number 964816, 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)(8),(10)&(12), 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 29, 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 Gateway Community College, Phoenix, Arizona, on August 1, 2015. Respondent was licensed to practice professional nursing in the State of Texas on March 29, 2019.
5. Respondent's nursing employment history is unknown.

6. On or about November 16, 2020, Respondent lacked fitness to practice professional nursing in that she stated to her employer, PPR Travel Nursing, Jacksonville, Florida, that she wanted to receive help for alcohol abuse. Respondent admitted to her employer that she had been terminated from her travel assignment at Mountain Vista Medical Center, Mesa, Arizona, due to her consumption of alcohol while on duty. On or about January 27, 2021, Respondent contacted the Arizona State Board of Nursing and verbally surrendered her Arizona Registered Nurse license. On or about February 9, 2021, the Voluntary Surrender of Respondent's Arizona Registered Nurse license was accepted by the Arizona State Board of Nursing, Phoenix, Arizona. A copy of the Arizona State Board of Nursing's Consent for Entry of Voluntary Surrender Order dated February 9, 2021, is attached and incorporated, by reference, as part of this Order. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing patients in potential danger.
7. Respondent admits to the conduct outlined in Finding of Fact Number Six (6). She states she has moved back to Texas and is seeking to participate 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(5).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(8),(10)&(12), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 964816, heretofore issued to NICOLE FITZSIMMONS.
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. PEER ASSISTANCE PROGRAM REQUIREMENTS

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)**:

- A. **Within forty-five (45) days** following the effective date of this Order, RESPONDENT SHALL apply to TPAPN.
- B. **Within ninety (90) days** following the effective date of this Order, RESPONDENT SHALL sign and execute the TPAPN participation agreement and complete the enrollment process, which SHALL include payment of a non-refundable participation fee payable 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.
- C. 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.**
- D. 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 in current status.
- E. RESPONDENT SHALL CAUSE the TPAPN to **notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.**
- F. This Order SHALL apply to any and all future licenses issued to RESPONDENT to practice nursing in the State of Texas.
- G. This Order SHALL be applicable to RESPONDENT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- H. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" and Respondent may not work outside the State of Texas in another nurse licensure compact party state.

II. COMPLIANCE WITH LAW

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

III. REMEDIAL EDUCATION COURSE(S)

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

A Board-approved course in Texas nursing jurisprudence and ethics that shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft, and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. Home study and video programs will not be approved.

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

IV. EFFECT OF NONCOMPLIANCE

SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further

disciplinary action including TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of RESPONDENT'S license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

V. RESTORATION OF UNENCUMBERED LICENSE(S)

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

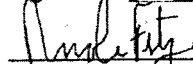
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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the entry of this Order and all conditions of said Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, and/or possible revocation of my license(s) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 18 day of June, 20 21.



NICOLE FITZSIMMONS, RESPONDENT

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

SEAL

Notary Public in and for the State of _____

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 18th day of June, 2021, by NICOLE FITZSIMMONS, Registered Nurse License Number 964816, and said Agreed Order is final.

Effective this 18th day of June, 2021.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas".

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

ARIZONA STATE BOARD OF NURSING
1740 West Adams Street, Suite 2000
Phoenix, Arizona 85007-2607
602-771-7800

IN THE MATTER OF REGISTERED NURSE LICENSE
NO. RN195170 ISSUED TO:

NICOLE FITZSIMMONS,
AKAS: NICOLE BRIANNE MCGOWAN,

RESPONDENT

CONSENT FOR ENTRY OF
VOLUNTARY SURRENDER
ORDER NO. 2020110238

The Arizona State Board of Nursing ("Board") and Nicole Fitzsimmons ("Respondent") seek to resolve allegations that Respondent violated the Nurse Practice Act. In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements and the responsibilities of the Board, and pursuant to A.R.S. § 32-1605.01(D), Respondent voluntarily surrenders her license.

Based on the evidence before it, the Board makes the following Findings of Fact, Conclusions of Law:

FINDINGS OF FACT

1. Respondent holds Board issued registered nurse license no. RN195170 and expired UCNA1000016708.

2. On November 16, 2020, Respondent filed a self-report with the Board, writing that on November 14, 2020, while she was working as an RN at a medical center in Mesa, AZ, there were empty (alcoholic) beverage cans found in the trash that were traced back to Respondent. Based upon this information, the Board conducted an investigation.

3. On December 16, 2020, the Board received a complaint from the Licensing and Credentialing Administrator at a travel nursing agency in Jacksonville Beach, FL. Complainant wrote that on November 16, 2020, Respondent notified the agency that she had an incident at work on November 14, 2020, and was sent home from a medical center in Mesa, AZ for drinking at work.

4. On November 29, 2020, in a written statement to the Board, Respondent admitted that she consumed alcoholic beverages while on duty as an RN at a medical center in Mesa, AZ.

5. On January 19, 2021, during an interview with Board staff, Respondent admitted that she consumed 5-6 cans of White Claw (*alcoholic seltzer water, 5% alcohol, 12 oz. cans*) while working as an RN in the intensive care unit at a medical center in Mesa, AZ during the night shift of November 14-15, 2020. Respondent admitted to Board staff as having an alcohol abuse problem, stating that she had been drinking during her work shifts "for a long time now".

