

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
Advanced Practice Registered Nurse License §
Number AP127457 with Prescription §
Authorization Number 17338 §
& Registered Nurse License Number 717298 §
issued to PHILIP DUANE TALLEY §

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of PHILIP DUANE TALLEY, Advanced Practice Registered Nurse License Number AP127457 with Prescription Authorization Number 17338, and Registered Nurse License Number 717298, 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)(10)(13)(effective through 8/31/21), 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 August 24, 2022.

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. Respondent's license to practice as an advanced practice registered nurse in the State of Texas with authorization as a Family Nurse Practitioner is in current status with Prescription Authorization Number 17338 in current status.
4. Respondent received an Associate Degree in Nursing from Odessa College, Odessa, Texas, on May 13, 2005. Respondent completed a Family Nurse Practitioner Program from Texas

Tech University Health Sciences Center, Lubbock, Texas, on August 17, 2013. Respondent was licensed to practice professional nursing in the State of Texas on June 21, 2005. Respondent was licensed to practice advanced practice registered nursing in the State of Texas with authorization as a Family Nurse Practitioner on February 12, 2015. Respondent was licensed to practice advanced practice registered nursing in the State of Texas with authorization as a Family Nurse Practitioner with Prescription Authorization on February 12, 2015.

5. Respondent's nursing employment history includes:

6/2005 – 12/2011	Registered Nurse Emergency Department	Odessa Regional Medical Center Odessa, Texas
12/2011 – 5/2013	Registered Nurse Emergency Department	Basin Healthcare Center Odessa, Texas
5/2013 – 2/2015	APRN	Lea County Urgent Care Hobbs, New Mexico
2/2015 – 11/2016	APRN	Tall City Primary Care Midland, Texas
11/2016 – Present	FNP	Southlake Physical Medicine Southlake, Texas

6. On or about January 22, 2015, Respondent was issued the sanction of Reprimand with Stipulations through an Order of the Board. A copy of the January 22, 2015, Order is attached and incorporated herein by reference as part of this Agreed Order.
7. On or about February 12, 2015, Respondent was issued an Agreed Order through an Order of the Board. A copy of the February 12, 2015, Order is attached and incorporated herein by reference as part of this Agreed Order.
8. On or about September 12, 2017, Respondent's license(s) to practice nursing in the State of Texas was Suspended with the Suspension stayed and Respondent was placed on probation through an Order of the Board. On or about September 25, 2020, Respondent successfully completed the terms of the Order. A copy of the September 12, 2017, Order is attached and incorporated herein by reference as part of this Agreed Order.
9. At the time of the initial incident, Respondent was employed as a Family Nurse Practitioner with Southlake Physical Medicine, Southlake, Texas, and had been in that position for approximately one (1) month.

10. On or about December 1, 2016 through January 24, 2020, while employed as a Family Nurse Practitioner with Southlake Physical Medicine, Southlake, Texas, Respondent failed to properly assess and/or document assessments, diagnoses, and medication administrations of Patients CH, TB, CA, CF, DJ, MOV, MS, GT, HG and RR, under his care. Respondent's conduct resulted in an inaccurate medical record and was likely to injure the patient in that subsequent care givers would not have complete information on which to base their care decisions.
11. On or about March 3, 2017 through December 23, 2019, while employed as a Family Nurse Practitioner with Southlake Physical Medicine, Southlake, Texas, Respondent failed to meet the standard of care in the treatment of Patients CH, DJ, MOV, GT, HG, and RR. Respondent engaged in the inappropriate prescribing and administration of testosterone and/or thyroid hormone by failing to perform and/or document the adequate assessments of the patients' medical history, cardiac functioning, and lab values - many of which contraindicated his prescribed treatment-necessary to justify prescribing the medications. Additionally, Respondent repeatedly failed to document the medical rationale for the prescribed testosterone and/or thyroid treatments, any discussion. His inappropriate testosterone treatments exposed the patients to harm, or serious risk of harm, from an increase in red blood cells, which can lead to an increase in blood pressure and a greater risk of heart attack or stroke. His inappropriate thyroid hormone treatments exposed the patients to harm, or serious risk of harm, from palpitations, arrhythmia, bone loss, anxiety, and other symptoms. Respondent's conduct constitutes a continuing and imminent threat to the public health and safety.
12. On or about March 3, 2017 through December 23, 2019, while employed as a Family Nurse Practitioner with Southlake Physical Medicine, Southlake, Texas, Respondent exceeded his authorized scope of practice by prescribing testosterone and thyroid hormone treatments to Patients CH, DJ, MOV, GT, HG, and RR without sufficient education, training, and experience necessary to ensure that the prescribed treatments/prescriptions were medically necessary and safe for the patients. Respondent's conduct exposed the patients to harm, or serious risk of harm, from an increase in red blood cells, which can lead to an increase in blood pressure and a greater risk of heart attack or stroke, palpitations, arrhythmia, bone loss, anxiety, and other symptoms.
13. On or about March 24, 2017 through August 20, 2019, while employed as a Family Nurse Practitioner with Southlake Physical Medicine, Southlake, Texas, Respondent exceeded his scope of nursing practice by ordering and administering amniotic stem cells to Patients CH, CF, MOV, MS and HG, by injection into joints, without FDA approval. Respondent's conduct exposed patients to a risk of harm from unregulated stem cell treatments, including risk of tumor growth.
14. On or about April 2017 through June 2019, while employed as a Family Nurse Practitioner with Southlake Physical Medicine, Southlake, Texas, Respondent failed to complete eight (8) required monthly face-to-face meetings with his supervising physician, as required by his Prescriptive Authority Agreement. Respondent's conduct exposed patients to a risk of

