

**STATE OF TENNESSEE
DEPARTMENT OF HEALTH
BOARD OF NURSING**

In The Matter of:

**JESSICA M. RAYBURN,
R.N. License No. 189127**

Respondent.

)
)
)
)
)
)

Case No. 2018054051

CONSENT ORDER

The State of Tennessee, by and through the Office of General Counsel and the Respondent, Jessica M. Rayburn, R.N., (hereinafter “Respondent”) hereby stipulate and agree, subject to approval by the Tennessee Board of Nursing (hereinafter “Board”), to the following:

I. Authority and Jurisdiction

The Board regulates and supervises nurses licensed to practice pursuant to Tennessee Code Annotated Section (hereinafter “TENN. CODE ANN. §”) 63-7-101, *et seq.* (hereinafter “Code”), including the discipline of licensees, as well as those who are required to be licensed, who violate the Code and the Rules promulgated by the Board, Official Compilation of Rules and Regulations of the State of Tennessee (hereinafter “TENN. COMP. R. & REGS.”), 1000-01-.01, *et seq.* (hereinafter “Rules”). The Board enforces the Code and Rules to promote and protect the health, safety and welfare of the public; accordingly, it is the policy of the Board to require strict compliance with the law and to apply the law to preserve the quality of nursing care provided in Tennessee.

II. Stipulations of Fact

1. Respondent has been at all times pertinent hereto licensed by the Board as a registered nurse (hereinafter “RN”) in the State of Tennessee, having been granted license number 189127 on June 21, 2012, which currently has an expiration date of September 30, 2019. Respondent’s

RN license is active and bears a multistate privilege to practice nursing in states which have entered into the Interstate Nurse Licensure Compact.

2. From February 2018 until September 2018, while working as an RN at St. Thomas West Hospital (hereinafter “St. Thomas”) in Nashville, Tennessee, Respondent diverted opioids.

3. From August 10, 2018 until September 21, 2018, Respondent withdrew fentanyl 100mcg on four (4) occasions in which she documented administering 50mcg and did not document wasting or administering the remaining 50mcg.

4. On or about October 15, 2018, an audit by St. Thomas revealed Respondent requested morphine for a patient from the attending physician’s nurse practitioner. When the nurse practitioner stated she would not enter the order because the patient’s blood pressure was too low, Respondent then contacted the rounding nurse practitioner for the order claiming the attending nurse practitioner forgot to enter the order.

5. On or about October 15, 2018, an audit by St. Thomas revealed Respondent fraudulently entered a telephone order read back for a patient to receive oxycodone; the order was entered under the name of an emergency room physician who was not working that day.

6. On March 28, 2019, Respondent admitted to a Tennessee Department of Health investigator to diverting opioids from St. Thomas approximately thirty (30) times from approximately twenty (20) patients.

7. On March 28, 2019, Respondent admitted to a Tennessee Department of Health investigator to diverting opioids from St. Thomas in order to provide them to a former boyfriend with whom she had been in an abusive, controlling relationship.

8. On March 28, 2019, Respondent admitted to a Tennessee Department of Health investigator she diverted opioids she documented wasting.

9. On March 28, 2019, Respondent admitted to a Tennessee Department of Health investigator she withdrew opioids when a patient was not in pain, documented administration of the opioids and then diverted the opioids.

III. Stipulated Grounds for Discipline

The Stipulations of Fact are sufficient to establish that Respondent has violated TENN. CODE ANN. § 63-7-101, *et seq.*, for which disciplinary action by the Board is authorized.

10. The facts stipulated in paragraphs two (2) through nine (9) constitute a violation of TENN. CODE ANN. § 63-7-115(a)(1):

(F) Is guilty of unprofessional conduct.

11. The facts stipulated in paragraphs two (2) through nine (9) constitute proof of Rule 1000-01-.13(1) of the TENN. COMP. R. & REGS., which defines “unprofessional conduct, unfitness or incompetency by reason of negligence, habits or other cause” as including, but not limited to:

- (b) Failure to maintain a record for each patient which accurately reflects the nursing problems and interventions for the patient and/or failure to maintain a record for each patient which accurately reflects the name and title of the nurse providing care;
- (d) Making false or materially incorrect, inconsistent or unintelligible entries in any patient records or in the records of any health care facility, school, institution or other work place location pertaining to the obtaining, possessing or administration of any controlled substance as defined in the Federal Controlled Substances Act;
- (e) Unauthorized use or removal of narcotics, drugs, supplies, or equipment from any health care facility, school, institution or other work place location;
- (h) Impersonating another licensed practitioner;
- (u) Practicing professional nursing in a manner inconsistent with T.C.A. § 63-7-103;
- (v) Performing nursing techniques or procedures without proper education and practice; and

- (w) Engaging in acts of dishonesty which relate to the practice of nursing.

