

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse License §
Number 547870 and Vocational Nurse § AGREED
License Number 36954, issued to § ORDER
HELEN CAROLYN SPENCER §

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of HELEN CAROLYN SPENCER, Registered Nurse License Number 547870 and Vocational Nurse License Number 36954, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(13), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on August 28, 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 in the State of Texas and holds a license to practice vocational nursing in the State of Texas which is in delinquent status.
4. Respondent received a Certificate in Vocational Nursing from Medical Arts Hospital, Vocational School of Nursing, Big Spring, Texas, on February 1, 1967, and received an Associate Degree in Nursing from Central Texas College, Killeen, Texas, in May 1988. Respondent was licensed to practice vocational nursing in the State of Texas on March 25, 1967 and was licensed to practice professional nursing in the State of Texas on September 1, 1988.

5. Respondent's professional and vocational nursing employment history includes:

1969 - 1981	LVN	Pecos County Memorial Hospital Fort Stockton, Texas
1981 - 1983	LVN	Fort Stockton Independent School District Fort Stockton, Texas
1983 - Present	LVN/RN	Shepperd Memorial Hospital Burnet, Texas
1991 - Present	Nurse Consultant	Community Care, Inc., dba Woodview Community Residence Bertram, Texas

6. At the time of the initial incidents, Respondent was employed as a Nurse Consultant with Community Care, Inc., dba Woodview Community Residence, Bertram, Texas, and had been in this position for seventeen (17) years.

7. On or about March 2, 2008 and March 3, 2008, while employed with Community Care, Inc., dba Woodview Community Residence, Bertram, Texas, Respondent failed to assess and evaluate Resident A. S. after she was notified that the Resident was sick with symptoms that included vomiting, diarrhea, and coughing which began on February 29, 2008. Respondent's conduct exposed the Resident unnecessarily to a risk of harm from complications due to undiagnosed and, consequently, untreated disease processes.

8. On or about March 2, 2008 and March 3, 2008, while employed with Community Care, Inc., dba Woodview Community Residence, Bertram, Texas, Respondent failed to institute appropriate nursing interventions after she was notified that Resident A.S. was sick with symptoms that included vomiting, diarrhea, and coughing which began on February 29, 2008. Resident A.S. died on March 3, 2008. Respondent's conduct was likely to expose the Resident unnecessarily to a risk of harm from delay of treatment of her disease process.

9. Respondent states that she serves as a consultant nurse for Community Care, Inc., dba Woodview Community Residence. As part of her position she takes calls when there is a medical issue with a patient. Patient AS was exhibiting medical concerns to include coughing, fever and vomiting since February 29, 2008 through March 3, 2008. The first time she was notified was on March 3, 2008. She went to the facility, the patient was sleeping and she reviewed the medical records. There had been seven incidents of the patient vomiting since February 29, 2008 and it was documented by staff as they felt due to the drainage. The patient was self administering her medications and was able to keep them down. While reviewing the chart she was notified that the patient would be going to the physician's office for assessment. "I did not do a physical assessment at that time due to the fact that AS was sleeping and an appointment had been scheduled for her that morning at her physician's office. I was not contacted until notification of her demise."

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 violation of Section 301.452(b)(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(M)&(3).
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 547870 and Vocational Nurse License Number 36954, heretofore issued to HELEN CAROLYN SPENCER, including revocation of Respondent's licenses to practice professional and vocational 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 REPRIMAND 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 and vocational 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 HELEN CAROLYN SPENCER, 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 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>.*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A REGISTERED OR AS A LICENSED VOCATIONAL 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) OR A VOCATIONAL NURSE (LVN) 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) For the duration of the stipulation 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.

(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 and vocational 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 licenses to practice professional and vocational nursing in the State of Texas, as a consequence of my noncompliance.

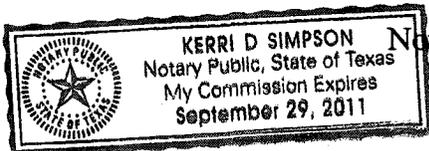
Signed this 13 day of November, 2008.

Helen Carolyn Spencer
HELEN CAROLYN SPENCER, Respondent

Sworn to and subscribed before me this 13th day of November, 2008.

SEAL

Kerri D Simpson



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 13th day of November, 2008, by HELEN CAROLYN SPENCER, Registered Nurse License Number 547870 and Vocational Nurse License Number 36954, and said Order is final.

Effective this 9th day of December, 2008.



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