



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

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BEFORE THE TEXAS BOARD OF NURSING

In the Matter of License Number 520277
issued to MARK KEVIN MCPHERSON

§ AGREED
§ ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the B considered the matter of MARK KEVIN MCPHERSON, Registered Nurse License Number 520277, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on April 17, 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 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 Diploma in Nursing from the Chester County Hospital School of Nursing" on June 1, 1982. Respondent was licensed to practice professional nursing in the State of Texas on December 3, 1984 .
5. Respondent's professional nursing employment history includes:

1983 - 1987	RN	United States Navy
1987 - 1989	RN	Airborne ICU

Respondent's professional nursing employment history continued:

01/1988 - 01/1990	RN	St. Joseph's Medical Center Houston, Texas
10/1989 - 03/2002	RN	Air Ambulance America Houston, Texas
1989 - 2004	RN	Supplemental Hospital Staffing Allied Health Services
2003 - 2008	RN	Supplemental Hospital Staffing Medical Staffing Network
01/2004 - 10/2005	RN	M.D. Anderson Cancer Center Houston, Texas
06/2004 - 06/2008	RN	Methodist Willowbrook Hospital Houston, Texas
07/2008 - 09/2008	RN	Mainland Medical Center Texas City, Texas
05/2008 - 11/2008	RN	Intelistaff Dallas, Texas
11/2008 - Present	RN	Supplemental Hospital Staffing Allied Health Services & Ultrastaff

6. On May 9, 2000, Respondent was issued the sanction of Reprimand with Stipulations by the Board of Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law, and May 9, 2000 Agreed Order is attached and incorporated, by reference, as part of this Order.
7. At the time of the initial incident, Respondent was employed as a Registered Nurse with Intelistaf, Dallas, Texas, and on assignment at Truality Community Hospital, Hilsboro, Oregon, and had been in this position for three (3) weeks.
8. On or about November 19, 2008, while employed as a Registered Nurse with Intelistaff, Dallas, Texas, and assigned at Truality Community Hospital, Hilsboro, Oregon, the Texas Board of Nursing received a complaint that the Respondent emotionally and/or verbally abused a female patient, in that she asked the patient if her headache was related to

masturbating too much or masturbating while choking or strangulating herself. If true, Respondent's conduct was likely to injure the patient in that it exposed the patient unnecessarily to a risk of experiencing emotional and/or psychological harm.

9. In response to Finding of Fact Number Eight (8), the Respondent states: "My involvement with this patient was to discharge her because the nurse assigned was otherwise occupied. I was not the patient's primary nurse. The patient was an adult female who was evaluated and treated in the Emergency Department at Tuality Community Hospital. I was told that the diagnosis was 'Migraine Headache' and she had been to the Emergency Department for headaches recently. I had not interacted with the patient in any way during her Emergency Department visit. This was the only information conveyed to me. I was given the discharge papers. I obtained a set of discharge vitals signs, presented her with the discharge prescriptions and follow-up info. I also verbally presented migraine summary discharge teaching, as follows: rest, take medications as prescribed, avoid known triggers (Caffeine, Alcohol, pickles, and preserved foods and those with Metabisulphite or MSG), avoid stress and sleep deprivation. I also told her if she is having what are called sex headaches or orgasm headaches she needed to tell her doctor. I emphasized to her that I do not need or want to know the answer, but she should be honest with her doctor because avoiding those dietary triggers will not help if that is not the true nature of the problem. However, I mentioned (in thinking out loud) that unexplained recurrent headaches due to choking or strangulation with masturbation is mostly with men and boys. I did not present this information in a question format. I simply relayed the information. There was no suggestion or implication. My goal was to discharge the patient safely and rapidly so that I could return to care for my patients. The patient did not seem shocked or embarrassed. I did ask the other female accompanying the patient to go to the Emergency Department bay out of concern for my patient's privacy and recognizing that this is a sensitive subject.

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), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(C)&(D).
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 520277, heretofore issued to MARK KEVIN MCPHERSON, 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 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 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, Respondent may continue to work in the State of Texas, however, 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 license issued to MARK KEVIN MCPHERSON 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) 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 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 "Respecting Professional Boundaries," a 3.9 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/boundaries/boundariesabout.asp>.*

(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/ciabout.asp>.

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 have reviewed this Order. I neither admit nor deny the violations alleged herein nor do I agree with the Findings of Fact and Conclusions of Law. By my signature on this Order, I have agreed to the 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 professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 29 day of July, 2009.

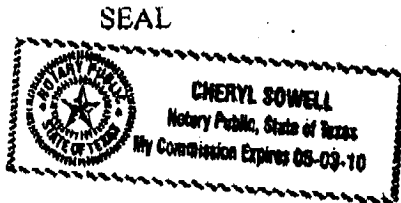
Mark Kevin McPherson

MARK KEVIN MCPHERSON, Respondent

Sworn to and subscribed before me this 29th day of July, 2009.