6. On or about January 26, 2021, Respondent requested to voluntary surrender her Arizona RN license number RN159170.

CONCLUSIONS OF LAW

Pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances described in the Findings of Fact constitute a violation of A.R.S. § 32-1663 (D) as defined in and currently cited as A.R.S. § 32-1601 (26) "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere: (d) Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public, (h) Committing an act that deceives, defrauds or harms the public, and (j) Violating this chapter or a rule that is adopted by the board pursuant to this chapter (effective August 9, 2017), and A.A.C. R4-19-403 (1) A pattern of failure to maintain minimum standards of acceptable and prevailing nursing practice, (17) A pattern of using or being under the influence of alcohol, drugs, or a similar substance to the extent that judgment may be impaired and nursing practice detrimentally affected, or while on duty in any health care facility, school, institution, or other work location, and (31) Practicing in any other manner that gives the Board reasonable cause to believe the health of a patient or the public may be harmed (adopted effective January 31, 2009).

The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. §§ 32-1605.01(D) and 32-1664(O) to take disciplinary action against Respondent's license to practice as a registered nurse in the State of Arizona.

Respondent admits the Board's Findings of Fact, Conclusions of Law.

In lieu of a formal hearing on these issues, Respondent agrees to issuance of the attached Order and waives all rights to a hearing, rehearing, appeal or judicial review relating to this matter.

1 Respondent further waives any and all claims or causes of action, whether known or unknown, that
2 Respondent may have against the State of Arizona, the Board, its members, officers, employees and/or
3 agents arising out of this matter.

4 Respondent understands that all investigative materials prepared or received by the Board
5 concerning these violations and all notices and pleadings relating thereto may be retained in the
6 Board's file concerning this matter.

7 Respondent understands that the admissions in the Findings of Fact are conclusive evidence of
8 a violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any
9 future disciplinary matter.

10 Respondent understands the right to consult legal counsel prior to entering into the Consent
11 Agreement and such consultation has either been obtained or is waived.

12 Respondent understands that this voluntary surrender is effective upon its acceptance by the
13 Executive Director or the Board and by Respondent as evidenced by the respective signatures thereto.
14 Respondent's signature obtained via facsimile shall have the same effect as an original signature.
15 Once signed by Respondent, the agreement cannot be withdrawn without the Executive Director or the
16 Board's approval or by stipulation between Respondent and the Executive Director or the Board. The
17 effective date of this Order is the date the Voluntary Surrender is signed by Respondent and accepted
18 by the Executive Director or the Board. If the Voluntary Surrender is signed on a different date, the
19 later date is the effective date.

20 Respondent understands that Voluntary Surrender constitutes disciplinary action. Respondent
21 also understands that she may not reapply for re-issuance during the period of Voluntary Surrender.

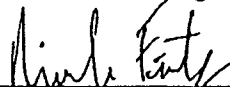
22 Respondent agrees that she may apply for re-issuance after the period of voluntary surrender
23 under the following conditions, and must comply with current law at the time of their application for
24 re-issuance.

25 The application for re-issuance must be in writing and shall contain therein or have attached
26 thereto substantial evidence that the basis for the voluntary surrender has been removed and that the re-
27 issuance of the license does not constitute a threat to the public's health, safety and welfare. The
28 Board may require physical, psychological, or psychiatric evaluations, reports and affidavits regarding
29

Respondent as it deems necessary. These conditions shall be met before the application for re-issuance is considered.

Respondent acknowledges and agrees that the acceptance of this Consent Agreement is solely to settle this Board matter and does not preclude the Board from instituting other proceedings as may be appropriate now or in the future.

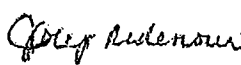

Furthermore, and notwithstanding any language in this Consent Agreement, this Consent Agreement does not preclude in any way any other state agency or officer or political subdivision of this state from instituting proceedings, investigating claims, or taking legal action as may be appropriate now or in the future relating to this matter or other matters concerning Respondent, including but not limited to, violations of Arizona's Consumer Fraud Act. Respondent acknowledges that, other than with respect to the Board, this Consent Agreement makes no representations, implied or otherwise, about the views or intended actions of any other state agency or officer or political subdivision of the state relating to this matter or other matters concerning Respondent.



Nicole Fitzsimmons, Respondent

Date: 2/5/21

SEAL

Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director
ARIZONA STATE BOARD OF NURSING

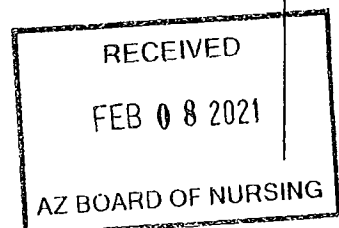
Acceptance Date: 2-9-21

CARUSO 2020110218-FITZSIMMONS

ORDER

Pursuant to A.R.S. § 32-1605.01(D) the Board hereby accepts the Voluntary Surrender of registered nurse license number RN195170, issued to Nicole Fitzsimmons. This Order of Voluntary Surrender hereby entered shall be filed with the Board and shall be made public upon the effective date of this Consent Agreement. Respondent shall not practice in Arizona under the privilege of a

4
NICOLE FITZSIMMONS



1 multistate license.

2 IT IS FURTHER ORDERED that Respondent may apply for re-issuance of said license after a
3 period of three (3) years.

4 ARIZONA STATE BOARD OF NURSING

5 SEAL

6 *Joey Ridenour R.N., M.N., F.A.A.N.*

7 Joey Ridenour, R.N., M.N., F.A.A.N.
8 Executive Director

9 Acceptance Date: 2/9/2021

10 JR/DC/tv

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12
13 COPY emailed and mailed this 2nd day of February, 2021, by First Class Mail to:

14 Nicole Fitzsimmons

15
16
17 

18 And

19 Nicole Fitzsimmons

20
21 

22 By: T. Vasquez
23 Legal Secretary

1 EXECUTED SEALED COPIES mailed this 9th day of February, 2021, by First Class Mail to:

2 Nicole Fitzsimmons

3 [REDACTED]

4 And

5 Nicole Fitzsimmons

6 [REDACTED]

7 By: M. Ramoz
8 Legal Secretary