

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED ORDER
Registered Nurse License Number 762760	§	
issued to JENNY LYNN MCNEELY	§	
	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JENNY LYNN MCNEELY, Registered Nurse License Number 762760, 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),(3)&(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 May 3, 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 Lee College, Baytown, Texas, on May 8, 2008. Respondent was licensed to practice professional nursing in the State of Texas on November 25, 2008.
5. Respondent's nursing employment history includes:

11/2008 – 5/2016	Unknown	
6/2016 – 4/2017	Registered Nurse	First Texas Hospital CyFair Center Houston, Texas

Respondent's nursing employment history continued:

4/2017 – 2/2018	Unknown	
3/2018 – 5/2018	Registered Nurse	Clear Creek Emergency Room League City, Texas
6/2018 – 8/2018	Registered Nurse	Texas Emergency Care Center Atascocita, Texas
8/2018 – 1/2021	Unknown	
1/2021	Registered Nurse	Clear Creek Emergency Room League City, Texas
1/2021 – 4/2021	Registered Nurse	Sublime Care Emergency Room Spring, Texas
4/2021 – Present	Unknown	

6. On or about December 18, 2018, 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 18, 2018, Order is attached and incorporated herein by reference as part of this Agreed Order.
7. At the time of the incident, Respondent was employed as a Registered Nurse with Clear Creek Emergency Room, League City, Texas, and had been in that position for one (1) day.
8. On or about December 3, 2019, Respondent entered a plea of Guilty to DIVERT CONTROLLED SUBSTANCE FOR PERSONAL USE, a State Jail felony offense, committed on July 29, 2018, in the 232<sup>nd</sup> District Court of Harris County, Texas, under Case No. 163294001010. As a result of the plea, the proceedings against Respondent were deferred, without entering an adjudication of guilt, and Respondent was placed on probation for a period of three (3) years.
9. On or about January 20, 2021, while employed as a Registered Nurse with Clear Creek Emergency Room, League City, Texas, Respondent engaged in drug seeking behavior in that she attempted to misappropriate two (2) Dilaudid vials. Furthermore, no valid orders for Dilaudid had been written. Subsequently, Respondent ran out of the facility and did not return to finish her shift. Respondent's behavior could have affected her ability to recognize subtle signs, symptoms or changes in conditions, and could have affected her ability to

make rational, accurate and appropriate assessments, judgements and decisions regarding patient care, thereby placing patients in potential danger.

10. On or about January 20, 2021, Respondent became noncompliant with the Confidential Agreed Order for Peer Assistance Program issued to her by the Texas Board of Nursing on December 18, 2018. Noncompliance is the result of her failure to comply with the requirements of the Texas Peer Assistance Program for Nurses (TPAPN) participation agreement in that she failed receive work authorization to obtain employment with Clear Creek Emergency Room, League City, Texas. Section I, Stipulation D of the Confidential Agreed Order for Peer Assistance Program dated December 18, 2018, states:

"(D) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term..."

11. On or about April 4, 2021, through April 12, 2021, while employed as a Registered Nurse with Sublime Care Emergency Room, Spring, Texas, Respondent misappropriated medications, including, but not limited to Fentanyl, Dilaudid, and Morphine. Furthermore, surveillance footage shows her in the med room concealing medications in her pockets. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications.
12. On or about April 12, 2021, Respondent was arrested by the Harris County Constables Office, Spring, Texas, for DIVERT CS FOR ANOTHER PERSONS USE, a 3<sup>rd</sup> Degree felony offense. Subsequently, on or about April 22, 2021, Respondent was indicted on one (1) count for DIVERT CS FOR ANOTHER PERSONS USE, a 3<sup>rd</sup> Degree felony offense, committed on April 4, 2021. The criminal case currently pending in the 232<sup>nd</sup> District Court of Harris County, Texas, under Cause No. 1718543.
13. In response to Findings of Fact Numbers Eight (8) through Twelve (12), Respondent acknowledges the fact that she has a problem with drug abuse and addiction.
14. Respondent by her signature expresses her desire to voluntarily surrender the licenses.