harm in that failure to regularly collaborate with the supervising physician could result in Respondent not receiving the necessary direction and guidance of patient care.

15. On or about March 26, 2018 through January 24, 2020, while employed as a Family Nurse Practitioner with Southlake Physical Medicine, Southlake, Texas, Respondent inappropriately prescribed medications and vitamins, including, but, not limited to: Vitamin B12, IV therapy, Toradol, Decadron, Atropine, and Rocephin for intravenous or intramuscular administration to Patients CH, DJ, MOV, GT and HG in that he failed to document an assessment and diagnosis to warrant the administration of Vitamin B12, IV therapy, Toradol, Decadron, Atropine, Rocephin. In addition, on January 5, 2018 and January 21, 2019, Patient HG had elevated levels of Vitamin B12. Respondent's conduct resulted in an inaccurate and incomplete medical record and was likely to injure the patient in that subsequent care givers would not have accurate and complete information on which to base their care decisions.
16. On or about August 23, 2018 through July 1, 2019, while employed as a Family Nurse Practitioner with Southlake Physical Medicine, Southlake, Texas, Respondent violated the boundaries of the nurse/client relationship by inappropriately engaging in an intimate relationship with Patient RR. Respondent's conduct was likely to injure the patient in that it could have resulted in confusion between the needs of the nurse and those of the patient.
17. On or about November 16, 2018 through January 13, 2020, while employed as a Family Nurse Practitioner with Southlake Physical Medicine, Southlake, Texas, Respondent exceeded his scope of nursing practice by ordering and administering homeopathic products, including, but not limited to: Traumeel, Spascupreel, Zeel, and Neuralgo-Rheum, to Patients CH, CA, DJ, and MS, without FDA approval. Respondent's conduct exposed patients to a risk of harm from unregulated treatments
18. On or about November 30, 2018 through January 24, 2020, while employed as a Family Nurse Practitioner with Southlake Physical Medicine, Southlake, Texas, Respondent inappropriately delegated the administration of Vitamin B12 with amino acids, by injection, and IV therapy to medication aides for Patient HG and Patient GT. Respondent's conduct exposed patients to a risk of harm in that personnel with improper training may administer medications incorrectly or may not recognize adverse reactions.
19. Formal Charges were filed on December 11, 2020.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B),(1)(C),(1)(D),(1)(G),(1)(J),(1)(M)(1)(S),(4)(A)(4)(B), 22 TEX. ADMIN. CODE §217.12 (1)(B),(1)(C),&(4), 22 TEX. ADMIN. CODE §221.13(a)&(b) and §222.10(a)(3).22.
4. The evidence received is sufficient cause pursuant to Section 301.452(b) (10)&(13)(effective through 8/31/21), Texas Occupations Code, to take disciplinary action against Advanced Practice Registered Nurse License Number AP127457 with Prescription Authorization Number 17338, and Registered Nurse License Number 717298, heretofore issued to PHILIP DUANE TALLEY.
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, subject to ratification by the Texas Board of Nursing, that Advanced Practice Registered Nurse License Number AP127457 with Prescription Authorization Number 17338, and Registered Nurse License Number 717298, previously issued to PHILIP DUANE TALLEY, to practice nursing in the State of Texas is/are hereby **SUSPENDED** and said suspension is **STAYED** and RESPONDENT is hereby placed on **PROBATION** for a minimum of three (3) years **AND** until RESPONDENT fulfills the additional requirements 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. Until successfully completed, RESPONDENT may not practice nursing in the State of Texas except in accordance with the terms of this Order.

