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.
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse	§	AGREED
License Number 732304	§	
issued to NICOLE RENEE PENA	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board considered the matter of NICOLE RENEE PENA, Registered Nurse License Number 732304 hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on April 11, 2010, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

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 informal proceedings, notice and hearing, and agreed to the entry of this Order.

3. Respondent is currently licensed to practice professional nursing in the State of Texas.

4. Respondent received a Degree in Nursing from El Centro College, Dallas, Texas on May 11, 2006. Respondent was licensed to practice professional nursing in the State of Texas on August 1, 2006.

5. Respondent's nursing employment history includes:

3/06 - 2/08	GN/Staff Nurse	Baylor Health Care System, Dallas, Texas
3/08 - Present	Unknown	

6. At the time of the initial incident in Finding of Fact Number (7), Respondent was employed as a Staff Nurse with Baylor Health Care System, Dallas, Texas, and had been in this position for one (1) year and six months.

7. On or about September 27, 2007, while employed at Baylor Health Care System, Dallas, Texas, Respondent transported Patient Medical Record #46808978 to another unit with a controlled Medication, an ampule of 2 mg Dilaudid, taped to the patient's medical record and left the medication unattended. Respondent's conduct failed to take precautions to prevent the loss of medications and placed the pharmacy in violation of Chapter 481 of the Texas Health and Safety Code (Texas Controlled Substances Act).

8. In response to Finding of Fact Number Seven (7), Respondent went on break and during this break, another staff nurse took over care and pulled Dilaudid 2mg from the pyxis "just in case" the patient needed it. Shortly after Respondent's break, the patient met criteria to be discharged from the PACU. Respondent thought it would be helpful to the floor nurse to send the patient to the floor with the Dilaudid. Respondent asserts that at the time, she had no idea that this was not appropriate.

9. On or about October 29, 2007, while employed at Baylor Health Care System, Dallas, Texas, Respondent failed to administer 1 gram Ancef intravenously (IV) to Patient LTR# 00623463, at 1720, as ordered. Respondent's conduct exposed the patient to risk of non-efficacious treatment, which may have prolonged the patient's recovery.

10. On or about October 29, 2007, while employed at Baylor Health Care System, Dallas, Texas, Respondent failed to update the Patient Controlled Analgesia Pump record for Patient LTR #00623463, in a timely manner. Respondent's conduct created an incomplete medical record on which subsequent caregivers would rely to provide ongoing medical care and may have resulted in medication overdose.

11. On or about October 29, 2007, while employed at Baylor Health Care System, Dallas, Texas, Respondent failed to perform a neurological assessment on Patient LTR# 00623463 status post lumbar hardware removal. Respondent's conduct deprived the patient of timely detection and medical intervention in the event that the patient experienced a change in neurological status. Additionally, Respondent's conduct deprived subsequent caregivers of essential information on which to base their ongoing medical care.

12. In response to Findings of Fact Numbers Nine (9) through Eleven (11), Respondent states that this patient had pain issues the entire time in PACU. Respondent administered pain medications as needed, but was constantly watching the patient's blood pressure because it was progressively getting lower. Respondent asserts that she was constantly contacting the physician to get orders to bolus this patient and while meeting several of these patients' needs, admits that she missed the order for Ancef and failed to update the PCA record in a timely manner. In response to her failure to document the patient's neurological assessment, Respondent states that the patient was talking, clearly alert and oriented, sensation, strength and movement, all neurologically intact. Respondent admits that she forgot to document her neurological assessment.

13. On or about January 30, 2008, while employed at Baylor Health Care System, Dallas, Texas, Respondent failed to obtain Hematocrit results prior to transferring Patient LTR #01121110-002 to the floor status post bilateral knee replacements. Respondent's conduct deprived the physician of essential information regarding the patient's Hematocrit levels, which may have been required to implement timely medical intervention, in the event that the patient was experiencing internal bleeding from the surgical procedure.

