



Arkansas Department of Health

Arkansas State Board of Nursing
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Governor Sarah Huckabee Sanders
Renee Mallory, RN, BSN, Secretary of Health
Jennifer Dillaha, MD, Director
Sue A. Tedford, MNsc, APRN, Director

BOARD MEETING MINUTES

TIME AND PLACE:	November 16, 2023 Board Conference Room
MEMBERS PRESENT:	Leslie Harmon Branman, BSN, RN, CPSN, CANS; Haley Strunk, LPN; Allie Barker, MSN, RN; Veronica Harmon, RN; Barbara Hillman, BSN, RN; Tabitha Lancaster, RN; Phillip Petty, RN; Cassie Gonzales, APRN, MNsc, FNP-BC; Robin Lambert, LNHA, LPN; Lakisha Young, LPN; Jamie Sims.
MEMBERS ABSENT:	None
STAFF ATTENDING AT VARIOUS TIMES:	Sue A. Tedford, Director, MNsc, APRN David Dawson, JD, General Counsel Jennifer Ivory, JD, Attorney Specialist Lisa Wooten, Assistant Director, MPH, BSN, RN Karen McCumpsey, Assistant Director, MNsc, RN, CNE Shannon McKinney, Assistant Director, DNP, APRN, WHNP-BC Janet Simpson, ASBN Program Coordinator, MSN, RNP, RNC-MNN Kim Hooks, MPH, BSN, RN, ASBN Assistant Director ArNAP Udell Ward Jr., Regulatory Board Chief Investigator Tammy Vaughn, Program Coordinator, MSN, RN, CNE Leslie Suggs, Executive Assistant to the Director Albert Williams, Information Systems Coordinator Susan Moore, Computer Operator Mindy Darner, Legal Support Specialist Corrie Edge, Administrative Analyst Lisa Mendenhall, Legal Support Specialist Tami Duke, Administrative Specialist III Kelly Doppelhammer, Legal Support Specialist Whitney Kinney, Licensing Coordinator LouAnn Walker, Public Information Coordinator Carla Davis, Licensing Coordinator Christine Lewis, Legal Support Specialist Cecelia Simpkins, Fiscal Support Specialist
Guests:	Mary Kennebrew, Office of Attorney General

Vice President Leslie Branman called the meeting to order at 8:30a.m. Guests were welcomed and a flexible agenda was approved.

DISCIPLINARY HEARINGS

General Counsel, David Dawson, represented the Board. Motions reflect the decisions of the Board reached in deliberation following the hearing of each case.

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The following items were discussed before beginning the hearings for the day:

- Zoom recording issues from Wednesday hearings.
- Background on the new audio/visual recording equipment.
- National Counsel- who they are and what they do.
- Mid-Year is in Atlanta, GA in March 2024
- The difference between a founded and a non-founded Office of Long-Term Care case.
- The difference between the drug screen the Board orders and other drug screens.
- How are the cases assigned to the different investigators.
- The role of the President during hearings.

SUNNY TENILLE PATTERSON COLE KIRK, LICENSE NO. R055348 (EXPIRED)

