

THE STATE OF TEXAS
VS.
ALEXIS JOANN MCNEILLY
[REDACTED]
WEBSTER TX 77598

03223911
SPN:
DOB: A F 10/25/1998
DATE PREPARED: 12/26/2023

D.A. LOG NUMBER: 3002506
CJIS TRACKING NO.:
AGENCY:HPD
O/R NO: 069275823
ARREST DATE: TO BE

PA

NCIC CODE: 3598 00

RELATED CASES: SD- 3 FEL

FELONY CHARGE: **Diversion of Controlled Substance - Section 481.1285, Health and Safety Code**

CAUSE NO: 1849528
HARRIS COUNTY DISTRICT COURT NO: 176
FIRST SETTING DATE:

COURT ORDERED BAIL: TO BE SET AT
MAGISTRATION
PRIOR CAUSE NO:
CHARGE SEQ NUM: 1

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, **ALEXIS JOANN MCNEILLY**, hereafter styled the Defendant, heretofore on or about **April 20, 2023**, did then and there unlawfully, while a practitioner under Section 481.002(39) of the Texas Health and Safety Code, convert to the Defendant's own use and benefit a controlled substance, namely Hydromorphone, to which the Defendant had access by virtue of the Defendant's profession and employment.

Probable Cause

Affiant, B. Stewart am a certified peace officer in the State of Texas. I am employed with the Houston Police Department. I do solemnly swear that I have reason to believe and do believe that **ALEXIS MCNEILLY**, A/F DOB: 10/25/1998 hereafter referred to as Defendant, committed the felony offense of Diversion of a controlled substance by dispensers at 6565 Fannin Houston Harris County Texas in the Houston Medical Center from on or about March 18, 2023, through on or about May 15, 2023, in a continuous course of conduct.

Affiant bases this belief on the following:

I, the Affiant, Sgt. B. Stewart, am a certified peace officer in the State of Texas. Affiant has been a law enforcement officer for approximately thirteen years. Affiant is currently assigned to the Houston Police Department Major Offenders Division, Career Criminal Squad. Affiant has been assigned as an Investigator for over five years. Affiant is currently assigned the investigation of tampering with a consumer product investigation, a case that occurred in Houston, Harris County, Texas from on or about March 18, 2023, through on or about May 15, 2023, in a continuous course of conduct.

Texas Controlled Substance Act

Sec. 481.1285. OFFENSE: DIVERSION OF CONTROLLED SUBSTANCE BY REGISTRANTS, DISPENSERS, AND CERTAIN OTHER PERSONS.

- (a) This section applies only to a registrant, a dispenser, or a person who, pursuant to Section 481.062(a)(1) or (2), is not required to register under this subchapter.
- (b) A person commits an offense if the person knowingly:
 - (1) converts to the person's own use or benefit a controlled substance to which the person has access by virtue of the person's profession or employment; or
 - (2) diverts to the unlawful use or benefit of another person a controlled substance to which the person has access by virtue of the person's profession or employment.
- (c) An offense under Subsection (b)(1) is a state jail felony.
An offense under Subsection (b)(2) is a felony of the third degree.
- (d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Background Investigation

On May 25, 2023, I was contacted by Special Agent Norton with the Food and Drug Administration (FDA) and advised of this incident. Affiant reviewed the DEA 106 form which was used by Alex Varkey, Hospital Pharmacy Director for Houston Methodist Hospital, hereafter referred to as Complainant Varkey, to report this incident. Complainant Varkey stated the following in his report "Hydromorphone syringes and vials were found to be tampered with in a nursing station automated dispensing cabinet pocket, identified by a unit nurse upon

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conducting routine weekly controlled substance pocket inventory. Camera surveillance revealed that another nurse had accessed these syringes, drew up hydromorphone and replaced with normal saline solution and then placed the tampered vials and syringes back into automated dispensing cabinet pocket.” According to the DEA 106 Report, Complainant Varkey reported the following items as stolen.