- D. 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. UNDERSTANDING BOARD ORDERS

Within thirty (30) days of entry of this Order, RESPONDENT must successfully complete the Board's online course, "Understanding Board Orders", which can be accessed on the Board's website from the "Discipline & Complaints" drop-down menu or directly at: <http://www.bon.texas.gov/UnderstandingBoardOrders/index.asp>. Upon successful completion, RESPONDENT must submit the course verification at the conclusion of the course, which automatically transmits the verification to the Board.

IV. 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. **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. **A Board-approved academic course in advanced practice physical assessment** of at least three (3) semester credit hours, including not less than one (1) semester credit hour, or three (3) clock hours per week, of clinical practicum with a minimum passing grade of not less than "C" or "Pass" if using a "Pass/Fail" grading system. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Instruction SHALL BE provided by an Advanced Practice Registered Nurse. RESPONDENT SHALL perform physical assessments on live patients in the clinical practicum component; performing assessments on mock patients or mannequins WILL NOT be accepted unless circumstances dictate that such courses should be otherwise approved by the Board. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. Successful completion of this course requires RESPONDENT to successfully complete both the didactic and clinical portions of the course.
- C. **A Board-approved Pharmacology Update/Refresher Course for Advanced Practice Nurses** of at least six (6) hours, all of which must classroom time and not include homework assignments. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include Advance Practice Nurses and content must include, at a minimum: all of the major drug classifications and their physiological and therapeutic effects; dosages and administration; precautions; contraindications; and nursing implications. Courses focusing on only one (1) or two (2) groups of drugs, or relating to only one (1) clinical area of practice, will not be accepted. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course.
- D. **A Board-approved course in nursing documentation** that shall be a minimum of six (6) hours in length. The course's content shall include: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. Home study courses and video programs will not be approved.
- E. **The course "Sharpening Critical Thinking Skills,"** a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) International Center for Regulatory Scholarship (ICRS).

- F. **The course "Professional Boundaries in Nursing,"** a 3.0 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) International Center for Regulatory Scholarship (ICRS).
- G. **The course "Professional Accountability,"** a 4.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) International Center for Regulatory Scholarship (ICRS).
- H. **A Board-approved Course in Hormone Replacement Therapy** of at least ten (10) hours, all of which must be classroom time and not include homework assignments. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses, online, virtual and video programs are acceptable. In order for the course to be approved, the target audience shall include primary care providers and/or Advance Practice Nurses and content must include, at a minimum: laboratory testing and interpretation of testosterone, FSH, and estradiol levels, monitoring and adjusting HRT levels, adverse effects and contraindications of HRT, risks and benefits associated with HRT. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course.
- I. **A Board-approved Course in Joint/Trigger Point Injections** of at least ten (10) hours, all of which must be classroom time and not include homework assignments. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses, online, virtual and video programs are acceptable. In order for the course to be approved, the target audience shall include primary care providers and/or Advance Practice Nurses and content must include, at a minimum: content related to anatomy of joints and muscles, identifying and classifying joint and muscle pain, diagnostic musculoskeletal imaging, risks and benefits of joint aspiration. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course.

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.*

V. MONITORING FEE

RESPONDENT SHALL pay a monitoring fee in the amount of five hundred dollars (\$500.00) 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.

VI. APRN EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as an advanced practice registered 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 an advanced practice registered nurse have elapsed. Periods of unemployment or of employment that do not require the use of an advanced practice registered nurse (APRN) license will not apply to this period and will not count towards completion of this requirement. Further, Respondent may not work as a registered nurse (RN) or a vocational nurse (LVN) license, as applicable, while under the terms of this Order.

- A. **Notifying Present and Future Employers, Practice Sites and Credentialing Agencies:** RESPONDENT SHALL notify each present employer, practice site and/or credentialing agency in nursing of this Order of the Board and the stipulations on RESPONDENT'S license(s). RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer, practice site and/or credentialing agency in nursing within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers, practice sites and/or credentialing agencies in nursing and present a complete copy of this Order, including all attachments, if any, to each future employer, practice site and/or credentialing agency in nursing prior to accepting an offer of employment and/or assignment.
- B. **Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer, practice site and/or credentialing agency in nursing to submit

the Board's "Notification of Employment" form, which is provided to the RESPONDENT by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer, practice site and/or credentialing agency in nursing to submit the Board's "Notification of Employment" form, which is provided to the RESPONDENT by the Board, to the Board's office within five (5) days of employment as a nurse.