Cheryl Sowell

Notary Public in and for the State of Texas



Approved as to form and substance.

LaVerne Chang

LaVerne Chang, Attorney for Respondent

Signed this 29th day of July, 2009.

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 29th day of July, 2009, by MARK KEVIN MCPHERSON, Registered Nurse License Number 520277, and said Order is final.



Effective this 31st day of July, 2009.

A handwritten signature in cursive script, appearing to read 'Katherine A. Thomas', is written over a horizontal line.

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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of License Number 520277 § AGREED
issued to MARK KEVIN MCPHERSON § ORDER

An investigation by the Board produced evidence indicating that MARK KEVIN MCPHERSON, hereinafter referred to as Respondent, License Number 520277, may have violated Article 4525(b)(9), Revised Civil Statutes of Texas, as amended.

An informal conference was held on April 6, 1999, at the office of the Board of Nurse Examiners, in accordance with Article 4524C, Revised Civil Statutes of Texas, as amended.

Respondent appeared in person. Respondent was represented by Blair Brininger, Attorney at Law. In attendance were Katherine A. Thomas, MN, RN, Executive Director; J. Kent Black, General Counsel; Anthony L. Diggs, MSCJ, Director of Investigations; Angelica Tyler, BSN, RN, Investigator; and Jeanne E. Jacobson, BSN, RN, Investigator.

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 notice and hearing, and consented to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in Texas.
4. Respondent received a Diploma in Nursing from Chester County Hospital School of Nursing, Chester, Pennsylvania, in 1982. Respondent was first licensed to practice professional nursing in the State of Texas on December 3, 1984.

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5. Respondent's professional employment history includes:

1982	Staff Nurse Medical ICU	Wilmington Medical Center Wilmington, Delaware
1983	Staff Nurse ICU	Paoli Memorial Hospital Paoli, Pennsylvania
1983	Staff Nurse Supplemental staffing in ICU, BICU, CCU	Presbyterian Hospital Philadelphia, Pennsylvania
1984-1986	Navy Nurse Corp	United States Navy
1986	Staff Nurse Supplemental staffing in ICU, CCU, CVICU, BICU	Presbyterian Hospital Philadelphia, Pennsylvania
1987	Staff Nurse	Presbyterian Hospital Pittsburgh, Pennsylvania
1987	Private Duty and Home Care	Personal Touch Staffing and Home Health Services Pittsburgh, Pennsylvania
1987	Associate Instructor Refresher training program	University of Pittsburgh Center for Emergency Medicine Pittsburgh, Pennsylvania
1988	Supplemental Staffing, ICU, ED, CVICU	Nursefinders Houston, Texas
1988	Supplemental Staffing, ICU, CVICU	Nursefinders San Diego, California
1988	Camp Nurse	Boston YMC Union Wildwood Nature Camp Greenfield, New Hampshire
1988	Critical Care Supplemental Staffing	Analytical Medical Enterprises Houston, Texas

5. Respondent's professional employment history includes: (continued)

1988	Travel Nurse CVICU, ICU, ED, BICU	Allied Health Services Houston, Texas
1989	Staff Nurse/Charge Nurse ICU/CVICU	St. Joseph's Hospital Houston, Texas
1989	Chief Flight Nurse Airborne ICU	Houston, Texas
1989	Senior Flight Nurse	Air Ambulance America Houston, Texas
1991	Senior Camp Nurse	Point O' Pines Summer Camp Brant Lake, New York
1991	Travel Nurse CVICU, ICU, ED, BICU	Allied Health Services Houston, Texas
1992	Staff Nurse Critical Care	Columbia West Houston Medical Center Houston, Texas
1993	Staff Nurse ER	Hermann Hospital Houston, Texas
1994	Staff Nurse ICU, CCU, ED	Allied Health Services Houston, Texas
1994	Contract Nurse ICU, CCU	Contract through Staff Relief Incorporated Terrebone General Hospital Houma, Louisiana
1994	Contract Nurse CVICU	Contract through Staff Relief Incorporated Columbia Facility Brownsville, Texas
1994	Staff Nurse ER	Columbia Bellaire Medical Center Bellaire, Texas
1994	Supplemental Staffing ED, ICU, CCU	Allied Health Services Houston, Texas