Respondent was present for the proceedings before the Board and was represented by counsel, Josh Hurst. Lisa Wooten, MPH, BSN, RN, Nick Shull, Pharm D, Investigator, and Terry Kuykendall, Investigator, provided testimony on behalf of the Board. Respondent has been charged with Ark. Code Ann. § 17-87-309(a)(4) and (a)(6) and pleads not guilty to the charges. An investigation was initiated after the Board received three (3) complaints regarding Respondent. The first complaint alleged that Respondent had been seen twice at Saline Memorial regarding a suspected overdose and altered mental state. Respondent was found unresponsive with a syringe of unknown substance in her pocket. The second complaint alleged an ambulance was called for Respondent after unresponsive behavior from injecting a solution to get herself high. The third complaint alleged Respondent was found lying and crawling in her yard screaming that she wanted to die. Records from Saline Memorial indicate on January 1, 2021, Respondent arrived via EMS for altered mental status. Respondent's husband reported Respondent was observed as normal at 1440 and at 1445 she was unresponsive. Lab tests were positive for amphetamines, benzodiazepines, and ecstasy/MDMA. Respondent takes Ambien and Klonopin and later reported drinking alcohol before going to bed. Records from Saline Memorial indicate on April 18, 2021, Respondent presented to the Emergency Department via EMS with possible medication overdose. Respondent was found unresponsive at home. Respondent later reported taking unknown sleeping pills and that she was just trying to sleep. Records from Saline Memorial indicate on April 21, 2021, Respondent was found unresponsive at home. EMS found a syringe containing a clear liquid with a needle attached in Respondent's pocket. Lab tests were positive for alcohol at 98mg/dL and amphetamine at >1,000ng/mL. Pharmacy printouts indicate Respondent was dispensed the following prescriptions as issued by four (4) providers: Nine (9) prescriptions for Adderall (dextroamphetamine/amphetamine) extended release 30mg, which totaled five hundred and forty (540) capsules, last filled September 3, 2021, Seventeen (17) prescriptions for clonazepam 2mg, which totaled one thousand and twenty (1020) tablets, last filled July 6, 2021, One (1) prescription for hydrocodone/APAP 5/325mg, which totaled twenty (20) tablets, filled on June 2, 2020, One (1) prescription for hydrocodone/APAP 10/325mg, which totaled twelve (12) tablets, filled on March 8, 2021, Two (2) prescriptions for oxycodone/APAP 5/325mg, which totaled fifty (50) tablets, last filled on June 6, 2020, Four (4) prescriptions for Vyvanse 30mg, which totaled one hundred and twenty (120) capsules, last filled on May 22, 2020, Three (3) prescriptions for Vyvanse 40mg, which totaled ninety (90) capsules, last filled October 16, 2020, and twenty-one (21) prescriptions for zolpidem 10mg, which totaled six hundred and thirty (630) tablets, last filled October 4, 2021. On May 2, 2022, an investigator with Pharmacy Services met with Respondent and conducted an observed urine drug screen. According to the report from Quest Diagnostics, Respondent was positive for amphetamines at 4,630 ng/ml, clonazepam metabolite at 1120 ng/ml, and diphenhydramine 1,190 ng/ml. Respondent indicated she had prescriptions for Adderall XR and Klonopin filled at Finley Pharmacy in Benton, Arkansas. On May 6, 2022, Board staff sent a letter via the nurse portal and certified mail to Respondent requesting Respondent to obtain a psychological/addiction evaluation by June 20, 2022. Staff were unable to verify if the certified letter was delivered. Respondent viewed the message in the nurse portal on May 17, 2022, at 08:41 PM. Board staff was notified that Respondent was represented by legal counsel. Multiple communications occurred between staff and Respondent's counsel regarding the request for the evaluation. When the evaluation was not provided, Respondent's counsel was notified that the case

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would be set for a hearing. Board staff received another complaint on March 7, 2023, indicating Respondent checked herself into Rivendell Behavioral Services. Records from Rivendell Behavioral Services indicate that Respondent was admitted on March 4, 2023, and discharged on March 7, 2023, with a diagnosis that included alcohol abuse. Respondent's license history includes previous discipline. Respondent completed a two-year probation consent agreement in 2004 after testing positive for cocaine on a pre-employment drug screen. Respondent completed another two-year probation consent agreement in 2017 after writing and filling prescriptions for controlled substances not authorized by the physician.

MOTION: I MOVE that based on the evidence presented and the allegations contained in the Order and Notice of Hearing, the Arkansas State Board of Nursing finds that **SUNNY TENILLE PATTERSON COLE KIRK, LICENSE NO. R055348 (EXPIRED)**, has been charged with a violation of Ark. Code Ann. § 17-87-309(a)(4) and (a)(6) and that Respondent's license and privilege to practice as a nurse be suspended until determined to be safe to practice by an ASBN approved evaluator with the following terms and conditions:

