

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse § AGREED
License Number 605594 §
issued to CHERYL POWERS ROOT § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of CHERYL POWERS ROOT, Registered Nurse License Number 605594, 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 September 18, 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 is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received a Baccalaureate Degree in Nursing from West Texas A&M University, Canyon, Texas, on May 9, 1994. Respondent was licensed to practice professional nursing in the State of Texas on June 28, 1994.
5. Respondent's nursing employment history includes:

06/1994 - 08/1994	Charge Nurse	Integrated Health Services Amarillo, Texas
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Respondent's nursing employment history continued:

09/1994 - 10/1994	Unknown	
11/1994 - 08/1995	Staff Nurse	Palo Duro Hospital Canyon, Texas
08/1995 - 10/1995	Home Health Nurse	Hereford Home Health Care Hereford, Texas
11/1995 - Present	Correctional Nurse Assistant Director of Nursing	Texas Tech University Health Sciences Center, Amarillo, Texas, assigned to Texas Department of Criminal Justice, Bill Clements Unit, Amarillo, Texas

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed with Texas Tech University Health Sciences Center, Amarillo, Texas, assigned to Texas Department of Criminal Justice, Bill Clements Unit, Amarillo, Texas, and had been in the position of Assistant Director of Nursing for two (2) years.
7. On or about November 30, 2006, while employed as Assistant Director of Nursing with Texas Tech University Health Sciences Center, Amarillo, Texas, and assigned to Texas Department of Criminal Justice, Bill Clements Unit, Amarillo, Texas, Respondent failed to ensure that medications were administered in a timely manner. Respondent was notified in the early morning that there was a staff shortage and she should begin preparing medications for the afternoon "medication pass," which she failed to do; consequently, when the Certified Medication Aide arrived at the unit she had to spend five (5) hours preparing medications, which caused a significant delay in the administration of the medications. Respondent's conduct was likely to injure patients in that failure to administer medication as ordered could have resulted in non-efficacious treatment.
8. On or about December 3, 2006, through December 11, 2006, while employed as Assistant Director of Nursing with Texas Tech University Health Sciences Center, Amarillo, Texas, and assigned to Texas Department of Criminal Justice, Bill Clements Unit, Amarillo, Texas, Respondent failed to triage and process sick call requests, as required, and consequently, patients were not able to visit medical providers in a timely manner. Respondent's conduct delayed medical care and could have resulted in further complications from untreated disease processes.
9. On or about December 3, 2006, through December 11, 2006, while employed as Assistant Director of Nursing with Texas Tech University Health Sciences Center, Amarillo, Texas, and assigned to Texas Department of Criminal Justice, Bill Clements Unit, Amarillo, Texas, Respondent failed to visit patients who were scheduled for sick call when she left work early. Additionally, she failed to notify other management staff that there were patients left to be seen. Respondent's conduct delayed care and could have resulted in further complications from untreated disease processes.

10. On or about December 3, 2006, through December 11, 2006, while employed as Assistant Director of Nursing with Texas Tech University Health Sciences Center, Amarillo, Texas, and assigned to Texas Department of Criminal Justice, Bill Clements Unit, Amarillo, Texas, Respondent failed to verify new medications ordered by the provider, as required. Consequently, some patients did not receive medications, as ordered, including antibiotic medications. Respondent's conduct was likely to injure patients in that failure to administer the medication as ordered could have resulted in non-efficacious treatment.
11. On or about December 3, 2006, through December 11, 2006, while employed as Assistant Director of Nursing with Texas Tech University Health Sciences Center, Amarillo, Texas, and assigned to Texas Department of Criminal Justice Bill Clements Unit, Amarillo, Texas, Respondent failed to administer a weekly dose of Avonex, a medication to treat multiple sclerosis, to Patient Number 495272, as ordered. Respondent prepared the medication for injection but when she found out that the patient had moved to another building, she put the syringe down and said that she "would do it later," but never administered the medication. Consequently, the time limit for administration expired, so the medication had to be wasted and there were no more doses of medication available. Respondent's conduct was likely to injure the patient in that failure to administer the medication as ordered could have resulted in non-efficacious treatment.
12. On or about March 2007, through May 2007, while employed as Assistant Director of Nursing with Texas Tech University Health Sciences Center, Amarillo, Texas, and assigned to Texas Department of Criminal Justice, Bill Clements Unit, Amarillo, Texas, Respondent engaged in verbally and physically inappropriate sexual behavior towards several staff, including nurses under her supervision. Respondent licked the ears of two correctional officers in the presence of nursing staff, attempted to kiss a nurse on the mouth but kissed the nurse's cheek when the nurse turned away, touched nurses on their breasts and buttocks, and made sexually suggestive comments. Respondent's conduct may have psychologically and/or emotionally injured staff nurses, which could have resulted in an unsafe patient care environment.
13. On or about December 29, 2007, while employed as a Correctional Nurse with Texas Tech University Health Sciences Center, Amarillo, Texas, and assigned to Texas Department of Criminal Justice, Bill Clements Unit, Amarillo, Texas, Respondent failed to appropriately assess and intervene when Patient Number 1364967, who had diagnoses of hypertension and diabetes, presented to the clinic with the complaint of chest pain, which had been present for two (2) days, and difficulty breathing. The initial vital signs and oxygen saturation level of the patient were abnormal and he had an elevated finger stick blood glucose level, which Respondent erroneously documented in the patient's medical record as 270 mg/dl, when it was actually 207 mg/dl. Respondent neither obtained an electro-cardiogram (EKG) reading, although there was a three lead EKG machine available, nor immediately referred the patient to a medical provider, as required. Instead, she instructed the patient to blow into a paper sack as treatment for hyperventilation, and when his oxygen saturation level increased to 97%, she released him from the clinic and informed him that a provider would see him the following week. Additionally, she failed to reassess his blood pressure, which had been elevated. The next day the patient was found unresponsive in his cell and subsequently expired despite resuscitation efforts. Respondent's conduct may have contributed to the patient's demise and resulted in an inaccurate medical record.

