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 12 day of April, 2000.

MARK KEVIN MCPHERSON, Respondent

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

SEAL

Notary Public in and for the State of Texas

SARA C. SPOONTS
MY COMMISSION EXPIRES
May 21, 2002

Approved as to form and substance.

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