- Pursuant to A.C.A. §17-87-104(b)(1), Respondent shall pay a civil penalty of \$2,872.00, plus any outstanding balance associated with previous disciplinary action. Such fine shall be payable within fifteen (15) days of receipt of this Order. If unable to pay the civil penalty within fifteen (15) days, a payment schedule shall be submitted within fifteen (15) days to the Board via email at ASBN.monitoring@arkansas.gov.
- Respondent shall provide evidence within six (6) months of successful completion of the Board approved course: *Substance Abuse Disorder Bundle*. Respondent shall submit the certificate of completion via the Board approved monitoring program.
- Respondent shall provide evidence of a comprehensive assessment for substance use disorder within thirty (30) days of receipt of this Order. Acceptable evidence shall consist of an evaluation with appropriate testing by a Board approved evaluator. Respondent shall supply a copy of the Board's Order to the evaluator. The evaluation shall contain evidence that the evaluator knows the reason for the referral. The evaluator shall specifically advise the Board that the nurse is or is not presently able to engage in the safe practice of nursing or recommend the conditions, if any, under which safe practice could occur. Respondent shall ensure the evaluator sends the report directly to the Board at ASBN.monitoring@arkansas.gov.
- Respondent shall attend Alcoholics Anonymous/Narcotics Anonymous, (AA/NA), or other Board approved support group meetings and shall submit quarterly reports to the Board through the Board approved monitoring program. Acceptable evidence shall consist of completion of the disciplinary form, *Aftercare Meetings Report*. Respondent shall log attendance of all support group meetings via the Board approved monitoring program.
- Respondent shall attend three (3) AA/NA or other Board approved support group meetings per week until the Board receives the evaluation report with the evaluator's recommendations regarding meeting attendance.
- Respondent shall obtain or continue counseling with a psychiatrist, psychologist, or other recognized mental health practitioner and shall submit the *Treatment Provider Report* quarterly via the Board approved monitoring program until discharged by the practitioner. Treatment shall begin within thirty (30) days of receipt of this Order as recommended by evaluator.
- Respondent shall request to the Board, verification of termination of the suspension period and license reinstatement to probation by submitting the *Reinstatement Request* form, via the ASBN Nurse Portal once compliance with the Board's Suspension Order is met.
- Respondent shall abstain at all times from the use of all controlled or abuse potential substances including alcohol, products that contain alcohol, all fermented products (i.e. kefir, kombucha tea, etc.), hemp, poppy seeds, cannabidiol (CBD), or any product or by-product containing the same. Short-term treatment (less than three [3] weeks) with a controlled

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- medication may be allowed for an acute illness or acute condition with a short-term waiver and appropriate documentation (medical record documentation, etc.). Respondent shall provide a completed short-term waiver within ten (10) days of being prescribed a controlled or abuse potential substance via the Board approved monitoring program. Respondent shall log all medications, including over-the-counter medications via the Board approved monitoring program. Acceptable documentation must include the following information: prescriber, medication name, dose, date prescribed, and amount dispensed. Acceptable format of documentation includes photo(s) of the prescription label, documentation from the provider, or documentation from the pharmacy.
- Respondent agrees to have personal prescriptions monitored through the Prescription Drug Monitoring Program by Board staff while under Board order.
 - Respondent shall submit to random drug screens observed or DNA authenticated remote urine drug screen. The drug screens shall meet the criteria established by the Board and be conducted through a Board approved monitoring program, laboratory, and collection site. Respondent shall contact the monitoring program to activate their account and begin checking in daily beginning the first of the month following the Board Order. If selected for testing, Respondent shall submit the specimen within two (2) hours from the time of notification for observed drug screens, or with the time and manner designated by the remote urine drug screening laboratory. Respondent shall not submit specimens at Respondent's place of employment or practice site. Failed drug screens include the results of a biological specimen, which is determined to be diluted, substituted, abnormal, adulterated, or tests positive for alcohol, controlled substances, abuse potential substances, or their metabolites without a valid prescription or failure to present and provide specimen when notified. Respondent shall notify the Board of any travel two (2) weeks prior to traveling by submitting a monitoring interruption via the Board approved monitoring program. Respondent shall continue to check in during travel period and test when selected. Travel outside the continental U.S. requires thirty (30) days' notice. If approved, a waiver shall be issued during the travel period outside the continental U.S.
 - Respondent shall not collect any drug screen specimen from a participant who has been ordered to drug screen by the Board.
 - Respondent shall submit the *Enforcement Personal Report* to the Board via the Board approved monitoring program quarterly.
 - Respondent shall ensure that all reports of Respondent and the employer are submitted quarterly via the Board approved monitoring program.
 - Respondent shall execute any release necessary to give the Board access to records including, but not limited to, medical, psychological, employment, and or criminal records. Failure to execute a release shall be grounds for additional disciplinary action against Respondent's license / privilege to practice.
 - Respondent shall obey all federal, state, and local laws, and all rules governing the practice of nursing in this state.
 - Respondent shall be responsible for all costs involved in complying with the Board's Order.
 - Respondent is required to submit any change of information, even a temporary one, in name, address, or employer via the ASBN Nurse Portal and the Board approved monitoring program within ten (10) days of the change.
 - If Respondent fails to comply with the terms of suspension during the monitoring period, Respondent may not restart the monitoring period until six (6) months after the date Respondent was determined to be noncompliant.
 - A probation period of two (2) years shall follow the suspension period. All conditions of the suspension period regarding treatment programs, random drug screens, and abstinence shall continue through the probation period.
 - All conditions of the suspension period shall continue through the probation period.

