

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 597792 §
issued to PHILOMENA DAIL-CULPEPPER § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of PHILOMENA DAIL-CULPEPPER, Registered Nurse License Number 597792, 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 conference, notice and hearing, and agreed to the entry of this Order offered on June 20, 2008, 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 conference, notice and hearing, and agreed to the entry of this Order.
3. Respondent received an Associate Degree in Nursing from Fayetteville Technical Institute, Fayetteville, North Carolina, on May 1, 1984. Respondent was licensed to practice professional nursing in the State of North Carolina on August 14, 1984; was licensed to practice professional nursing in the State of South Carolina on January 1, 1989; was licensed to practice professional nursing in the State of Tennessee on May 20, 1991; was licensed to practice professional nursing in the State of Texas on September 22, 1993; was licensed to practice professional nursing in the State of New Mexico on September 28, 1994; and was licensed to practice professional nursing in the State of Arkansas on December 29, 1995.
4. Respondent is currently licensed to practice professional nursing in the State of Texas. Respondent's licenses to practice professional nursing in the States of North Carolina, South Carolina, Tennessee, New Mexico and Arkansas are not in active status.

5. Respondent's professional nursing employment history includes:

08/1984 - 02/1985	Staff Nurse	Gladhaven Nursing Home Fayetteville, North Carolina
03/1985 - 06/1985	Staff Nurse - Part time	Gladhaven Nursing Home Fayetteville, North Carolina
03/1985 - 04/1986	Lead Nurse	The Life Center of Fayetteville Fayetteville, North Carolina
05/1986 - 06/1987	Night/Weekend Supervisor	The Life Center of Bayou Oaks Houma, Louisiana
07/1987 - 07/1989	Staff Nurse Neonatal Intensive Care	University Medical Center Lafayette, Louisiana
08/1989 - 10/1997	Traveling Nurse	Cross Country Healthcare Boca Raton, Florida
11/1993 - Unknown	Agency Nurse	American Health Care Metairie, Louisiana
05/1998 - 06/2006	Staff Nurse	Texas Scottish Rite Hospital for Children Dallas, Texas
07/2006 - Present	Unknown	

6. On or about November 19, 1998, Respondent's license to practice professional nursing in the State of Texas was issued the sanction of a Warning with Stipulations through an Agreed Order by the Board. A copy of the Agreed Order, Findings of Fact, Conclusions of Law, and Order, dated November 19, 1998, is attached and incorporated by reference as part of this Order.
7. At the time of the initial incident, Respondent was employed as a Staff Nurse with Texas Scottish Rite Hospital, Dallas, Texas, and had been in this position for five (5) years and eleven (11) months.
8. On or about April 28, 2004, while employed as a Staff Nurse with Texas Scottish Rite Hospital, Dallas, Texas, Respondent failed to administer supplemental potassium as ordered by the physician to Patient Number 150393 for a critically low potassium level. Respondent's conduct was likely to injure the patient in that the patient may have suffered the life threatening effects of a critically low potassium level.