- C. **Monitored Practice:** While under the terms of this order, RESPONDENT'S advanced practice registered nursing must be monitored by a Physician or an Advanced Practice Registered Nurse in the same advanced role and population focus area as RESPONDENT who has been approved by the Board. RESPONDENT MUST, within ten (10) days of entry of this Order or within (10) days of employment as an advanced practice registered nurse, provide to the Board a list of three (3) Advanced Practice Registered Nurses and/or three (3) Physicians from which the Board shall select an approved monitor. For each Advanced Practice Registered Nurse and Physician, the list must include name, license number or social security number, educational background and professional employment history. Monitoring shall commence no later than thirty (30) days following the date of RESPONDENT'S receipt of the name of the approved monitor selected by the Board. The monitor will offer guidance, advice and assistance to the RESPONDENT as necessary to ensure that deficiencies such as those set forth in this Order do not reoccur. RESPONDENT SHALL meet with the monitor at least twice a month, at least one (1) hour duration each. Meetings may be longer and more frequent if the monitor determines necessary. Multiple employers are prohibited.
- D. **Nursing Performance Reports:** RESPONDENT SHALL CAUSE each supervising/monitoring Advanced Practice Registered Nurse or Physician to submit, on forms provided to the RESPONDENT by the Board, periodic reports as to RESPONDENT'S capability to practice nursing. These reports shall be completed by the Advanced Practice Registered Nurse or Physician who supervises/monitors the RESPONDENT and these reports shall be submitted by the supervising/monitoring Advanced Practice Registered Nurse or Physician 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. FURTHER COMPLAINTS

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against RESPONDENT'S license(s), the probationary period shall not

expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

VIII. 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 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 2 day of September, 2022.

Philip Duane Talley
PHILIP DUANE TALLEY, 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.

Michele Quattlebaum
Michele Quattlebaum, Attorney for Respondent

Signed this 2 day of September, 2022

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 2nd day of September, 2022, by PHILIP DUANE TALLEY, Advanced Practice Registered Nurse License Number AP127457, and Registered Nurse License Number 717298, and said Agreed Order is final.

Effective this 20th day of October, 2022.



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

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Advanced Practice Registered
Nurse License Number AP127457 with
Prescription Authorization Number 17338
& Registered Nurse License Number 717298
issued to PHILIP DUANE TALLEY

§ AGREED
§
§
§ ORDER
§

On this day the Texas Board of Nursing, hereinafter referred to as the Board,
considered the matter of PHILIP DUANE TALLEY, Advanced Practice Registered Nurse
License Number AP127457 with Prescription Authorization Number 17338 and Registered
Nurse License Number 717298, 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 Order approved by
Katherine A. Thomas, MN, RN, FAAN, Executive Director, on June 22, 2016.

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 Order.
3. Respondent's license to practice as a professional nurse in the State of Texas is in current status. Respondent's license to practice as an advanced practice registered nurse in the State of Texas is in current status.
4. Respondent received an Associate Degree in Nursing from Odessa College, Odessa, Texas, on May 13, 2005, and received a Baccalaureate Degree in Nursing from Texas Tech University Health Science Center, Lubbock, Texas, on August 17, 2013. Respondent was licensed to practice professional nursing in the State of Texas on June

21, 2005, and was licensed to practice advanced practice registered nursing in the role of Family Nurse Practitioner with prescription authorization in the State of Texas on February 19, 2015.

5. Respondent's nursing employment history includes:

06/05-12/11 RN Odessa Regional Medical Center
Odessa, Texas

01/12-Present APRN/
Owner Tall City Convenient Care
Midland, Texas

6. On or about April 16, 2013, Respondent defaulted on his Texas Guaranteed Student Loan, as provided by Section 57.491 of the Texas Education Code. Respondent's failure to repay his Texas Guaranteed Student Loan may have deprived other applicants of funds for nursing school loans.

7. On or about January 23, 2015, to January 23, 2016, Respondent was non-complaint with the Agreed Order issued to him by the Texas Board of Nursing on January 22, 2015. Non-compliance is the result of Respondents Supervising Physician failing to be on the same unit, and not being immediately available to provide assistance and intervention. Stipulation Number Four (4), Section C states, in pertinent part:

C. Direct Supervision: For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by:
For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by:

1. An Advanced Practice Registered Nurse or Physician, if licensed and working as an Advanced Practice Registered Nurse;
2. A Registered Nurse, if licensed and working as a Registered Nurse; or
3. A Licensed Vocational Nurse or a Registered Nurse, if licensed and working as a Licensed Vocational Nurse.

Direct supervision requires another nurse or physician, as applicable, to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention...

8. On or about January 23, 2016, to present, Respondent was non-complaint with the Agreed Order issued to him by the Texas Board of Nursing on January 22, 2015. Non-compliance is the result of Respondent's Supervising Physician failing to be on the facility grounds, and not being readily available to provide assistance and intervention if necessary. Stipulation Number Four (4), Section D states:

D. Indirect Supervision: For the remainder of the stipulation/probation period,

RESPONDENT SHALL be supervised by:

1. **An Advanced Practice Registered Nurse or Physician who is on the premises**, if licensed and working as an Advanced Practice Registered Nurse;
2. **A Registered Nurse who is on the premises**, if licensed and working as a Registered Nurse; or
3. **A Licensed Vocational Nurse or a Registered Nurse who is on the premises**, if licensed and working as a Licensed Vocational Nurse.

