

BEFORE THE BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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In the Matter of Permanent Certificate	§	
Number 597792 issued to	§	AGREED ORDER
PHILOMENA MARIE DAIL	§	

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of PHILOMENA MARIE DAIL, license number 597792, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Article 4525(b)(7), Revised Civil Statutes of Texas, as amended. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on July 15, 1998, 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 is currently licensed to practice professional nursing in Texas.
4. Respondent received an Associate Degree in Nursing from Fayetteville Technical Institute, Fayetteville, North Carolina, in May 1984.
5. Respondent's professional employment history is unknown.

6. Respondent, on or about February 25, 1998, voluntarily surrendered her license to practice professional nursing to the North Carolina Board of Nursing, Raleigh, North Carolina. A copy of the letter accepting her surrender is attached and incorporated as part of this order.
7. The facts surrounding the surrender of Respondent's license are that she failed to reactivate monitor alarms after bathing an infant who had a history of bradycardia. While Respondent was at lunch, the infant experienced a decrease in heart rate and was "bagged" to recovery. After returning from lunch, Respondent was informed of the event and she falsified the nurses' notes by rewriting them and eliminating the comment about the alarms being off.

#### 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 violation of Article 4525(b)(7), TEX. REV. CIV. STAT. ANN.
4. The evidence received is sufficient cause pursuant to Article 4525(b), TEX. REV. CIV. STAT. ANN., to take disciplinary action against license number 597792, heretofore issued to PHILOMENA MARIE DAIL.

#### AGREED SANCTIONS

IT IS THEREFORE AGREED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of a Warning 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 PHILOMENA MARIE DAIL, 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.

**IT IS FURTHER AGREED, SHOULD RESPONDENT CHOOSE TO 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, UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEARS OF EMPLOYMENT:**

(3) 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.

(4) 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.

(5) 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 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.

(6) 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(s) 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.

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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 violation alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Agreed Sanctions, and any conditions of this 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.

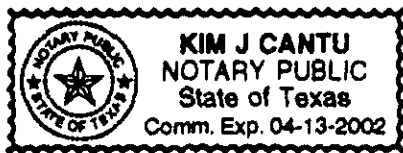
Signed this 28 day of Sept., 1998.

Philomena Marie Dail  
PHILOMENA MARIE DAIL, Respondent

Sworn to and subscribed before me this 28<sup>th</sup> day of September, 1998.

SEAL

Kim J. Cantu  
Notary Public in and for the State of \_\_\_\_\_



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 28th day of October, 1998, by PHILOMENA MARIE DAIL, license number 597792, and said Order is final.

Effective this 19th day of November, 19 98.



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



# NORTH CAROLINA BOARD OF NURSING

James K. Lynch, R.N., M.N., C.N.A.A., *Chairman*  
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P.O. Box 2129  
Raleigh, NC 27602-2129  
FAX (919) 781-9461  
(919) 782-3211  
Nurse Aide Registry (919) 782-7499

February 25, 1998

Ms. Philomena S. Dail  
7720 McCallum Boulevard, Apt. 2020  
Dallas, Texas 75252

Dear Ms. Dail:

Your RN license was received in the office of the North Carolina Board of Nursing on February 16, 1998.

The record will reflect that you voluntarily surrendered your RN license for an indefinite period of time.

You are reminded that you are not permitted to practice nursing without a license. You are, however, urged to undertake steps to rehabilitate yourself so that you may request reinstatement of your license.

In accordance with the provisions of Chapter 150B of the General Statutes, G.S. 90-171.37 and Board of Nursing policies derived therefrom, at the time you request reinstatement of your license, you must present evidence of your fitness to re-enter the practice of nursing. At the time of reinstatement, you may initially be issued a restricted license.

Six (6) months prior to requesting reinstatement of your license, you should submit a written request to the Board of Nursing to determine what type of evidence will be needed, in order that your petition for reinstatement will be considered. It will be necessary that the requested evidence be submitted for reinstatement.