5. Respondent's professional employment history includes: (continued)

1995	Weekend Nurse, house supervisor, ER, ICU, Telemetry	Columbia Rosewood Medical Center Houston, Texas
1995	Supplemental Staffing ICU, ED, CCU	Carlton Medical Services Houston, Texas
1997	Instructor, ACLS, Aeromedical Provider Course	Houston Community College Houston, Texas
1997	Critical Care Float Pool, Instructor, ACLS, Preceptor ICU	Tenet Twelve Oaks Hospital Houston, Texas
1998	Staff Nurse ICU, CVICU, CCU	Tenet Houston Northwest Medical Center Houston, Texas
1999	Senior Flight Nurse, Trainer and Lecturer	Air Ambulance America Houston, Texas
1999	Supplemental Staffing ICU, Pediatrics, ED, ICU, PACU	Allied Health Services Houston, Texas
1999	Supplemental Staffing Medical Department	AIG Assist Houston, Texas

6. At the time of the incident, Respondent was employed as a Staff Nurse in the Emergency Department with Tenet Twelve Oaks Hospital, Houston, Texas, and had been in this position for the past sixteen and one-half (16½) months.

7. On or about May 17, 1998, while employed with Tenet Twelve Oaks Hospital (now known as Bayou City Medical Center), Houston, Texas, in the Emergency Department, Respondent failed to document thorough ongoing assessments for Medical Record #000052822 admitted via ambulance from a nursing home. The patient was triaged by the Respondent as "emergent" and was dehydrated with a possible bowel obstruction. The Respondent documented an admission assessment, and recorded nothing further until his final code note. In addition, the only vital signs recorded were the initial readings at 20:00. The patient was subsequently found in acute distress with agonal respirations and pronounced dead at 23:35.

8. On or about May 17, 1998, while employed with the aforementioned facility, Respondent failed to document any interventions performed for Medical Record #000052822 between the time of admission and the time a code was called. When the patient coded at 2310, the patient was found with no intravenous access, no Foley catheter, and not attached to a monitor. Respondent's failure to document interventions was likely to injure the patient as there was no data collected which could be used to plan care and treatment.

CONCLUSIONS OF LAW

1. Pursuant to Article 4525, Revised Civil Statutes of Texas, 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 Article 4525(b)(9), TEX. REV. CIV. STAT. ANN., and 22 TEX. ADMIN. CODE §217.13(2)&(4).
4. The evidence received is sufficient cause pursuant to Article 4525(b), TEX. REV. CIV. STAT. ANN., to take disciplinary action against License Number 520277, heretofore issued to MARK KEVIN MCPHERSON, including revocation of Respondent's professional license to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of a Reprimand with Stipulations, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Art. 4513 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.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-size license issued to MARK KEVIN MCPHERSON, to the office of the Board of Nurse Examiners within ten (10) days of the date of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully

complete a course in nursing jurisprudence. 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 must include registered nurses. It must be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, and documentation of care. 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 is to be taken in addition to any continuing education requirements the Board may have for relicensure.

(3) 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. The target audience must include registered nurses. The didactic portion of this course must be a minimum of six (6) hours in length. The course must contain a minimum twenty-four (24) hour clinical component to be supervised by another registered nurse. To be approved, the course should cover all systems of the body. The course description must 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 is to be taken in addition to any continuing education requirements the Board has for relicensure.

(4) 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. Home study courses and video programs will not be approved. The course must be a minimum of six (6) hours in length. In order for the course to be approved, the target audience must include registered nurses. The course must contain content on the following: guidelines and processes for good reporting and recording; legal guidelines for recording; methods 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 is to be taken in addition to any continuing education requirements the Board has for relicensure.

IT IS FURTHER AGREED, SHOULD RESPONDENT CHOOSE TO PRACTICE AS A REGISTERED NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT:

(5) RESPONDENT SHALL notify each present employer in professional nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a copy of this Order to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in professional nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a copy of this Order to each future employer prior to accepting an offer of employment.

(6) RESPONDENT SHALL CAUSE each present employer in professional nursing to submit the Notification of Employment form 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 to the Board's office within five (5) days of employment as a professional nurse.

(7) RESPONDENT SHALL be supervised by a registered nurse who is on the premises. The supervising RN 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. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT MAY be employed full-time through an agency in the Emergency Room of M.D. ANDERSON for the period of one (1) year, but if RESPONDENT leaves this position, RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, 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 by the Board, periodic reports as to RESPONDENT's capability to practice professional nursing. These reports shall be completed by the Registered Nurse who supervises the RESPONDENT. These reports shall be submitted to the office of the Board at the end of each three (3) months for one (1) year of employment as a professional nurse.

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

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 11 day of APRIL, 2000.

Mark Kevin McPherson
MARK KEVIN MCPHERSON, Respondent

Sworn to and subscribed before me this 12th day of April, 2000.

SEAL

Sara C Spoons
Notary Public in and for the State of Texas




Approved as to form and substance.

Christopher M. Faucett
Christopher M. Faucett, Attorney for Respondent

Signed this 12 day of April, 2000.

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 12th day of April, 2000, by MARK KEVIN MCPHERSON, License Number 520277, and said Order is final.

Effective this 9th day of May, 2000.


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