The supervising nurse or physician, as applicable, is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse or physician, as applicable, shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working...

9. On or about January 23, 2015, to present, Respondent was non-complaint with the Agreed Order issued to him by the Texas Board of Nursing on January 22, 2015. Non-compliance is the result of Respondent being self employed with Tall City Convenient Care, Midland, Texas, as Respondent is the documented owner of said clinic. Stipulation Number Four (4), Sections C and D state, in pertinent part:

RESPONDENT SHALL NOT be self-employed or contract for services.

10. Formal Charges were filed on May 13, 2016.
11. Formal Charges were mailed to Respondent on May 25, 2016.
12. Mr. Talley responds and acknowledges that he was the subject of a Board Order for events that occurred before he became a Nurse Practitioner. Once he became a Nurse Practitioner, he started a practice in partnership with his supervising physician who provided in person and telephonic supervision. When Mr. Talley was notified of noncompliance due to self-employment and need for in person supervision, he immediately ceased work as a Nurse Practitioner and hired another Nurse Practitioner to take his patients until he was able to find another job to obtain with closer supervision. He completed the required course work and continued to drug test beyond the time frame specified in the original Order and provided the BON with notice of employment for his current employer as well as prescriptive and practice protocols/agreements. He takes responsibility for and regrets failure to strictly comply with the Order's terms as a result of change in his marital status, accompanying parental obligations and financial responsibilities.

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 22 TEX. ADMIN. CODE §217.12(3)&(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 Advanced Practice Registered Nurse License Number AP127457 and Registered Nurse License Number 717298, heretofore issued to PHILIP DUANE TALLEY, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
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, subject to ratification by the Texas Board of Nursing, that Advanced Practice Registered Nurse License Number AP127457 with Prescription Authorization Number 17338 and Registered Nurse License Number 717298, previously issued to PHILIP DUANE TALLEY, to practice nursing in Texas are hereby **SUSPENDED** with the suspension **STAYED** and Respondent is hereby placed on **PROBATION**, in accordance with the terms of this Order, for a minimum of three (3) years **AND** until Respondent fulfills the requirements 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. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission

of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

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 Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Order.

III. SUPERCEDING ORDER

IT IS FURTHER AGREED and ORDERED that the sanction and conditions of this Order SHALL supercede all previous stipulations required by any Order entered by the Texas Board of Nursing.

IV. UNDERSTANDING BOARD ORDERS

Within thirty (30) days of entry of this Order, RESPONDENT must successfully complete the Board's online course, "Understanding Board Orders," which can be accessed on the Board's website from the "Discipline & Complaints" drop-down menu or directly at: <http://www.bon.texas.gov/UnderstandingBoardOrders/index.asp>. Upon successful completion, RESPONDENT must submit the course verification at the conclusion of the course, which automatically transmits the verification to the Board.

V. 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 courses within one (1) year of the effective date of this Order, unless otherwise specifically indicated:

A 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 courses 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.*

VI. TEXAS GUARANTEED STUDENT LOAN CORPORATION REQUIREMENTS

RESPONDENT SHALL initiate contact with the Texas Guaranteed Student Loan Corporation and make arrangements to repay the student loan. Upon approval of a repayment contract with the Texas Guaranteed Student Loan Corporation, RESPONDENT SHALL CAUSE the Texas Guaranteed Student Loan Corporation to submit verification directly to the Board that the default status has been removed from Respondent's Texas Guaranteed Student Loan.

In accordance with Section 57.491 of the Texas Education Code, RESPONDENT'S license(s) to practice nursing SHALL NOT be renewed in the event that RESPONDENT'S Texas Guaranteed Student Loan is in default status at the time of renewal.

VII. MONETARY FINE

RESPONDENT SHALL **pay a monetary fine in the amount of one thousand five thousand dollars (\$5,000.00) within three hundred and fifty (350) days of entry 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.

VIII. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as an advanced practice registered nurse, providing direct patient care in a licensed 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 an advanced practice registered nurse have elapsed. Any quarterly period without continuous employment as an advanced practice registered nurse with the same employer for all three (3) months will not count towards completion of this requirement. Periods of unemployment or of employment that do not require the use of a advanced practice registered nurse (APRN) license will not apply to this period and will not count towards completion of this requirement. Further, Respondent may not work as a registered nurse (RN) or a vocational nurse (LVN) license, as applicable, while under the terms of this Order.