- HYDROMORPHONE 2 MG/ML VIAL (4)
- HYDROMORPHONE 2 MG/ML CARPUJCT (6)
- FENTANYL 100 MCG/2 ML VIAL (12)
- HYDROMORPHONE 0.5 MG/0.5 ML (1)
- HYDROMORPHONE 1 MG/ML CARPUJCT (8)

Initial Follow up Investigation

On May 30, 2023, Affiant spoke to Amanda Beck, Hospital Pharmacy Manger for Houston Methodist Hospital, hereafter referred to as Complainant Beck. Affiant found Complainant Beck to be credible and reliable. Affiant also found Complainant Varkey to be credible and reliable. Complainant Beck stated that the weekly Controlled Substance Inventory Count Audit showed tampered inventory was identified in the pocket of the Pyxis. Affiant learned from the Becton and Dickinson (BD) website; the BD Pyxis MedStation ES System commonly referred to as Pxyis is “an automated medication dispensing system supporting decentralized medication management.” In simpler terms, the Pyxis acts as a vending machine for hospital staff dispensing medicine upon request.

Once the tampered inventory was identified in the pocket, Complainant Beck stated the employees followed hospital protocols to remove and secure the tampered inventory.

Complainant Beck and Complainant Varkey tested the tampered inventory via Ramen Spectroscopy and confirmed the test failed test results. Complainant Beck stated according to the result of the Ramen Spectroscopy test the samples provided (tampered inventory).

- Sample 001 - Low concentration - approximately 0.4mg/ml
- Sample 002 - Low concentration - approximately 0.6mg/ml
- Sample 003 - Selected Drug Not Detected - looks very similar to the saline solution
- Sample 004 - Low concentration - approximately 0.3mg/ml
- Sample 005 - Selected Drug Not Detected - looks very similar to the saline solution
- Sample 006 - Low concentration - approximately 0.2mg/ml
- Sample 007 - Low concentration/Contamination - something else that we are unable identify is present, but it is not hydromorphone

Affiant learned that Complainant Beck and Complainant Varkey launched an investigation into the matter and discovered, that the Defendant while working as a nurse, overrode the Pyxis and dispensed medication that was not prescribed by the attending physician. The Defendant subsequently drew the medicine (Hydromorphone and Fentanyl) and replaced the contents of the medicine with saline before returning the medicine to a pocket in the Pyxis. The adulterated medicine now back in circulation then had the potential to be administered by other medical professionals to patients, unaware that the medicine had been tampered with.

Affiant knows per professional training, experience, and the DEA website, Hydromorphone is a potent schedule II opioid analgesic drug. It has an analgesic potency of two to eight times greater than that of morphine. Furthermore, Affiant knows from training, experience, and according to the DEA website, Fentanyl is a potent synthetic schedule II opioid analgesic drug. It is approximately 100 times more potent than that of morphine. Complainant Beck provided Affiant the Defendant’s Pyxis activity from their database, along with available video surveillance footage.

Complainant Beck stated that the Defendant was overriding the Pyxis machine to access the medicine that was not prescribed to the Defendant’s patients. According to the Institute for Safe Medication Practices (ISMP), an “override” is a process of bypassing the pharmacist’s review of a medication order to obtain a medication from the automatic dispensing cabinets when assessment of the patient indicates that a delay in therapy would harm the patient. According to the ISMP, “[i]n rare circumstances, a lifesaving medication must be removed from the ADC without a corresponding order due to a true emergency.” Affiant learned from Complainants that BD Pyxis is a type of ADC.

Summary of Finding from Video Surveillance

Affiant reviewed; video surveillance provided by Houston Methodist Hospital and observed the following incidents:

On April 20, 2023, at 0713 hours, Defendant went to the M8N_NE Pyxis and overrode a transaction. Affiant observed Defendant selecting hydromorphone (schedule II) and removing the substance from the vial with a syringe. Defendant also selected saline and removed the substance with a syringe. Defendant then filled the empty hydromorphone with the saline solution. The defendant was observed on video surveillance 11 times total between the dates of April 20, 2023, and May 10, 2023, adulterating hydromorphone with saline.

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Hydromorphone (DILAUDID) 1 mg (1 mL) syringe (4)

1. 12 April 20, 2023
2. 18 April 24, 2023
3. 35 May 2, 2023
4. 42 May 7, 2023

Hydromorphone (DILAUDID) 2 mg (1 mL) injection (7)

1. 19 April 24, 2023
2. 25 April 25, 2023
3. 28 April 25, 2023
4. 29 April 25, 2023
5. 30 April 27, 2023
6. 36 May 2, 2023
7. 49 May 10, 2023

On April 24, 2023, at 1045 hours, Defendant went to the M8N_NE Pyxis and overrode the transaction. Surveillance showed Defendant selecting fentanyl (schedule II) and removing the substance from the vial with a syringe. Defendant also selected saline and removed the substance with a syringe. Defendant then filled the empty fentanyl with the saline solution. The defendant was observed on video surveillance 4 times total between the dates of April 24, 2023, and May 5, 2023.