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- The Nurse Licensure Compact status of Respondent's Arkansas license shall be single state, allowing practice only in the State of Arkansas. Respondent may submit the *Multistate Conversion Application* after successful completion of probation to determine if license meets the Uniform Licensure Requirements (ULR) for multi-state compact status.
- Respondent shall notify and present to each employer a copy this Order if working as a nurse on probation. Respondent shall have employer sign the *Employer Acknowledgement* form. Respondent shall submit the document to the Board via the Board approved monitoring program. Respondent shall have their employer complete the *Performance Evaluation Report* and Respondent shall submit the report to the Board via the Board approved monitoring program quarterly.
- Respondent shall work under supervision in any setting. Supervision requires another nurse at the same or higher licensure level, to be working in the same setting as Respondent and be readily available to provide assistance and intervention. Respondent shall not secure employment or be employed through a staffing agency. Respondent shall not be employed in the following settings: Emergency Room, Pre- and Post-Op, Labor and Delivery, Home Hospice, Home Health, or any Intensive Care Unit.
- Respondent shall request verification of termination of the probationary period by submitting the Reinstatement Request form, via the ASBN Nurse Portal once compliance with the Board's Probation Order is met. Respondent is required to continue all monitoring requirements including, but not limited to, checking in daily for random drug screening, testing if selected, attending meetings, and submitting reports until released from the probation period by Board staff.
- Pursuant to Ark. Code Ann. §17-87-309, failure to comply with this Order may result in additional disciplinary action on the Respondent's licensure and/or privilege including, but not limited to, additional probation, suspension, or revocation of licensure and/or privilege to practice nursing in this state.

Brought by Allie Barker and seconded by Lakisha Young.

PASSED

The meeting recessed for lunch at 12:25 p.m. Following lunch, the Board resumed hearings.

Vice President Leslie Branman called the meeting to order at 1:05 p.m. A flexible agenda was approved.

MELANIE DAWN MCMANUS HONEA YETTER, LICENSE NO. L045454

Respondent was present for the proceedings before the Board and was not represented by counsel. Lisa Wooten, MPH, BSN, RN, and Shannon Loyd, RN, provided testimony on behalf of the Board. Respondent has been charged with Ark. Code Ann. § 17-87-309(a)(6) and pleads not guilty to the charges. An investigation was initiated after the Board received a complaint submitted by Melissa Sackett, Director of Elite Home Health Agency, Texarkana, Arkansas. Ms. Sackett indicated that a patient reported that Respondent took approximately twelve (12) hydrocodone/acetaminophen tablets from her bottle while seeing her in her home. Respondent refused to submit to a drug screen requested by Elite Home Health Agency. Respondent's employment history indicates there were two (2) prior reports from Respondent's patients alleging that she had taken their medications. Respondent did submit a urine drug screen on those two (2) occasions, which were both negative. On March 24, 2022, another patient reported to Respondent's employer that Respondent had taken approximately twelve (12) hydrocodone/acetaminophen tablets from her bottle the past weekend. The Clinical Director with Elite Home Health Agency requested that Respondent submit a urine drug screen. Respondent refused to submit the drug screen and returned her tablet and supply bag to the employer. Respondent was involuntarily terminated on March 24, 2022, for refusing to submit a requested drug screen. The Clinical Director for Elite Home Health Agency informed the Board investigator that, "Medications are not

