

BEFORE THE TEXAS BOARD OF NURSING



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.
Melanie P. Thomas
Executive Director of the Board

In the Matter of Registered Nurse § AGREED
License Number 676407 §
issued to ESTELITA SARMIENTO MAXIMO § ORDER

An investigation by the Texas Board of Nursing, hereinafter referred to as the Bo produced evidence indicating that ESTELITA SARMIENTO MAXIMO, hereinafter referred t Respondent, Registered Nurse License Number 676407, may have violated Section 301.452(b)(10)&(13), Texas Occupations Code.

An informal conference was held on March 30, 2010, at the office of the Texas Board of Nursing, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by John R. Shepperd, Attorney at Law. In attendance were Mary Beth Thomas, PhD, RN, Director of Nursing, Executive Director's Designee; John F. Legris, Assistant General Counsel; Nikki Hopkins, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Tamika Rose, Investigator; Dominique Mackey, Investigator; and Carolyn Schooley, RN, Investigator.

Subsequently, after the informal conference on March 30, 2010, Respondent retained new representation from Taralynn Mackay, Attorney at Law.

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.
2. Respondent waived notice and hearing, and consented to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.

4. Respondent received a Baccalaureate Degree from Chinese General Hospital, Manila, Philippines, on March 1, 1976. Respondent was licensed to practice professional nursing in the State of Texas on March 15, 2001.

5. Respondent's professional nursing employment history includes:

3/76 - 1/02	Unknown	
2/02 - 6/08	Staff Nurse Emergency Department	Christus Jasper Memorial Hospital Jasper, Texas
7/08 - Present	Unknown	

6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a Staff Nurse in the Emergency Department with Christus Jasper Memorial Hospital, Jasper, Texas, and had been in this position for six (6) years and one (1) month.

7. On or about March 17, 2008, while employed as a Staff Nurse in the Emergency Department with Christus Jasper Memorial Hospital, Jasper, Texas, Respondent failed to adequately document or Respondent failed to assess, evaluate, intervene and timely notify the physician when the condition of Patient Medical Record Number 204176 began to deteriorate. The patient, who had a history of health concerns, was admitted to the Emergency Department following a motor vehicle accident and subsequently expired and was pronounced at 1116. Respondent's conduct resulted in an incomplete medical record, and was likely to injure the patient because of the potential delay in treatment for the patient.

8. On or about June 10, 2008, while employed as a Staff Nurse in the Emergency Department with Christus Jasper Memorial Hospital, Jasper, Texas, Respondent left Patient Medical Record Number MP00065703's bedside during a CAT Scan. Respondent could see the patient but was unable to see the monitor connected to the patient because the monitor screen was facing the patient and not Respondent. The patient was a 16 year-old involved in a motor vehicle accident with complaints of abdominal pain and hip pain and an abrasion noted on the left hip. Respondent's conduct was likely to injure the patient in that leaving a potentially unstable patient's bedside without being able to see the monitor could result in a delay in monitoring for potential complications.

9. In response to the incident in Finding of Fact Number Seven (7), Respondent states that the patient was being monitored and was placed on machines that allowed for automatic monitoring of his blood pressure, pulse and O2 saturations, and indicates that these strips do not now appear in the medical record. Although not documented, Respondent asserts that she was in the patient's room frequently to assess the patient. In response to the incident in Finding of Fact Number Eight (8), Respondent states that she had been with this patient continuously for an hour and the vital signs had remained stable. Respondent explains that she accompanied the patient to radiology for CT scans. Respondent goes on to explain that she was standing by the patient when the Director of Radiology asked her where she was

going to stand while the study was being performed. Since Respondent was not offered a lead apron, Respondent indicates she pointed to a break room adjacent to the scan room. Respondent asserts that she "could see and hear the patient at all times."

10. Charges were filed on April 29, 2010.
11. Charges were mailed to Respondent on April 30, 2010.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violations of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(A),(1)(B),(1)(D),(1)(M)&(3)(A) AND 217.12(1)(A), (1)(B)&(4).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 676407, heretofore issued to ESTELITA SARMIENTO MAXIMO, including revocation of Respondent's license to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and RESPONDENT SHALL 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.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse

licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It 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. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address:* <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment. 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 Nurses. The didactic portion of this

course shall be a minimum of six (6) hours in length. RESPONDENT SHALL perform physical assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The clinical component SHALL focus on tasks of physical assessment only and shall be provided by the same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. Performing assessments on mock patients or mannequins 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. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form, provided by the Board, to the office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: 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.

RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form,

provided by the Board, to the Board's office to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address:*

<http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete 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 program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address: <http://ncsbn.hivelive.com/hives/a0f6f3e8a0/summary>.*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD.

(5) RESPONDENT SHALL notify each present employer in nursing of this Order

of the Board and the stipulations on RESPONDENT'S license. 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 within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT'S license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(6) RESPONDENT SHALL CAUSE each present employer in nursing to submit the 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 to submit the 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.

(7) RESPONDENT SHALL be supervised by a Registered Nurse who is on the premises. The supervising nurse 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 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.

(8) 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 Registered Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for one (1) year of employment as a nurse. Stips)

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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RESPONDENT'S CERTIFICATION

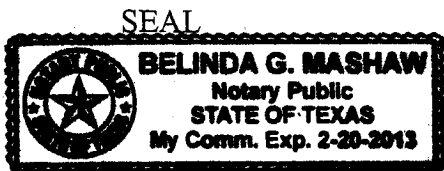
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 3rd day of Sept, 2010.

Estelita Sarmiento

ESTELITA SARMIENTO MAXIMO, Respondent

Sworn to and subscribed before me this 3 day of September, 2010.



Belinda G. Mashaw

Notary Public in and for the State of Texas

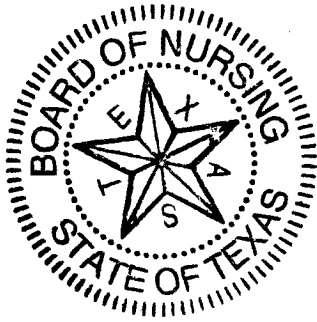
Approved as to form and substance.

Taralynn R. Mackay

Taralynn Mackay, Attorney for Respondent

Signed this 7th day of September, 2010.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 3rd day of September, 2010, by ESTELITA SARMIENTO MAXIMO, Registered Nurse License Number 676407, and said Order is final.



Effective this 21st day of October, 2010.

A handwritten signature in black ink, reading 'Katherine A. Thomas'.

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