

5. Respondent's professional nursing employment history includes:

06/2004 - 07/2004	GN/Staff GN Telemetry Unit	The Methodist Hospital Houston, Texas
08/2004 - 03/2006	Staff RN Telemetry Unit	The Methodist Hospital Houston, Texas
05/2006 - present	Staff RN Infusion Nurse	S. R. Burzynski Clinic Houston, Texas

6. At the time of the initial incident, Respondent was employed as a Staff RN in the Telemetry Unit with The Methodist Hospital, Houston, Texas, and had been in this position for one (1) year and two (2) months.
7. On or about October 21, 2005, while employed as a Staff RN in the Telemetry Unit with The Methodist Hospital, Houston, Texas, Respondent failed to institute appropriate nursing interventions required to stabilize the condition of Patient Medical Record Number 221118925281, after the patient exhibited signs and symptoms of respiratory distress. At 0400 hours, the patient's oxygen saturation level declined to eighty-seven (87) percent, and Respondent administered oxygen at the rate of seven to eight (7-8) liters per minute, via a nasal cannula. Respondent failed to perform a comprehensive respiratory assessment and report his findings to the physician. Additionally, Respondent failed to report and document the initiation of oxygen he administered to the patient. Respondent's conduct was likely to injure the patient in that failure to completely document in the medical record and failure to notify the physician of the patient's status could have contributed to delayed delivery of clinical care to stabilize the patient and/or prevent complications.
8. On or about November 11, 2005, while employed as a Staff RN in the Telemetry Unit with The Methodist Hospital, Houston, Texas, Respondent documented in the medical record that he had "Noted" new physician's orders for Patient Medical Record Number 221022065314, to use Continuous Positive Airway Pressure treatment at night and to have lab specimens taken for analysis. Respondent failed to initiate the orders, and as a result, the orders were not implemented until four (4) days later, on November 15, 2005. The patient suffered cardiopulmonary arrest the next day, and eventually expired ten (10) days later. Respondent's conduct resulted in an inaccurate medical record, and may have contributed to the eventual demise of the patient in that subsequent care givers did not have complete information on which to base their care decisions.
9. On or about March 22, 2006, while employed as a Staff RN in the Telemetry Unit with The Methodist Hospital, Houston, Texas, Respondent failed to institute appropriate nursing interventions that might be required to stabilize the condition of Patient Medical Record Number 22586002 status post liver biopsy. Respondent became aware of the patient's low blood pressure of 70/47 at 2400 hours, and he failed to monitor vital signs or reassess the

patient for four (4) hours thereafter. At 0245 hours, Respondent reported his concern about the patient presenting with abdominal distention after the administration of Go-Lytely preparation and the absence of a bowel movement, but failed to report that the patient was experiencing a steady decline in blood pressure. At approximately 0515 hours to 0530 hours, the patient was found suffering profound respiratory depression and a Code was called. The patient expired the following day after being transferred to SICU for stabilization. Respondent's conduct may have contributed to the patient's demise.

10. In response to the incidents in Findings of Fact Numbers Seven (7) through Nine (9), Respondent states he was overwhelmed by his responsibilities while assigned to the Telemetry Unit and that he would request help from his supervisor repeatedly. He states that because he had promised the management department he would work for two years on this unit, he felt obligated to remain in place and not request transfer to another unit. Respondent now works in a clinic environment and has the professional support system conducive to his providing safe and effective care to his patients. Respondent's immediate supervising physician states that Respondent has performed his nursing duties satisfactorily and that he nor any members of the health care staff are concerned about Respondent's delivery of patient care.
11. On or about May 18, 2007, Respondent successfully completed a Board-approved course in Texas nursing jurisprudence and ethics, which would have been a requirement of this order.
12. On or about May 21, 2007, Respondent successfully completed a Board-approved course in documentation, which would have been a requirement of this order.
13. On or about June 9, 2007, Respondent successfully completed a Board-approved refresher course, which would have been a requirement of this order.
14. On or about June 9, 2007, Respondent successfully completed a Board-approved course in medication administration, 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)(B),(1)(C),(1)(D), (1)(M),(1)(T)&(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 709097, heretofore issued to CESAR ARNOLDO DIAZ, 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 Board of Nurse Examiners, that Registered Nurse License Number 709097, previously issued to CESAR ARNOLDO DIAZ, to practice professional nursing in Texas is hereby SUSPENDED and said suspension will be STAYED, and RESPONDENT will be placed on PROBATION for two (2) years until Respondent completes and provides documentation of successful completion of the following requirements:

(1) IT IS ORDERED that Permanent Certificate Number 709097, previously issued to CESAR ARNOLDO DIAZ, upon receipt of this Order, be immediately delivered to the office of the Board of Nurse Examiners for the State of Texas.

(2) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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.bne.state.tx.us/about/stipscourses.html>.*

(3) RESPONDENT SHALL, within one (1) year of entry of the suspension being stayed, successfully complete a course in "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 and ORDERED that this Order SHALL be applicable to Respondent's multistate privilege, if any, to practice professional nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this order the 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.

(4) RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

(5) RESPONDENT SHALL pay all re-registration fees, if applicable, and be issued a license to practice professional nursing in the State of Texas with the appropriate notation.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A REGISTERED 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 TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE A REGISTERED NURSE LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD.

(6) RESPONDENT SHALL notify all future employers in professional nursing of this Order of the Board and the probation conditions 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.

(7) RESPONDENT SHALL CAUSE each present employer in professional 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 professional nurse.

(8) For the first year of employment as a Registered 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.

(9) For the remainder of the 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.

(10) RESPONDENT SHALL NOT practice as a professional nurse in any critical care area for one (1) year of employment as a professional nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(11) 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) months for two (2) years of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

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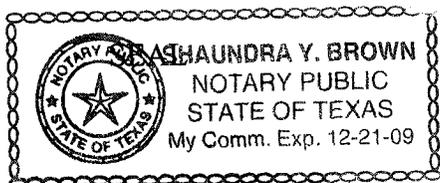
RESPONDENT'S CERTIFICATION

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

Signed this 17th day of August, 2007.


CESAR ARNOLDO DIAZ, Respondent

Sworn to and subscribed before me this 17th day of August, 2007.



Ashaundra Y. Brown
Notary Public in and for the State of TEXAS

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 17th day of August, 2007, by CESAR ARNOLDO DIAZ, Registered Nurse License Number 709097, and said Order is final.

Effective this 11th day of September, 2007.

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

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