#### 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),(9),(10)(E)& (11)(B) .

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1),(3)&(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 762760, heretofore issued to JENNY LYNN MCNEELY.
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**

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Registered Nurse License Number 762760 is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional/registered nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying herself/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 is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until:
  - A. At least one (1) year has elapsed from the date of this Order; and
  - B. RESPONDENT has 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.

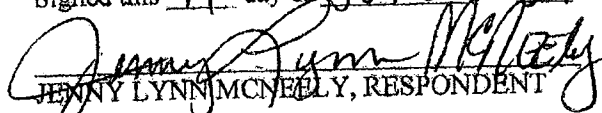
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**RESPONDENT'S CERTIFICATION**

I understand that I have the right to legal counsel prior to signing this Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. 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 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 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 14 day of June, 2021.


  
JENNY LYNN MCNEELY, 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.

  
Joyce Stamp Lilly, Attorney for Respondent

Signed this 28 day of June, 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 14<sup>th</sup> day of June, 2021, by JENNY LYNN MCNEELY, Registered Nurse License Number 762760, and said Agreed Order is final.

Effective this 28<sup>th</sup> day of June, 2021.



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

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of  
Registered Nurse License Number 762760  
issued to JENNY LYNN MCNEELY

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CONFIDENTIAL  
AGREED ORDER  
FOR  
PEER ASSISTANCE

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JENNY LYNN MCNEELY, Registered Nurse License Number 762760, 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), Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Confidential Agreed Order for Peer Assistance approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on October 18, 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 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 Confidential Agreed Order for Peer Assistance.
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 Lee College-Ad, Baytown, Texas, on May 8, 2008. Respondent was licensed to practice professional nursing in the State of Texas on November 25, 2008.
5. Respondent's nursing employment history includes:

11/2008 – 05/2016

Unknown

Respondent's nursing employment history continued:

06/2016 - 04/2017	RN	First Texas Hospital CyFair Center Houston, Texas
05/2017 - 02/2018	Unknown	
03/2018 - 05/2018	RN	Clear Creek Regional Medical Center League City, Texas
06/2018 - 08/2018	RN	Texas Emergency Care Center Atascocita, Texas
09/2018 - Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with First Texas Hospital CyFair Center, Houston, Texas, and had been in that position for ten (10) months.
7. On or about April 12, 2017, while employed as a Registered Nurse with First Texas Hospital Cyfair, Houston, Texas, Respondent engaged in the intemperate and/or unlawful use of Buprenorphine in that she produced a specimen for a reasonable suspicion drug screen that resulted positive for Buprenorphine. Unlawful possession of Buprenorphine is prohibited by Chapter 481 (Controlled Substances Act) if the Texas Health and Safety Code. The use of Buprenorphine by a Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms, or changes in a patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgment, and decisions regarding patient care, thereby placing a patient in potential danger.
8. On or about May 14, 2017, Respondent submitted a Texas Online Renewal Document Registered Nurse to the Texas Board of Nursing in which Respondent provided false, deceptive, and/or misleading information, in that she answered "No" to the question:

"Have you, within the past 24 months or since your last renewal, for any criminal offense including those pending appeal been arrested and have any pending criminal charges?"

Respondent failed to disclose that on or about October 18, 2016, she was arrested by the Chambers County Sheriff's office Anahuac, Texas, and subsequently charged for ASSAULT CAUSES BODILY INJURY FAMILY MEMBER, a Class A misdemeanor offense. The case is currently pending.