9. On or about June 8, 2006, while employed as a Staff Nurse with Texas Scottish Rite Hospital, Dallas, Texas, Respondent failed to promote a safe environment for Patient Number 141100 in that Respondent programmed the respiratory monitor to sound an alarm at two (2) breaths per minute (BPM). Respondent's conduct was likely to injure the patient in that the patient was put at risk for respiratory depression, distress, and possible demise.
10. On or about June 8, 2006, while employed as a Staff Nurse with Texas Scottish Rite Hospital, Dallas, Texas, Respondent failed to accurately and completely report and document the respiratory status of the aforementioned Patient Number 141100. Respondent failed to record in the medical record and report to health care team members and physician that the patient was experiencing respiratory depression. Respondent's conduct resulted in an incomplete record, and was likely to injure the patient in that care givers did not have accurate and complete information on which to base their decisions for care.
11. On or about June 8, 2006, while employed as a Staff Nurse with Texas Scottish Rite Hospital, Dallas, Texas, Respondent falsely documented in the medical record of the aforementioned Patient Number 141100. Respondent noted the respiratory range from eleven (11) to fifteen (15) breaths per minute, yet the computerized memory data sheet of the monitor reflected the patient demonstrated respirations as low as seven (7) breaths per minute during the same recorded time frame. Respondent's conduct resulted in an inaccurate medical record, and was likely to injure the patient in that subsequent care givers did not have accurate information on which to base their care.
12. In response to the incidents in Findings of Fact Numbers Eight (8) through Eleven (11), Respondent admits she was counseled in relation to administration of supplemental potassium, but indicates that the medication was not available on the unit and the pharmacy personnel had gone home for the day. Respondent states she discussed it with the other nurses on the shift and they decided the patient could wait for the a.m. dose, but admits that she did not call or notify the physician. Since then, Respondent indicates that she has been more aware of missing medications and has notified the physician of any discrepancy in dosing. Respondent states that it is not "entirely" true that she programmed the respiratory monitor to sound at two (2) breaths per minute, stating instead that she programmed the alarm to sound at five (5) breaths per minute, or so she thought, because the alarm had been sounding every fifteen (15) minutes and the patient and her mother were becoming irritated. Respondent asserts that the patient had been breathing fifteen (15) to twenty (20) breaths per minute by visual and auditory assessment. According to Respondent, she changed the lead placement several times and the monitor was not recording the patient's actual respirations. Respondent maintains that she was in direct eye contact with the patient the entire night and states that she did not fail to report and document the respiratory status of the patient and that she did not fail to record that the patient was experiencing respiratory depression because the patient was not in any distress. Respondent concludes, stating that she did not take the numbers off the machine because the machine was not always accurate.

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)(C), (1)(D)&(1)(M) and 217.12(1)(A),(1)(B),(4)&(6)(A).
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 597792, heretofore issued to PHILOMENA MARIE DAIL-CULPEPPER, 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 multistate licensure privileges, if any, to practice professional nursing in compact states.

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 multistate licensure 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 deliver the wallet-sized license issued to PHILOMENA MARIE DAIL-CULPEPPER, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order for appropriate notation.

(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) contact 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 Chemical Dependency, 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, 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 AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR TWO (2) 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:

(5) 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.

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

(8) For the remainder of the stipulation 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.

(9) 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, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

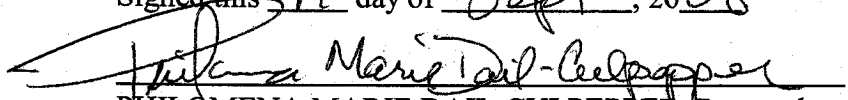
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RESPONDENT'S CERTIFICATION

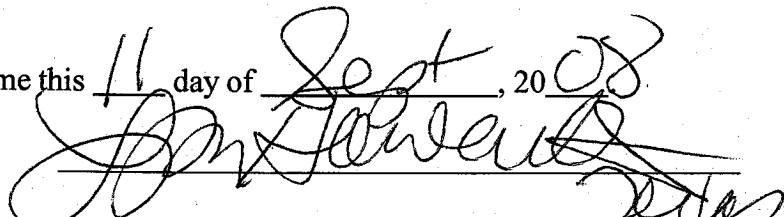
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and 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.

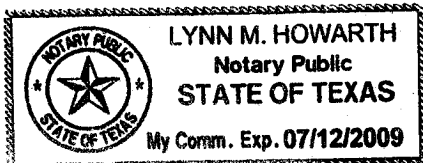
Signed this 11 day of Sept, 2008


PHILOMENA MARIE DAIL-CULPEPPER, Respondent

Sworn to and subscribed before me this 11 day of Sept, 2008


SEAL


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 11th day of September, 2008, by PHILOMENA MARIE DAIL-CULPEPPER, Registered Nurse License Number 597792, and said Order is final.

Effective this 23rd day of October, 2008.


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