- A. **Notifying Present and Future Employers, Practice Sites and Credentialing Agencies:** RESPONDENT SHALL notify each present employer, practice site and/or credentialing agency in nursing of this Order of the Board and the stipulations on RESPONDENT'S license(s). RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer, practice site and/or credentialing agency in nursing within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers, practice sites and/or credentialing agencies in nursing and present a complete copy of this Order, including all attachments, if any, to each future employer, practice site and/or credentialing agency in nursing prior to accepting an offer of employment and/or assignment.
- B. **Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer, practice site and/or credentialing agency in nursing to submit the Board's "Notification of Employment" form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer, practice site and/or credentialing agency in nursing to

submit the Board's "Notification of Employment" form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

- C. **Direct Supervision:** Should RESPONDENT'S current status as the Owner of Tall City Convenient Care, Midland, Texas, and supervision by Gary Alan Tigges, MD, cease or change during the first year of employment as a professional nurse under this Order. For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by an Advanced Practice Registered Nurse or Physician. Direct supervision requires another Advanced Practice Registered Nurse or Physician, as applicable, to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. If being supervised by an Advanced Practice Registered Nurse, the supervising APRN must be in the same advanced role and population focus area as Respondent. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- D. **Indirect Supervision:** Should RESPONDENT'S current status as the Owner of Tall City Convenient Care, Midland, Texas, and supervision by Gary Alan Tigges, MD, cease or change during the remainder of employment as a professional nurse under this Order. For the remainder of the stipulation/probation period, RESPONDENT SHALL be supervised by an Advanced Practice Registered Nurse or Physician who is on the premises. The supervising Advanced Practice Registered Nurse or Physician is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising Advanced Practice Registered Nurse or Physician shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. If being supervised by an Advanced Practice Registered Nurse, the supervising APRN must be in the same advanced role and population focus area as Respondent. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- E. **Nursing Performance Evaluations:** RESPONDENT SHALL CAUSE each supervising/monitoring Advanced Practice Registered Nurse or Physician to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT'S capability to practice nursing. These reports shall be completed by the Advanced Practice Registered Nurse or Physician who supervises/monitors the RESPONDENT and these reports shall be submitted

by the supervising/monitoring Advanced Practice Registered Nurse or Physician to the office of the Board at the end of each three (3) month quarterly period for twelve (12) quarterly periods [three (3) years] of employment as a nurse.

VIII. DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, RESPONDENT SHALL abstain from the use of alcohol, tramadol and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT 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 prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT 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, RESPONDENT SHALL submit to random periodic screens for alcohol, tramadol, and 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 Respondent obtains employment and submits the Notification of Employment form to the Board.
- For the first three (3) month [1st quarter] period RESPONDENT 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, random screens shall be performed at least once every three (3) month quarterly period.

All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board. Any test result for a period of time in which the RESPONDENT 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. RESPONDENT SHALL be responsible for the costs of all random drug screening during the stipulation/probation period.

Specimens shall be screened for at least the following substances and their metabolites:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the RESPONDENT'S place of employment at any time during the probation period and require RESPONDENT to produce a specimen for screening.

Consequences of Positive or Missed Screens. Any positive result for which RESPONDENT does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject RESPONDENT to 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. 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.

IX. FURTHER COMPLAINTS

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

X. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and 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 Agreed 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 when this Order becomes final and the terms of this Order become effective, 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) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 24 day of August, 2017.

Philip Duane Talley
PHILIP DUANE TALLEY, Respondent

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

SEAL

Notary Public in and for the State of _____

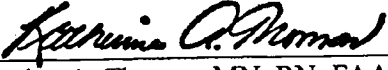
~~Approved as to form and substance~~

Elizabeth Higginbotham, Attorney for Respondent

Signed this 24th day of August, 2017.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 24th day of August, 2017, by PHILIP DUANE TALLEY, Advanced Practice Registered Nurse License Number AP127457 with Prescription Authorization Number 17338 and Registered Nurse License Number 717298, and said Order is final.

Effective this 12th day of September, 2017.


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



Texas Board of Nursing

333 Guadalupe Street, Ste. 3-460, Austin, Texas 78701
Phone: (512) 305-7400 Fax: (512) 305-7401 www.bon.texas.gov
Katherine A. Thomas, MN, RN, FAAN
Executive Director

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

February 12, 2015

Certified Mail No: 91 7199 9991 7030 6554 4969
Return Receipt requested

Phillip Duane Talley
2811 W Dengar
Midland, TX 79705

Dear Mr. Talley:

This letter is written to notify you that your application for Advanced Practice Registered Nurse (APRN) licensure as a Family Nurse Practitioner with prescriptive authority in the state of Texas has been approved as of 02/12/2015 subject to the conditions contained in your agreed order of 1/22/2015.

