



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

In the Matter of Registered Nurse § AGREED
License Number 596351 and Vocational §
Nurse License Number 126877 issued to §
MARY HELEN CERVANTES, §
a.k.a MARY HELEN PEREZ § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MARY HELEN CERVANTES, a.k.a. MARY HELEN PEREZ, Registered Nurse License Number 596351 and Vocational Nurse License Number 126877, 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 March 27, 2009, by Katherine A. Thomas, MN, RN, Executive Director.

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 in delinquent status.
4. Respondent received a Certificate in Vocational Nursing from South Plains College, Plainview, Texas, on August 25, 1989; and received an Associate Degree in Nursing from Amarillo College, Amarillo, Texas, on December 16, 1992. Respondent was licensed to

practice vocational nursing in the State of Texas on December 7, 1989; and was licensed to practice professional nursing in the State of Texas on September 22, 1993.

5. Respondent's nursing employment history includes:

12/89 - 1/92	LVN - Staff Nurse	Caprock Hospital District Floydada, Texas
2/92 - 2/95	LVN / RN Charge Nurse Weekend On - Call	Floydada Nursing Home Floydada, Texas
9/93 - 5/95	RN - School Nurse	Floydada Independent School District Floydada, Texas
6/95 - 4/96	Staff Nurse	Total Home Health Care Plainview, Texas
5/96 - 11/97	Director/Manager Home Health	Foundation Management Company Denton, Texas
12/97	Unknown	
1/98 - 11/98	Charge Nurse	Methodist Hospital of Plainview Plainview, Texas
12/98	Unknown	
1/99 - 7/99	Staff Nurse	Hi-Plains Hospital Hale Center, Texas
8/99 - 2/01	Assistant Director of Nurses	Crosbyton Clinic Hospital Home Health Crosbyton, Texas
3/01 - 4/01	Unknown	
5/01 - Present	Nurse Manager	Lubbock State School Lubbock, Texas

6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a Nurse Manager with Lubbock State School, Lubbock, Texas, and had been in this position for four (4) years and eleven (11) months.

7. On or about April 4, 2006, through July 14, 2006, while employed as the Nurse Manager on Sparrow Unit with Lubbock State School, Lubbock, Texas, Respondent delegated specifically to Direct Care Staff (DCS) the duty of reporting difficulty in swallowing/ increased difficulty in swallowing and symptoms of respiratory distress, as well as the performance of interventions to prevent aspiration after eating, for MPI # 179214 (RH), which is outside the scope of Unlicensed Assistive Personnel (UAP). MPI# 179214 (RH) had a history of vomiting with aspiration and frequent hospitalizations for aspiration pneumonia. There is no documentation in the medical record of MPI# 170214 to indicate that DCS received such education regarding signs and symptoms of respiratory distress. Respondent's conduct was likely to injure the resident in that DCS lack the knowledge and skills to accurately assess a resident's respiratory status.

8. In response to the incident in Finding of Fact Number Seven (7), Respondent denies the allegation stating that "Lubbock State School functions on a social model in which Residential Supervisors are very involved in the care of the clients. Nurses are not in the activity programs to intervene immediately. Clients are taken out of their homes to programs where Direct Care Staff (DCS) are involved in the training. Direct Care Staff are at the all day programs with the clients. Staff are instructed, educated and taught what to look for and report to the nurse. They are instructed, educated and taught what to do until a nurse or medical staff arrive." In conclusion, Respondent states that there is a "fine line as to where nursing stops and where residential comes in. We continue to try to explain to the Superintendent and her assistants that we are under the Nurse Practice Act and that as nurses we are accountable for our actions. They (Superintendent and her assistants) on the other hand say that it's the clients' rights to be educated and taught regarding their illness and symptoms. Since staff are the clients' direct care staff, they need to be included in the instruction, education and teaching what to do. We, the nurses, continue to voice our opinions so that we can be allowed to be involved / consulted in the planning of the care of the clients."

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)(S)&(3)(B) and 217.12(1)(A),(1)(B),(1)(D)&(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 596351 and Vocational Nurse License Number 126877, heretofore issued to MARY HELEN CERVANTES, a.k.a MARY HELEN PEREZ, 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 REMEDIAL EDUCATION, 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 the State of Texas.

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 deliver the wallet-sized licenses issued to MARY HELEN CERVANTES, a.k.a. MARY HELEN PEREZ, to the office of the Texas Board of Nursing within ten (10) days of the date of ratification of this Order.

(2) 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>.*

(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, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT's licenses 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 when this Order becomes final and the terms of this Order become effective, 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 nursing in the State of Texas, as a consequence of my noncompliance.

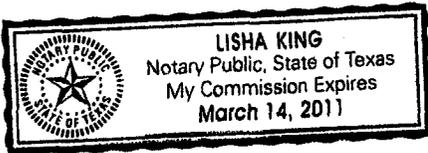
Signed this 8th day of April, 2009.
Mary Helen Cervantes
MARY HELEN CERVANTES,
a.k.a. MARY HELEN PEREZ, Respondent

Sworn to and subscribed before me this 8th day of April, 2009.

SEAL

Lisha King

Notary Public in and for the State of TEXAS



WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby ratify and adopt the Agreed Order that was signed on the 8th day of April, 2009, by MARY HELEN CERVANTES, a.k.a. MARY HELEN PEREZ, Registered Nurse License Number 596351 and Vocational Nurse License Number 126877, and said Order is final.



Effective this 14th day of April, 2009.


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