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administered to patients in the home by Elite Home Health Agency nurses. There are no medication logs and the nurses do not keep up with the patient's medication or medication count. The nurse has no reason to even open the patient's medication bottle. The patient takes care of their own medication." On December 15, 2022, Board staff sent a letter via the nurse portal and certified mail to Respondent's last known mailing address on file with the Board requesting Respondent to obtain a psychological/addiction evaluation by January 15, 2023. The certified letter was delivered December 27, 2022. On March 30, 2023, Board staff contacted Respondent by telephone. Respondent stated she had an appointment with Dr. Morgan on January 13, 2023. Board staff contacted Dr. Morgan, who reported Respondent did not show up for her scheduled appointment. On May 11, 2023, Board staff sent a letter via the nurse portal and certified mail to the last known mailing address on file with the Board notifying Respondent her case was forwarded for hearing and to contact the Board immediately. The certified letter was returned by the USPS on June 12, 2023, marked Return to Sender / Unclaimed. However, Respondent viewed the message sent through the portal on May 24, 2023, at 05:07 PM. The Board has not received an evaluation report and Respondent has failed to communicate with Board staff.

MOTION: I MOVE that based on the evidence presented and the allegations contained in the Order and Notice of Hearing, the Arkansas State Board of Nursing finds that **MELANIE DAWN MCMANUS HONEA YETTER, LICENSE NO. L045454**, has been charged with a violation of Ark. Code Ann. § 17-87-309(a)(6) and that Respondent's license and privilege to practice as a nurse be suspended until determined to be safe to practice by an ASBN approved evaluator with the following terms and conditions:

- Pursuant to A.C.A. §17-87-104(b)(1), Respondent shall pay a civil penalty of \$1,375.00, plus any outstanding balance associated with previous disciplinary action. Such fine shall be payable within fifteen (15) days of receipt of this Order. If unable to pay the civil penalty within fifteen (15) days, a payment schedule shall be submitted within fifteen (15) days to the Board via email at ASBN_monitoring@arkansas.gov.
- Respondent shall provide evidence within six (6) months of successful completion of the Board approved course: *The Nurse and Professional Behaviors*. Respondent shall submit the certificate of completion via the Board approved monitoring program.
- Respondent shall provide evidence of a comprehensive assessment for substance use disorder within thirty (30) days of receipt of this Order. Acceptable evidence shall consist of an evaluation with appropriate testing by a Board approved evaluator. Respondent shall supply a copy of the Board's Order to the evaluator. The evaluation shall contain evidence that the evaluator knows the reason for the referral. The evaluator shall specifically advise the Board that the nurse is or is not presently able to engage in the safe practice of nursing or recommend the conditions, if any, under which safe practice could occur. Respondent shall ensure the evaluator sends the report directly to the Board at ASBN_monitoring@arkansas.gov.
- Respondent shall attend Alcoholics Anonymous/Narcotics Anonymous, (AA/NA), or other Board approved support group meetings and shall submit quarterly reports to the Board through the Board approved monitoring program. Acceptable evidence shall consist of completion of the disciplinary form, *Aftercare Meetings Report*. Respondent shall log attendance of all support group meetings via the Board approved monitoring program.
- Respondent shall attend meetings per the evaluator's recommendations regarding meeting attendance.
- Respondent shall obtain or continue counseling with a psychiatrist, psychologist, or other recognized mental health practitioner and shall submit the *Treatment Provider Report* quarterly via the Board approved monitoring program until discharged by the practitioner. Treatment shall begin within thirty (30) days of receipt of this Order. To be determined upon receipt of a completed evaluation by an ASBN approved evaluator.