As you will recall, on 1/22/2015, you were issued an Order by the Board affecting your registered nursing license and any subsequent license that might be issued by the Board. Our records indicate that you have not yet successfully completed the terms of that Order. Therefore, although you have been deemed eligible to receive an APRN license in the role and population focus of Family Nurse Practitioner with prescriptive authority, the remaining terms of your prior Order will be applied to any professional nursing license issued to you by the Board. As a result, both your RN and APRN licenses as well as your prescriptive authority will be subject to the remaining requirements of the Order, a copy of which is attached hereto for your reference.

A new Order will not be issued to you. However, your prior Order and this correspondence is public information. The encumbrances from your prior Order that will be applied to your APRN license will be forwarded to the National Council of State Boards of Nursing, Inc., and the National Practitioner Data Bank (NPDB).

Sincerely,

James W. Johnston, General Counsel

Enclosure: Order Dated 01/22/2015
Cc: Dan Lype, via email

Members of the Board

Kathleen Shipp, MSN, RN, FNP
Lubbock, *President*

Nina Almasy, MSN, RN Austin	Deborah Bell, CLU, ChFC Ablene	Patricia Clapp, BA Dallas	Tamara Cowen, MSN, RN Harlingen	Sheri Crosby, JD, SPHR Dallas	Marilyn Davis, MPA, BSN, RN Sugar Land
Shelby Ellzey, BBA Midlothian	Monica Hamby, LVN Amarillo	Kathy Leader-Horn, LVN Granbury	Mary M. LeBeck, MSN, RN Weatherford	Josefina Lujan, PhD, RN El Paso	Beverly Jean Nettall, LVN Bryan

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Odessa Regional Medical Center, and had been in this position for approximately six (6) years and six (6) months .
7. On or about October 29, 2011, while employed as a Registered Nurse with Odessa Regional Medical Center, Odessa, Texas, Respondent withdrew Demerol fifty (50) milligrams from the Medication Dispensing System at 1115 for patient medical record number 130200023, but failed to document, or completely and accurately document the administration and waste of the Demerol, including signs, symptoms, and responses to the Demerol in the patients Medication Administration Records, Nurses Notes and/or Pharmacy records. Respondent's conduct was likely to injure the patient, in that subsequent care givers would rely on his documentation to further medicate the patients which could result in an overdose, and Respondent's conduct placed the hospital and pharmacy in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
8. On or about November 1, 2011, through November 26, 2011, while employed as a Registered Nurse with Odessa Regional Medical Center, Odessa, Texas, Respondent used the name and Drug Enforcement Administration (DEA) number of Bindu B. Nair, MD, and Billy Aguilar, Family Nurse Practitioner, to call in fraudulent unauthorized prescriptions for Hydrococone and Azithromycin. Respondent's conduct was likely to deceive the pharmacy and possession of Hydrocodone through the use of fraudulent unauthorized prescription is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
9. In response to Findings of Fact Numbers Seven (7) through Eight (8), Respondent states all medications were administered as ordered and communicated to attending staff during the course of patient care. Additionally, Respondent states that he had been treated by, and believed he had authorization to call in the prescription, but admits that he should not have called in these prescriptions himself.
10. On or about December 19, 2013, and January 21, 2014, Respondent completed a Chemical Dependency Evaluation with Alexander Howe, PhD. Dr. Howe states that the assessment of Respondent's thoughts, emotions, and behaviors as they relate to his usage of alcohol, street or illicit drugs, or non-prescribed medication for him does not currently define the presence of current abuse and/or dependence disorder. Additionally, Dr. Howe states, Respondent does not present as possessing either a major emotional disorder or psychotic disorder or enduring personality disorder; however, the allegations of his behavior in providing nursing care to patients within the confines of the Emergency Room (ER) does suggest the potential for concern within the ER milieu. Additionally, it appears that within that setting, there has been a lack of clearly defined lines of responsibility in providing appropriate medical care to the specific medical providers. Dr. Howe asserts, it also appears that there is a lack of clearly defined rules of maintaining responsible control of medications ordered, withdrawn, administered, documented, and possibly wasted. Dr. Howe concludes both the Board of Nursing, as well as the specific medical facility may consider either expanding the knowledge base of the Respondent or imposing greater standards of care to ensure the medical care of the patients is within their respective charge.