IV. Stipulated Disposition

12. For the purpose of avoiding further administrative action with respect to this cause, Respondent agrees to have her license to practice nursing in the State of Tennessee **SUSPENDED** and the multistate privilege to practice in any other party state **VOIDED**, beginning the effective date of this Order.

13. Respondent's license to practice nursing in the State of Tennessee shall be suspended for no less than six (6) months from the ratification of this Order.

14. Respondent shall obtain and submit proof of completing a total of twenty (20) additional hours of Board approved continuing education in ethics within six (6) months from the ratification of this Order. These hours are in addition to the continuing education hours that may be completed to maintain competency for a nursing license in Tennessee. These hours will be in addition to any training offered by Respondent's place of employment and must be through a reputable continuing education provider, such as a nursing school, Medscape, the National Council of State Boards of Nursing, or the equivalent. Failure to submit proof of these hours to the Board within six (6) months of the ratification of this Order shall be a violation of this Order.

15. Civil penalties are hereby assessed pursuant to Tenn. Comp. R. & Regs. 1000-01-.04(6) and Tenn. Code Ann. § 63-1-134(c), which states in particular:

- (1) Civil penalties assessed pursuant to this section are final, due and payable as of the date shown on the certificate of filing below;
- (2) If the violator fails to pay an assessment when it becomes final, the department may apply to the appropriate court for a judgment and seek execution of such judgment.

16. Respondent is assessed one (1) Type A Civil Penalty in the amount of one thousand dollars (\$1,000.00) in accordance with TENN. COMP. R. & REGS. 1000-01-.04(6), which shall be

paid in full during the period of suspension and within six (6) months from the ratification of this Order. Failure to pay the civil penalty in full within six (6) months shall be a violation of this Order.

17. Respondent may undergo an evaluation approved by the Tennessee Professional Assistance Program (hereinafter "TnPAP"). If the results of the TnPAP approved evaluation recommend a return to practice with monitoring, then Respondent may sign a TnPAP monitoring agreement and obtain the advocacy of TnPAP.

18. Upon receipt of notification from TnPAP that Respondent has received a recommendation of return to practice and signed a monitoring agreement immediately prior to or during the period of suspension provided that at least six (6) months have elapsed from the ratification of this Order, Respondent has provided proof of completion of the required continuing education, and Respondent has paid the suspension in full, the suspension shall be **STAYED**. Once Respondent's suspension is stayed, the license shall be immediately placed on **PROBATION** on the following terms and conditions:

- A. The period of probation of Respondent's license shall run concurrent to her monitoring agreement with TnPAP, but in no event shall the period of probation be less than three (3) years. Should Respondent's monitoring agreement with TnPAP be extended, the term of probation of Respondent's license shall be extended to run concurrent with the new term of the TnPAP monitoring agreement.
- B. Respondent's failure to maintain 100% compliance with the terms of the monitoring agreement and the advocacy of TnPAP until the completion of the monitoring agreement and any amendments thereto will be a violation of probation and shall result in the immediate lifting of the stay of suspension of Respondent's license. If thereafter

Respondent wishes to have her license reinstated, Respondent must appear before the Board's Application Review Committee (hereinafter "ARC") to obtain a recommendation for reinstatement and demonstrate her present ability to engage in the safe practice of nursing, which shall include, at minimum, a demonstration of two (2) years of documented continuous sobriety. The Board reserves the right for ARC to recommend other reasonable conditions of reinstatement at the time of appearance before ARC. If ARC does not recommend reinstatement, Respondent's license shall remain suspended. Respondent may not appear before ARC more than once in a twelve (12) month period.