9. On or about October 11, 2017, Respondent was arrested by the Chambers County Sheriff's Office, Anahuac, Texas, for ASSAULT CAUSES BODILY INJURY FAMILY, a Class A misdemeanor offense. This case is currently pending.
10. On or about July 2018 through August 2018, while employed as a Registered Nurse with Texas Emergency Care Center, Atascocita, Texas, Respondent misappropriated Morphine, Hydromorphone, and Fentanyl, belonging to the facility and patients thereof in that Respondent admitted to the Director of Operations, Facility Administrator, and a Houston Police Officer that she misappropriated the medications for her own personal use. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications.
11. In response to Findings of Fact Numbers Seven (7) through Ten (10), Respondent neither denies nor admits.
12. Respondent presented for a Chemical Dependency Evaluation on April 3, 2018, which was conducted by Kit Harrison, PH.D. Dr. Harrison states Respondent approached the assessment in a defensive manner, the SASSI-4 indicated an overall low probability of Substance Use Disorder. However, Respondent was asked to submit to a voluntary drug screen at the time of the evaluation. In lieu of submitting to the voluntary drug screen, Respondent forwarded Dr. Harrison a copy of a drug screen she submitted to during civil court proceedings. Dr. Harrison states Respondent's drug screen was positive for Buprenorphine, the generic equivalent to Suboxone, and the drug test report indicated Respondent had a diagnosis of Opioid Dependence in Remission. Dr. Harrison states Respondent was asked to provide copies of her medical records from her treating physician. Dr. Harrison states he received a letter from Respondent's treating physician, which indicated Respondent was being treated with Suboxone for neck pain and to prevent narcotic cravings. Dr. Harrison states Respondent submitted a copy of a drug screen she submitted to on April 25, 2018, which resulted negative. However, Dr. Harrison states the report indicated Respondent had a diagnosis of Opioid Dependence suggesting Respondent was no longer in remission. Respondent's Diagnostic Impressions DSM-5 are as follows: Opioid Use Disorder, On Maintenance Agonist Therapy Unspecified, Attention- Deficit Hyperactivity Disorder by History; Unspecified Depressive Disorder; Adjustment Disorder with Mixed Disturbances of Emotions and Conduct; Occupational Problem. Dr. Harrison states Respondent's provisional diagnosis is Opioid Use Disorder. Dr. Harrison states evidence strongly suggests there is a current problem to warrant serious concerns about Respondent's functional abilities to serve competently as a nurse in Texas. Dr. Harrison recommends Respondent not practice as a nurse pending a complete review of her substance use history. Dr. Harrison states a referral to the Texas Peer Assistance Program for Nurses (TPAPN) is recommended to bolster Respondent's candidacy for continuing in nursing in the future.
13. 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), (1)(E), (4), (5), (6)(G), (8), (10)(A), (10)(E) & (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 762760, heretofore issued to JENNY LYNN MCNEELY.
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 Confidential Agreed Order for Peer Assistance.

## 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](http://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 Confidential Agreed Order for Peer Assistance, 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. CONFIDENTIALITY REQUIREMENTS

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.

**VI. 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 301.455), 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.

**VII. RESTORATION OF UNENCUMBERED LICENSE(S)**

Upon full compliance with the terms of this Confidential Agreed Order for Peer Assistance, all encumbrances will be removed from RESPONDENT'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, RESPONDENT may be eligible for nurse licensure compact privileges if any.

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**RESPONDENT'S CERTIFICATION**

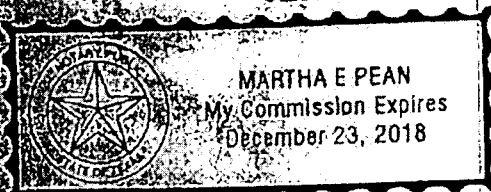
I understand that I have the right to legal counsel prior to signing this Order. I have reviewed this Order, I neither admit nor deny the violation(s) alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the entry of this Order and all conditions of said Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including 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 Dec, 2018

Jenny Lynn McNeely  
JENNY LYNN MCNEELY, Respondent

Sworn to and subscribed before me this 18 day of Dec, 2018.

SEAL



Martha E. Pean  
Notary Public in and for the State of Texas

Approved as to form and substance.

Joyce Stamp Lilly  
Joyce Stamp Lilly, Attorney for Respondent

Signed this 18 day of Dec, 2018

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing does hereby ratify and adopt the Confidential Agreed Order for Peer Assistance that was signed on the 18<sup>th</sup> day of December, 20 18, by JENNY LYNN MCNEELY, Registered Nurse License Number 762760, and said Confidential Agreed Order for Peer Assistance is final.

Effective this 18<sup>th</sup> day of December, 20 18.



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