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- Respondent shall request to the Board, verification of termination of the suspension period and license reinstatement to probation by submitting the *Reinstatement Request* form, via the ASBN Nurse Portal once compliance with the Board's Suspension Order is met.
- Respondent shall abstain at all times from the use of all controlled or abuse potential substances including alcohol, products that contain alcohol, all fermented products (i.e. kefir, kombucha tea, etc.), hemp, poppy seeds, cannabidiol (CBD), or any product or by-product containing the same. Short-term treatment (less than three [3] weeks) with a controlled medication may be allowed for an acute illness or acute condition with a short-term waiver and appropriate documentation (medical record documentation, etc.). Respondent shall provide a completed short-term waiver within ten (10) days of being prescribed a controlled or abuse potential substance via the Board approved monitoring program. Respondent shall log all medications, including over-the-counter medications via the Board approved monitoring program. Acceptable documentation must include the following information: prescriber, medication name, dose, date prescribed, and amount dispensed. Acceptable format of documentation includes photo(s) of the prescription label, documentation from the provider, or documentation from the pharmacy.
- Respondent agrees to have personal prescriptions monitored through the Prescription Drug Monitoring Program by Board staff while under Board order.
- Respondent shall submit to random drug screens observed or DNA authenticated remote urine drug screen. The drug screens shall meet the criteria established by the Board and be conducted through a Board approved monitoring program, laboratory, and collection site. Respondent shall contact the monitoring program to activate their account and begin checking in daily beginning the first of the month following the Board Order. If selected for testing, Respondent shall submit the specimen within two (2) hours from the time of notification for observed drug screens, or with the time and manner designated by the remote urine drug screening laboratory. Respondent shall not submit specimens at Respondent's place of employment or practice site. Failed drug screens include the results of a biological specimen, which is determined to be diluted, substituted, abnormal, adulterated, or tests positive for alcohol, controlled substances, abuse potential substances, or their metabolites without a valid prescription or failure to present and provide specimen when notified. Respondent shall notify the Board of any travel two (2) weeks prior to traveling by submitting a monitoring interruption via the Board approved monitoring program. Respondent shall continue to check in during travel period and test when selected. Travel outside the continental U.S. requires thirty (30) days' notice. If approved, a waiver shall be issued during the travel period outside the continental U.S.
- Respondent shall not collect any drug screen specimen from a participant who has been ordered to drug screen by the Board.
- Respondent shall submit the *Enforcement Personal Report* to the Board via the Board approved monitoring program quarterly.
- Respondent shall ensure that all reports of Respondent and the employer are submitted quarterly via the Board approved monitoring program.
- Respondent shall execute any release necessary to give the Board access to records including, but not limited to, medical, psychological, employment, and or criminal records. Failure to execute a release shall be grounds for additional disciplinary action against Respondent's license / privilege to practice.
- Respondent shall obey all federal, state, and local laws, and all rules governing the practice of nursing in this state.
- Respondent shall be responsible for all costs involved in complying with the Board's Order.
- Respondent is required to submit any change of information, even a temporary one, in name, address, or employer via the ASBN Nurse Portal and the Board approved monitoring program within ten (10) days of the change.

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- If Respondent fails to comply with the terms of suspension during the monitoring period, Respondent may not restart the monitoring period until six (6) months after the date Respondent was determined to be noncompliant.
- A probation period of one (1) year shall follow the suspension period. All conditions of the suspension period regarding treatment programs, random drug screens, and abstinence shall continue through the probation period.
- All conditions of the suspension period shall continue through the probation period.
- The Nurse Licensure Compact status of Respondent's Arkansas license shall be single state, allowing practice only in the State of Arkansas. Respondent may submit the *Multistate Conversion Application* after successful completion of probation to determine if license meets the Uniform Licensure Requirements (ULR) for multi-state compact status.
- Respondent shall notify and present to each employer a copy this Order if working as a nurse on probation. Respondent shall have employer sign the *Employer Acknowledgement* form. Respondent shall submit the document to the Board via the Board approved monitoring program. Respondent shall have their employer complete the *Performance Evaluation Report* and Respondent shall submit the report to the Board via the Board approved monitoring program quarterly.
- Respondent shall work under supervision in any setting. Supervision requires another nurse at the same or higher licensure level, to be working in the same setting as Respondent and be readily available to provide assistance and intervention. Respondent shall not serve as a preceptor during probation. Respondent shall not secure employment or be employed through a staffing agency. Respondent shall not be employed in the following settings: Emergency Room, Pre- and Post-Op, Labor and Delivery, Home Hospice, Home Health, or any Intensive Care Unit.
- Respondent shall request verification of termination of the probationary period by submitting the Reinstatement Request form, via the ASBN Nurse Portal once compliance with the Board's Probation Order is met. Respondent is required to continue all monitoring requirements including, but not limited to, checking in daily for random drug screening, testing if selected, attending meetings, and submitting reports until released from the probation period by Board staff.
- Pursuant to Ark. Code Ann. §17-87-309, failure to comply with this Order may result in additional disciplinary action on the Respondent's licensure and/or privilege including, but not limited to, additional probation, suspension, or revocation of licensure and/or privilege to practice nursing in this state.