19. Should Respondent obtain a TnPAP approved evaluation that recommends a return to practice but does not recommend a monitoring agreement with TnPAP and provided that at least six (6) months have elapsed from the ratification of this Order, Respondent has provided proof of completion of the required continuing educational hour and Respondent has paid the civil penalty in full, the suspension shall be lifted. Once the suspension is lifted, Respondent's license shall be placed on **PROBATION** for a period of three (3) years on the following terms and conditions:

- A. The Respondent shall not violate TENN. CODE ANN. § 63-7-101, *et seq.*, the rules promulgated pursuant thereto, any other state or federal law, rule, or regulation relating to the practice or ability to practice nursing.
- B. Respondent shall not violate any state or federal criminal law.
- C. Respondent must report any arrests or criminal citations in writing to the Disciplinary Coordinator by certified mail within ten (10) working days.
- D. All settings in which Respondent is employed as a nurse, during her period of probation, shall be promptly informed of Respondent's probationary status. Within five (5) days of the receipt of this ratified Order, the Respondent shall furnish a copy

to her supervisor or supervisors, if there are multiple employers. The supervisors must acknowledge this probation to the Disciplinary Coordinator in writing on employer letterhead within ten (10) days. Should Respondent change employers, she must supply a copy of this Order to her new supervisor within five (5) days. The new employer shall acknowledge Respondent's probation in writing on employer letterhead to the Disciplinary Coordinator within ten (10) days. Respondent shall be responsible for assuring that her employer(s) submit such acknowledgment of probation.

20. Respondent's multistate privilege to practice in any other party state shall remain **VOIDED** until such time as Respondent's license is no longer suspended or on probation.

21. Upon completion of probation, Respondent's license shall be returned to unencumbered status.

22. Each condition of discipline herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

V. Representations of Respondent

23. Respondent understands and admits the allegations, charges, and stipulations in this Order.

24. Respondent understands the rights found in the Code, Rules, and the Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101 thru 4-5-404, including the right to a hearing, the right to appear personally and by legal counsel, the right to confront and to cross-examine witnesses who would testify against Respondent, the right to testify and to present evidence on Respondent's own behalf, as well as to the issuance of subpoenas to compel the

attendance of witnesses and the production of documents, as well as the right to appeal for judicial review. Respondent voluntarily waives these rights in order to avoid further administrative action.

25. Respondent agrees presentation of this Order to the Board and the Board's consideration of it and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members become prejudiced requiring their disqualification from hearing this matter should this Order not be ratified. All matters, admissions, and statements disclosed during the attempted ratification process shall not be used against the Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

26. Respondent agrees facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.

27. Respondent also agrees the Board may issue this Order without further process. If the Board rejects this Order for any reason, it will be of no force or effect for either party.

28. Respondent agrees that she has not received any threats or promises of any kind by the State or any agent or representative thereof, except such as is detailed herein.

VI. Notice

29. The discipline in this Order is formal disciplinary action and will be reported to the National Practitioner Data Bank ("NPDB").

30. Respondent may enter into an agreement with the Board for the payment of assessed civil penalties in installments that are due and payable beyond the date on which the assessment becomes final. TENN. CODE ANN. § 63-1-134(c). To set up a payment plan, contact the Disciplinary Coordinator by calling 615-253-2699.

31. Proof of completion of continuing education shall be submitted to the Disciplinary

Coordinator at the address below. Civil penalties shall be paid by submitting a **certified check, cashier's check, or money order** payable to the State of Tennessee. Civil penalties payments must include the Respondent's name and the case number, # **2018054051**, on the instrument of payment and shall be mailed or delivered to:

**Office of Investigations
Attn: Disciplinary Coordinator
Tennessee Department of Health
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243**

32. A **violation** of this Order shall constitute a **separate violation**, pursuant to TENN. CODE ANN. § 63-7-115(a)(1)(G), and is grounds for further disciplinary action by the Board, including revocation of Respondent's license.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

APPROVED FOR ENTRY:

Jessica M. Rayburn
Jessica M. Rayburn

R.N. License No. 189127

Respondent

9.15.2019

DATE

T. Eric Winters

T. Eric Winters (BPR # 036263)

Assistant General Counsel

Tennessee Department of Health

Office of General Counsel

665 Mainstream Drive, Second Floor

Nashville, Tennessee 37243

(615) 741-1611

September 17, 2019

DATE

Approval by the Board

Upon the agreement of the parties and the record as a whole, this **CONSENT ORDER** was approved as a **FINAL ORDER** by a majority of a quorum of the Tennessee Board of Nursing at a public meeting of the Board and signed this 24th day of October, 2019.

ACCORDINGLY, IT IS ORDERED that the agreements of the parties will, and hereby do, become the Final Order of the Board.

Juanita L. Lunsford
Chairperson/Acting Chairperson
Tennessee Board of Nursing

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Jessica M. Rayburn, 3088 Woody Lane, Clarksville, Tennessee 37043, by delivering same in the United States regular mail and United States certified mail, number **7018 1830 0000 5102 6743**, return receipt requested, with sufficient postage thereon to reach its destination.

This _____ day of October, 2019.


T. Eric Winters
Assistant General Counsel