



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.  
*Katherine A. Thomas*  
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse § AGREED  
License Number 233296 §  
issued to PERRY DEAN FOSTER § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of PERRY DEAN FOSTER, Registered Nurse License Number 233296, 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 13, 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 Baccalaureate Degree in Nursing from The University of Texas School of Nursing, Austin, Texas on May 16, 1975, and received a Master's Degree in Nursing, specializing as a Family Nurse Practitioner, from Texas Tech University Health Science Center, Lubbock, Texas, on May 12, 1994. Respondent was licensed to practice professional nursing in the State of Texas on August 6, 1975; became Board recognized as a Family Nurse Practitioner in the State of Texas on July 5, 1994; and became Board recognized with Prescriptive Authority as Family Nurse Practitioner in the State of Texas on July 8, 1994.

5. Respondent's nursing employment history includes:

08/1975-03/1981	Unknown	
04/1981-01/1990	Administrator	Collingsworth Hospital Wellington, Texas
02/1990-11/1990	Unknown	
12/1990-06/1994	Staff Nurse	Childress Regional Medical Center Childress, Texas
07/1994-01/2001	Nurse Practitioner	Childress Regional Medical Center Childress, Texas
01/2001-Present	Nurse Practitioner	Fox Rural Health Clinic Childress, Texas

6. At the time of the initial incident, Respondent was employed as a Family Nurse Practitioner with Fox Rural Health Clinic, Childress, Texas, and had been in this position for twelve (12) years and three (3) months.
7. On or about October 29, 2006, while employed at Fox Rural Health Clinic, Childress, Texas, Respondent failed to intervene appropriately regarding the severe anterior chest wall pain radiating to the left arm of Patient BG by not referring the patient to be evaluated by the physician, as required by the facility protocol. Instead, Respondent had labs drawn and sent the patient home. It was later determined, after the labs returned elevated cardiac values, that the patient had suffered a myocardial infarction. Respondent's conduct delayed the onset of the patient's emergency medical care that was needed to prevent further complications, including the patient's possible demise.
8. On or about January 2007 through August 2007, while employed as a Family Nurse Practitioner with Fox Rural Health Clinic, Childress, Texas, Respondent failed to evaluate and initiate appropriate interventions regarding the new onset and repeated complaints of pain by Patient EJ, who had been admitted to hospice. Respondent did not refer the patient to the physician for evaluation of unresolved and worsening chronic pain, as required by his physician-delegated practice protocol. In August 2007, Patient EJ was diagnosed with malignant carcinoma of the right lung which had spread into the brachial plexus nerve, the spinal canal and into the bone of the right shoulder. Respondent's conduct was likely to injure the patient from clinical care decisions based upon incomplete assessment information.
9. In response to the incidents in Finding of Fact Numbers Seven (7) and Eight (8), Respondent states that based upon his physical exam of Patient BG combined with a normal EKG reading on initial examination, that a discharge of Patient BG to her home, pending the laboratory results, is within his applicable standard of care. Additionally, upon receipt of the laboratory

results, is within his applicable standard of care. Additionally, upon receipt of the laboratory results, Respondent states his actions were also appropriate in contacting the attending ER physician for further review and evaluation of this patient. Regarding Patient EJ, Respondent states he felt comfortable and competent in attending to and providing care for this patient and that Patient EJ did have recurrent complaints of shoulder pain, and subsequently was diagnosed with lung cancer. At no time did Respondent feel that there was any relationship between the patient's complaints of shoulder pain and the possibility of the existence of a lung problem. According to Respondent, there was no finding or indication that something more complex might be causing the problem other than neuropathic brachial plexus neuralgia.

### 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),(1)(D),(1)(P)&(4)(A) and 22 TEX. ADMIN. CODE §217.12(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 233296, heretofore issued to PERRY DEAN FOSTER, 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 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 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 AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR(S) 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 THE USE OF A REGISTERED NURSE (RN) LICENSE WITH ADVANCED PRACTICE AUTHORIZATION 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) Should RESPONDENT choose to work as a Family Nurse Practitioner, RESPONDENT'S practice of professional nursing will be monitored for one (1) year by a Physician or Family Nurse Practitioner who has been approved by the Board. RESPONDENT must provide a list of three (3) Physicians and/or three (3) Family Nurse Practitioners from which the Board shall select. For each Physician and/or Family Nurse Practitioner, the list must include the following for each: name, license number or social security number, educational background and professional employment history. Monitoring shall commence no later than thirty (30) days following the date of RESPONDENT's receipt of the name of the monitor selected by the Board. The monitor will offer guidance, advice and assistance to the RESPONDENT as necessary to ensure that deficiencies such as those set forth in this Order do not reoccur. RESPONDENT SHALL meet with the monitor at least twice a month, at least one (1) hour duration each. RESPONDENT SHALL ensure that the monitor submits reports, addressing RESPONDENT's progress in overcoming these deficiencies to the office of the Board at the end of each three (3) months for the one (1) year stipulation period. Meetings may be longer and more frequent if the monitor determines necessary. Multiple employers are prohibited.

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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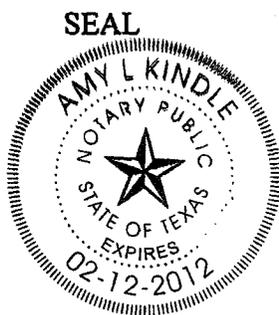
RESPONDENT'S CERTIFICATION

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

Signed this 28<sup>th</sup> day of April, 2010.

Perry Dean Foster  
PERRY DEAN FOSTER, Respondent

Sworn to and subscribed before me this 28<sup>th</sup> day of April, 2010.



Amy L. Kindle  
Notary Public in and for the State of Texas

Approved as to form and substance.

Fletcher H. Brown  
Fletcher H. Brown, Attorney for Respondent

Signed this 4<sup>th</sup> 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 28<sup>th</sup> day of April, 2010, by PERRY DEAN FOSTER, Registered Nurse License Number 233296, and said Order is final.

Effective this 8th day of June, 2010.



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