14. In response to the incidents in Findings of Fact Numbers Seven (7) through Thirteen (13), Respondent states that she recalls incidents of delayed medication administration because Security Staff were not available to escort her for medication delivery, which may have happened on the date of November 30, 2006. Respondent admits that she did not follow proper procedure for triaging and processing sick call requests, but asserts that she did triage and process those with urgent needs. Respondent states that she left work one half (½) hour early and was going to return to finish sick call patient visits, but when she called the unit, one of the nurses told her that the appointments had been completed. Respondent states that she was unable to verify medications either because she was the person “who ordered them” or she left them for the night shift nurse to verify and was not aware that the night nurse did not work on Friday evenings. Respondent explains that she had mixed the Avonex with the intention of morning administration but found that the patient was “in a completely different part of the prison,” and when “greater than four hours” had elapsed since she prepared the medication and it “needed to be destroyed,” she notified staff that they would have to administer the injection without realizing that there were no additional doses available or the expense of the medication. Respondent states that she regrets that anything she may have said or done was perceived as harassment and she continues to “maintain that there was never any intentional verbal or physical sexual harassment.” According to Respondent, during the exam Patient Number 1364967 stated that he had a sore throat and that “his chest pain went all over his body,” so she thought he had the flu and told the patient that a provider would see him the following week for his sore throat and body aches. Respondent asserts she did not complete an EKG as the 12 lead EKG machine “was missing two leads on two different wires.” Respondent states that she has now reviewed the protocols and has “learned how to pull down the proper trees for each protocol.”

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),(1)(P)& (3)(A) and 217.12(1)(A),(1)(B),(4),(6)(C)&(6)(F).
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 605594, heretofore issued to CHERYL POWERS ROOT, 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 Registered Nurse License Number 605594, previously issued to CHERYL POWERS ROOT, to practice professional nursing in Texas is hereby SUSPENDED for a period of two (2) years with the suspension STAYED and Respondent is hereby placed on PROBATION for (2) years with the following agreed terms of probation:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate privilege, if any, to practice nursing in the State of Texas.

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.

(1) 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.

(2) RESPONDENT SHALL deliver the wallet-sized license issued to CHERYL POWERS ROOT, to the office of the Texas Board of Nursing within ten (10) days of the date of this Order.

(3) 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. *Information regarding Board-approved courses in Texas Nursing Jurisprudence 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 a course in medication administration. 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. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The course description shall 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 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>

(5) 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. In order for the course to be approved, the target audience shall include Nurses. The didactic portion of this course shall be a minimum of six (6) hours in length. RESPONDENT SHALL perform physical assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The clinical component SHALL focus on tasks of physical assessment only and shall be provided by the same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. Performing assessments on mock patients or mannequins WILL NOT be accepted. The course description shall 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 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>.

(6) 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>.

(7) 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>.

(8) 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 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 PROBATION CONDITIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY 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 PROBATIONARY PERIOD:

(9) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the probation conditions 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 probation conditions 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.

(10) 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.

(11) For the first year of employment as a Registered or Licensed Vocational Nurse 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.

(12) For the remainder of the probation 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.

(13) 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 and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license, the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

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 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 3rd day of November, 2008.

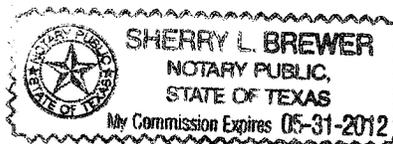
Cheryl Powers Root
CHERYL POWERS ROOT, Respondent

Sworn to and subscribed before me this 3 day of November, 2008.

SEAL

Sherry L Brewer

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 3rd day of November, 2008, by CHERYL POWERS ROOT, Registered Nurse License Number 605594, and said Order is final.

Effective this 9th day of December, 2008.



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