14. On or about January 30, 2008, while employed at Baylor Health Care System, Dallas, Texas, Respondent failed to administer 2 grams of Ancef IVBP and 7 Mg Coumadin to Patient LTR# 01121110-002, at 2000, as ordered. Respondent's conduct exposed the patient to risk of non-efficacious treatment, which may have prolonged the patient's recovery.

15. On or about January 30, 2008, while employed at Baylor Health Care System, Dallas, Texas, Respondent failed to document the discharge assessment of Patient LTR #01121110-002. Respondent's conduct deprived subsequent caregivers of essential information on which to base their ongoing medical decisions.

16. In response to Findings of Fact Numbers Thirteen (13) through Fifteen (15), Respondent states that she took over care of this patient from another staff nurse, who informed her that everything had been done and that they were waiting for a room assignment for the patient. When Respondent reviewed the pages of physician's orders, she noticed a HCT level was supposed to have been drawn on arrival to the PACU. The other staff nurse drew the HCT level and sent it to the lab. Respondent admits that she failed to follow-up and check the results. In response to her failure to administer Ancef and Coumadin, Respondent states that Coumadin is always administered at 1800 and Respondent did not assume care of this patient until 1822. Respondent admits that she failed to administer the medications, as did the other staff nurse. Respondent states that she did assess the patient prior to discharge, but admits that she failed to document the assessment.

17. On or about January 30, 2008, while employed at Baylor Health Care System, Dallas, Texas, Respondent inaccurately documented that Patient Medical Record #48018832 had a foley catheter, when one was not present. Respondent's conduct created an inaccurate medical record on which subsequent caregivers would rely on to base their ongoing medical care.

18. In response to Finding of Fact Number Seventeen (17), Respondent admits that she inaccurately documented the patient had a foley catheter and accepts responsibility for her mistake.

19. On June 26, 2008, Respondent successfully completed a continuing education course entitled ***Nursing Documentation*** by the Professional Healthcare Education Service, which would have been a requirement of this Order.

20. On June 28, 2008, Respondent successfully completed a continuing education course entitled ***Nursing Ethics & Nursing Jurisprudence*** by the Professional Healthcare Education Service, which would have been a requirement of this Order.

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 violations of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(A), (B), (C), (D)& (3)(A) and 217.12 (1)(A) & (B), (4) & (11)(B).

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 732304, heretofore issued to NICOLE RENEE PENA, including revocation of Respondent's license to practice professional 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 REPRIMAND 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 medication administration. 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. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic

portion of this course. The clinical component SHALL focus on tasks of medication administration only. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. 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.*

(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. 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.*

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 AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR TWO YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE

EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(3) 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.

(4) 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.

(5) For the first year of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse. Direct supervision requires another professional nurse 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). The 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.

(6) For the remainder of the stipulation/probation period, 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.

(7) 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 two (2) years of employment as a nurse.

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.

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 to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 18 day of May, 2010.

NICOLE RENEE PENA, Respondent

Sworn to and subscribed before me this 18 day of May, 2010.

SEAL

NOTARY PUBLIC STATE OF TEXAS
CHAD A. TURNER
My Commission Expires
June 14, 2012

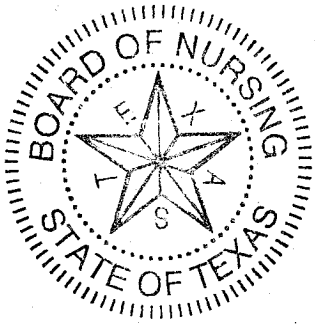
Notary Public in and for the State of Texas

Approved as to form and substance.

Courtney Newton, Attorney for Respondent

Signed this 20TH day of May, 2010.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 22nd day of July, 2010, by NICOLE RENEE PENA, Registered Nurse License Number 732304, and said Order is final.



Effective this 22nd day of July, 2010.

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