11. Formal Charges were filed on November 6, 2013.
12. Formal Charges were mailed to Respondent on November 6, 2013.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B),(1)(C)&(1)(D) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C),(4),(6)(A),(6)(G),(6)(H),(10)(B),(10)(E)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 717298, heretofore issued to PHILIP DUANE TALLEY, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **REPRIMAND WITH STIPULATIONS** 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. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work; however, **Respondent is authorized to practice in New Mexico under this Order, contingent upon approval from the New Mexico Board of Nursing. Further, should Respondent establish residency in New Mexico, Respondent SHALL apply for licensure within ninety (90) days of establishing residency, as required by provisions of the Nurse Licensure Compact, Chapter 304 of the Texas Occupations Code and 22 TAC §220.2(f).**

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 Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this 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. 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 courses and video programs will not be approved.

- B. A Board-approved course in medication administration with a didactic portion of not less than six (6) hours and a clinical component of not less than twenty-four (24) hours. Both the didactic and clinical components be provided by the same Registered Nurse. The course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the six (6) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The clinical component SHALL focus on tasks of medication administration only. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. Successful completion of this course requires RESPONDENT to successfully complete both the didactic and clinical portions of the course.

- C. A Board-approved course in nursing documentation that shall be a minimum of six (6) hours in length. The course's content shall include: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. Home study courses and video programs will not be approved.
- D. 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), 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. EMPLOYMENT REQUIREMENTS.

In order to complete the terms of this Order, RESPONDENT must work as a nurse, providing direct patient care in a licensed healthcare setting, for a minimum of sixty-four (64) hours per month for eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) quarterly periods of employment as a nurse have elapsed. Any quarterly period without continuous employment with the same employer for all three (3) months will not count towards completion of this requirement. Periods of unemployment or of employment that do not require the use of an advanced practice registered nurse (APRN), 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: RESPONDENT 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, RESPONDENT 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: RESPONDENT 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. RESPONDENT 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. Direct Supervision: For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by:

1. **An Advanced Practice Registered Nurse or Physician, if licensed and working as an Advanced Practice Registered Nurse;**
2. **A Registered Nurse, if licensed and working as a Registered Nurse;**
or
3. **A Licensed Vocational Nurse or a Registered Nurse, if licensed and working as a Licensed Vocational Nurse.**

Direct supervision requires another nurse or physician, as applicable, to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

D. Indirect Supervision: For the remainder of the stipulation/probation period, RESPONDENT SHALL be supervised by:

1. **An Advanced Practice Registered Nurse or Physician who is on the premises, if licensed and working as an Advanced Practice Registered Nurse;**
2. **A Registered Nurse who is on the premises, if licensed and working as a Registered Nurse; or**
3. **A Licensed Vocational Nurse or a Registered Nurse who is on the premises, if licensed and working as a Licensed Vocational Nurse.**

The supervising nurse or physician, as applicable, is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse or physician, as applicable, shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

E. Nursing Performance Evaluations: RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board,

periodic reports as to RESPONDENT'S capability to practice nursing. These reports shall be completed by the nurse or physician, as applicable, who supervises the RESPONDENT and these reports shall be submitted to the office of the Board at the end of each three (3) month quarterly period for eight (8) quarters [two (2) years] of employment as a nurse.

V. DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, RESPONDENT SHALL abstain from the use of alcohol, tramadol and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT 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 prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT 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, RESPONDENT SHALL submit to random periodic screens for alcohol, tramadol, and 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 Respondent obtains employment and submits the Notification of Employment form to the Board.
- For the first three (3) month [1st quarter] period RESPONDENT 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 stipulation/probation period, random screens shall be performed at least once every three (3) month quarterly period.

All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board. Any test result for a period of time in which the RESPONDENT 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. RESPONDENT SHALL be responsible for the costs of all random drug screening during the stipulation/probation period.

Specimens shall be screened for at least the following substances and their metabolites:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the RESPONDENT'S place of employment at any time during the stipulation period and require RESPONDENT to produce a specimen for screening.

Consequences of Positive or Missed Screens. Any positive result for which RESPONDENT does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject RESPONDENT to 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. 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.

VI. RESTORATION OF UNENCUMBERED LICENSE(S).

Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

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RESPONDENTS CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order.

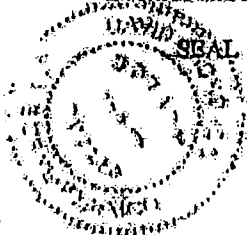
I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that when this Order becomes final and the terms of this Order become effective, 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) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 4 day of December, 2014.



 PHILIP DUANE TALLEY, Respondent

Sworn to and subscribed before me this 4th day of DEC., 2014.



David Anchondo
 NOTARY PUBLIC
 State of New Mexico
 My Commission Expires 5/02/2017

Notary Public in and for the State of _____

Approved as to form and substance.



 Dan Lype, Attorney for Respondent

Signed this 4th day of December, 2014.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 4th day of December, 2014, by PHILIP DUANE TALLEY, Registered Nurse License Number 717298, and said Order is final.

Effective this 22nd day of January, 2015.



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