

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse § AGREED
License Number 711004 §
issued to MAXIMILIANO CRUZ MAURICIO § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MAXIMILIANO CRUZ MAURICIO, Registered Nurse License Number 711004, 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 informal conference, notice and hearing, and agreed to the entry of this Order offered on August 4, 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 informal conference, 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 Baccalaureate Degree in Nursing from Emilio Aguinaldo College, Manilla, Philippines, on March 30, 1994. Respondent was licensed to practice professional nursing in the State of Texas on November 2, 2004.
5. Respondent's professional nursing employment history includes:

04/94 - 03/96	unknown	
04/96 - 08/97	RN	Quezon City General Hospital Quezon City, Philippines

Respondent's professional nursing employment history continued:

09/97 - 10/97	unknown	
11/97 - 09/98	RN	E EI Corporation Laguna, Philippines
09/98 - 09/01	RN	ECW Joint Venture, Inc. Makati City, Philippines
10/01 - 01/05	RN	Capital Medical Center Quezon City, Philippines
02/05 - 07/05	unknown	
08/05 - 04/06	RN	Makati Medical Center Makati City, Philippines
04/06 - 02/08	RN	Doctor's Hospital of Laredo Laredo, Texas
03/08 - present	unknown	

6. At the time of the initial incident, Respondent was employed as a registered nurse with Doctor's Hospital of Laredo, Texas, and had been in this position for one (1) year and ten (10) months.
7. On or about February 17, 2008, while employed with Doctor's Hospital of Laredo, Laredo, Texas, Respondent violated the professional boundaries of the nurse/client relationship in that he admitted to inappropriately "tweaking" the nipples and pectoral area of Patient Medical Record Number 086744, as well as other patients. Respondent's conduct may have caused delayed distress for the patient, which may not be recognized or felt by the patient until harmful consequences occur.
8. In Response to the incident in Finding of Fact Number Seven (7), Respondent states:

"While caring for him I was kidding with him and trying to distract him while bathing and changing his gown. I playfully and gently tapped on his belly with my fingers and ultimately tweaked him around the nipple on his chest area...It was not directed at his nipple, but at the pectoral muscle area in general... This is something that I have done with a few patients that I have grown close to in the past and in my country and region of origin, it is commonly done to show fondness to another. It is not hurtful, malicious or painful and is meant only to make the patient feel more comfortable with me. In retrospect, I can see that it could be misconstrued or offensive and although I may have displayed poor judgment, I did not intend harm to the patient in any manner."

9. On or about June 30, 2008, Respondent submitted to a forensic psychological evaluation, including a polygraph exam, administered by John K. Reid, Ph.D., P.C. Incorporating the results of the polygraph exam which yielded a result of "No Deception Indicated," Dr. Reid concluded the following:

"There was nothing found in this overall evaluation to indicate significant psychological or behavior problems. There is a reasonable probability that he consistently would be able to behave in accordance with the requirements of Rules 213.27 - 213.29 at 22 Texas Administrative Code, as well as the minimum standards set by the Board's Rules 217.11 at TAC and generally accepted nursing standards, and that he consistently would avoid behaviors identified by the Board as constituting unprofessional conduct. There are no recommendations for treatment, although he would benefit from acquiring a better understanding of cultural differences within his patient populations and by learning to consider and respect those differences."

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)(J) and 217.12(1)(B),(6)(C)&(6)(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 711004, heretofore issued to MAXIMILIANO CRUZ MAURICIO, 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 WARNING 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 privilege, 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 MAXIMILIANO CRUZ MAURICIO, 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 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>.*

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 ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) 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:

(4) 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.

(5) 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.

(6) 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.

(7) 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 one (1) year 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.

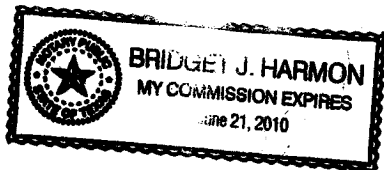
RESPONDENT'S CERTIFICATION

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 18 day of September, 2008.

Mauricio

MAXIMILIANO CRUZ MAURICIO, Respondent



Sworn to and subscribed before me this 18 day of SEPTEMBER, 2008.

SEAL

Bridget J Harmon

Notary Public in and for the State of Texas



Approved as to form and substance.

Saldaña

BARBARA SALDANA, Attorney for Respondent

Signed this 18 day of September, 2008.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 18th day of September, 2008, by MAXIMILIANO CRUZ MAURICIO, Registered Nurse License Number 711004, and said Order is final.

Effective this 23rd day of October, 2008.



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