Fentanyl (PF) (SUBLIMAZE) 50 mcg/1 mL (2 mL) ampule (4)

1. 21 April 24, 2023
2. 23 April 24, 2023
3. 27 April 25, 2023
4. 41 May 5, 2023

On April 25, 2023, Defendant was observed conducting the same actions with a fentanyl syringe. Moreover, according to surveillance, it appears to Affiant that Defendant injects herself in the hand with the fentanyl syringe before returning to work.

Exit Interview

Affiant reviewed an email correspondence where Miguel Casas, Nursing Director for the hospital hereafter referred to as Witness Casas, documented his observations and conversation with Defendant on May 15, 2023. "When told that she was on camera accessing the narcotics; Alexis confirmed that she gained access. When asked what she did with the hydromorphone, Alexis stated she threw it away. "I hear voices telling me what to do." When asked how she disposed of the hydromorphone she did not respond. Alexis denied using the hydromorphone she took; however, bruises were visible on her right ac..."

Affiant reviewed an email correspondence where Fran Benson, Operations Administrator for the hospital hereafter referred to as Witness Benson, documented their observations and conversation with the defendant on May 15, 2023. "She admitted to me that she does use Hydromorphone, just not when working. I also witnessed the bruising on her arms..."

Conversation with Defendant

On August 2, 2023, Affiant contacted the defendant over the phone and inquired about getting her statement. The defendant stated she needed to consult with her attorney first before she would provide a statement. On August 4, 2023, I received a phone from the defendant. During the call the defendant suggested that that an incident like this occurred at her previous employer, and police were not involved. The Defendant asked, "if police were involved this time because she admitted to it".

Previous employer - Baylor University Medical Center

Prior to working for Methodist Hospital, the defendant was employed by Baylor University Medical Center in Dallas. Affiant spoke to Toni Aguilar General Counsel for Baylor Scott & White Health and learned that she was terminated. Affiant reviewed an internal report by Jim Caauwe, Drug Diversion investigator for Baylor Scott & White Health hereafter referred to as witness Caauwe. Affiant found Aguilar and Caauwe credible and reliable. Witness Caauwe, stated in the preceding weeks of May 16, 2022, Defendant's supervisor was approached by several nurses that they were concerned about the number of times that McNeilly was creating overrides.

Affiant learned from witness Caauwe report, On May 15, 2022, at approximately 1800 hours, Defendant went into the staff restroom. After she exited the staff restroom, RN Brenda Jasmina went into the restroom. Jasmina immediately noticed "blood spray" on the toilet seat, floor, and wall of the restroom. Jasmina notified her supervisor Elizabeth Ortiz who further investigated and recovered a bloody syringe,

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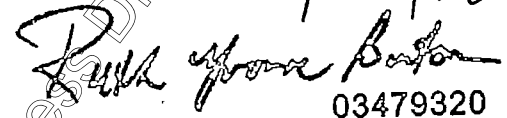
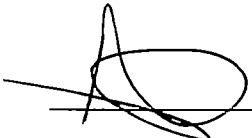
and empty vials of Hydromorphone, morphine sulfate, Promethazine, and Dilaudid from the trash can. According to the report, Ms. Ortiz observed the defendant leave the staff restroom, and place saline flushes and syringes from her pocket into her personal bag.

When the defendant was confronted about this incident, the defendant admitted to taking meds but only the meds that were to be wasted from the cancelled overrides. She explained that she is under extreme personal stress and that she took the meds to help deal with her anxiety. The hospital had the defendant take a drug test. The drug test came back positive for Morphine, Hydromorphone and Marijuana.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Signed and sworn by me on 12/26/2023

Duly attested by me on 12/26/2023


03479320

AFFIANT

Assistant District Attorney
Harris County District Attorney's Office
TBC No.



Witness (Peace Officer)

Andy Barajas 9411

Witness Printed name & Badge or Payroll number

COMPLAINT

Unofficial Copy Office of Marilyn Burgess District Clerk

FILED
Marilyn Burgess
District Clerk

DEC 27 2023

Time: _____
Harris County, Texas
By: _____
Deputy