Brought by Allie Barker and seconded by Jamie Sims.

PASSED

MELEAH BETH AUSTIN MARTIN PENA, LICENSE NO. R083964

Respondent was present for the proceedings before the Board and was represented by counsel, Darren O' Quinn. Lisa Wooten, MPH, BSN, RN, provided testimony on behalf of the Board. Respondent has been charged with Ark. Code Ann. § 17-87-309(a)(6) and pleads not guilty to the charges. An investigation was initiated after a complaint was submitted to the Board on October 25, 2021, by Natalie Amato, Senior Human Resources Manager at Baxter Regional Medical Center (BRMC) in Mountain Home, Arkansas. The complaint indicated that Respondent was terminated on October 13, 2021, for refusing to proceed with a reasonable suspicion drug test. On October 13, 2021, Respondent was asked to submit to a for cause drug screen after an audit of her control substance activity and documentation indicated, fifteen (15) occurrences of delayed administration [greater than one (1) hour], after removing controlled substance from Pyxis, and eight (8) occurrences of failing to waste unused portions of controlled substances, resulting in 8mg of midazolam being unaccounted for. Respondent signed a consent to submit to a for cause urine drug screen. After Respondent arrived at the laboratory for testing, Respondent refused to proceed. Respondent acknowledged that she understood the failure to submit to a for cause drug screen was grounds for employment termination. On December 6, 2021, the Board

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Director contacted Respondent to discuss the complaint. Respondent was given the opportunity to enter ArNAP, the Arkansas Nurse Alternative Program. Respondent refused and stated that she takes Xanax and thought the drug screen would show benzos and she would be accused of diverting Versed. A review of Respondent's prescription history indicates the following controlled substances were prescribed by three (3) providers and dispensed at one (1) pharmacy during July 20, 2020, through July 20, 2022: Twelve (12) prescriptions for alprazolam 0.5mg – three hundred (300) tablets; and one (1) prescription for oxycodone 5mg – thirty (30) tablets. On June 29, 2022, Board staff requested Pharmacy Services, Arkansas Department of Health, to obtain a Professional Drug Screen. The drug screen was obtained on July 8, 2022, and the results were reported as negative. On August 18, 2022, Board staff offered Respondent a consent agreement for one (1) year probation for violation of A.C.A. § 17-87-309 (a)(6), and the Arkansas State Board of Nursing *Rules*, Chapter Seven, Section IV (A)(6)(p). On August 29, 2022, the Board received notice that Respondent was represented by legal counsel. After discussions with legal counsel, a consent agreement was not returned, and the matter is scheduled for a hearing.

MOTION: I MOVE that based on the evidence presented and the allegations contained in the Order and Notice of Hearing, the Arkansas State Board of Nursing finds that **MELEAH BETH AUSTIN MARTIN PENA, LICENSE NO. R083964**, has been charged with a violation of Ark. Code Ann. § 17-87-309(a)(6) and that a Letter of Warning be issued.

Brought by Barbara Hillman and seconded by Veronica Harmon.

PASSED

The following items were discussed:

- Debriefing about the cases heard this week.
- When a person is negative for a prescription on a drug screen and MRO reviews.
- How a GCMS confirmed drug screen will separate the different Benzodiazepines if it is not a dip stick test.
- Elections for the different positions within the Board were held.
 - Allie Barker- President
 - Tabitha Lancaster- Vice President
 - Jamie Sims- Secretary
 - Phillip Petty- Treasurer

There being no further business, the meeting adjourned at 4:20 pm.

Allie Barker, MSN, RN

Allie Barker, President

Mindy Darner

Mindy Darner, Recording Secretary

01/11/2024

Date/Approved