

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.
Katherine A. Thomas
Executive Director of the Board

In the Matter of Registered Nurse § AGREED
License Number 576980 and §
Vocational Nurse License Number 97102 §
issued to MARY LOU ARGUELLES § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MARY LOU ARGUELLES, Registered Nurse License Number 576980 and Vocational Nurse License Number 97102, 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 representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on July 19, 2009, 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 representation by counsel, 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. Respondent's license to practice vocational nursing in the State of Texas is currently in "delinquent" status.
4. Respondent received a Certificate in Vocational Nursing from Victoria College, Victoria, Texas, on August 25, 1982, and received an Associate Degree in Nursing from Excelsior College, Albany, New York on September 1, 1991. Respondent was licensed to practice vocational nursing in the State of Texas on December 13, 1982, and was licensed to practice professional nursing in the State of Texas on March 17, 1992.

5. Respondent's nursing employment history includes:

12/1982 - 02/1992	Staff Nurse LVN	Citizen Medical Center Victoria, Texas
03/1992 - 09/1997	Staff Nurse RN	Citizen Medical Center Victoria, Texas
09/1997 - 11/1999	Staff Nurse	SCCI Hospital Victoria, Texas
1997 - 2000	Staff Nurse	Devereux-Victoria Victoria, Texas
07/2000 - 01/2003	Staff Nurse	Victoria Nursing and Rehabilitation Victoria, Texas
02/2003 - 02/2005	Charge Nurse	Jackson Healthcare Center Edna, Texas
08/2004 - Unknown	Staff Nurse	TLC Nursing Center Victoria, Texas
04/2005 - 01/2007	Charge Nurse	Devereux-Victoria Victoria, Texas
02/2007 - Present	Unknown	

6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a Charge Nurse with Devereux-Victoria, Victoria, Texas, and had been in this position for one (1) year and nine (9) months.

7. On or about January 4, 2007, through January 5, 2007, while employed as the Children's Program Charge Nurse with Devereux-Victoria, a residential behavioral health facility, Victoria, Texas, Respondent failed to appropriately and timely assess and intervene when Client Number 115457 sustained an injury to her left arm during a psychotic episode. The patient complained of arm pain, saying that she thought her arm was broken, so the Licensed Vocational Nurse (LVN) was called to assess the client. The LVN assessed the patient's arm, then referred the client to Respondent, the supervising nurse. Although the client's forearm was irregular in appearance, Respondent made an evaluation that the client was experiencing a muscle spasm and instructed the LVN to apply heat to the arm and to administer medication for psychosis, instead of consulting with the physician. The following day the client had limited range of motion of the left arm and complained of pain. The therapist voiced concern to Respondent regarding the client's arm and Respondent told her that she was not the nurse on the unit that day, that she should have client see the LVN.

Respondent informed the LVN on duty that the client had a syndrome that caused muscle spasms and cramps, and that the client was to be monitored only, x-rays were not needed. The client continued to complain of or exhibit pain and was eventually taken to visit the physician on January 9, 2007. X-rays revealed that the client had sustained a displaced fracture of her left arm, which required surgical repair. Additionally, Respondent failed to document her assessment, evaluation, and intervention in the medical record of the client, and failed to ensure that a significant occurrence report was completed, as required. Although Respondent wrote an email to the therapist and management staff regarding the client's psychotic episode, she omitted any reference of the client's complaint of arm pain. Respondent's conduct resulted in an incomplete medical record, delayed medical intervention, and unnecessarily exposed the resident to the risk of harm from clinical complications associated with an untreated fracture.

8. In response to the incident in Finding of Fact Number Seven (7) Respondent states that she was in another area of the facility conducting chart audits, which was her "job description" for that shift, and asserts that the LVN was the Charge Nurse for that particular unit, and that the LVN received the complaint of a psychotic episode, not of an injured arm. According to Respondent, she happened to walk into the nurse's station and witnessed what was occurring regarding Client Number 115457, and that the client stated that she had a "Charlie horse" on her arm, which the client said "she gets on her legs all the time." Respondent states that the LVN applied warm packs to the client's arm, which relieved the muscle cramp and because the client was experiencing severe auditory and visual hallucinations, she was medicated for the severe psychosis. Respondent asserts that there was no reason for her to assess and intervene since the LVN was providing care for the client and did not express any concerns to her or ask for assistance, and that assessment of the client was appropriately and timely performed by the LVN, who was the responsible individual for that specific unit. Respondent states that it was the responsibility of the LVN to "make the proper documentation" of any reportable occurrence, and it was her responsibility to notify appropriate personnel of any significant occurrences, which she did via email. Respondent asserts that she complied with the facility's rules and regulations in reference to significant occurrence reports; further, the proper documentation she made was that of the psychotic episode, as this was all she had witnessed. Additionally, no one documented regarding an injured arm, so the client evidently voiced no complaints to the therapists, staff, or nursing personnel regarding an injury to the arm, and there was no visible injury or any symptoms indicating an injury had occurred to an arm. Respondent concludes that she believes that a staff manager made an effort to "get [her] in trouble" in retaliation after Respondent made multiple complaints to the manager in reference to "questionable client injuries," as well as unprofessional behavior of certain personnel.

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)(B),(1)(D),(1)(M),(1)(P)&(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 576980 and Licensed Vocational Nurse License Number 97102, heretofore issued to MARY LOU ARGUELLES, including revocation of Respondent's licenses 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 multistate licensure privileges, if any, to practice nursing in compact states.

IT IS FURTHER AGREED and ORDERED that while Respondent's licenses are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas 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. *Information regarding Board-approved courses in Texas Nursing Jurisprudence may be found at the Board's website 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://www.learningext.com/products/generalce/critical/ctabout.asp>.

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 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 NURSING 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 licenses. 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 licenses. 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.

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

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RESPONDENT'S CERTIFICATION

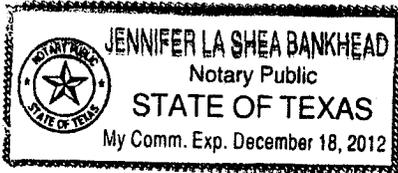
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and 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 licenses to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 18th day of August, 2009.

Mary Lou Arguelles
MARY LOU ARGUELLES, Respondent

Sworn to and subscribed before me this 17th day of August, 2009.

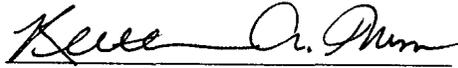
SEAL



Jennifer La Shea Bankhead
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 18th day of August, 2009, by MARY LOU ARGUELLES, Registered Nurse License Number 576980 and Vocational Nurse License Number 97102, and said Order is final.

Effective this 8th day of September, 2009.

A handwritten signature in cursive script, appearing to read "Katherine A. Thomas".

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