

Respondent's nursing employment history continued:

9/2003 - 5/2004	EP Lab Nurse	North West Texas Heart Hospital Amarillo, Texas
4/2004 - 1/2005	Staff Nurse, PRN	TTHSC-CMC, Lubbock, Texas, assigned to TDCJ, Bill Clements Unit, Amarillo, Texas
2/2005 - current	Unit Director of Nurses	TTHSC-CMC, Lubbock, Texas, assigned to TDCJ, Bill Clements Unit, Amarillo, Texas

6. At the time of the initial incident, Respondent was employed as the Unit Director of Nurses with TTHSC-CMC, Lubbock, Texas, assigned to TDCJ, Bill Clements Unit, Amarillo, Texas, and had been in this position for four (4) years.
7. On or about February 2009 through August 2010, while employed as the Unit Director of Nurses with TTHSC-CMC, Lubbock, Texas, assigned to TDCJ, Bill Clements Unit, Amarillo, Texas, Respondent inappropriately delegated provider ordered treatments to grind down the mycotic toenails of patients, many of whom were diabetics, to unlicensed staff using a non-medical dremel tool. Additionally, Respondent did not first determine that the use of the dremel tool was medically appropriate and then did not ensure that the dremel tool bits were thoroughly disinfected between uses. Respondent's conduct unnecessarily exposed patients to the risk of injury from infectious pathogens and/or from treatments that may have been medically inappropriate or performed incorrectly.
8. On or about September 2, 2010, while employed as the Unit Director of Nurses with TTHSC-CMC, Lubbock, Texas, assigned to TDCJ, Bill Clements Unit, Amarillo, Texas, Respondent disclosed confidential medical information regarding Patient Inmate 792618 to Patient Inmate 696677, including medical conditions of Patient Inmate 792618 and his ability to be accommodated in a petition van versus requiring a medical van. Respondent's conduct violated the patient's right to confidentiality of medical information.
9. In response to the incidents in Findings of Fact Numbers Seven (7) and Eight (8), Respondent states the unlicensed person was trained by him in the process of sanding toenails for two (2) weeks with an emphasis on personal protection, and eye protection, face masks, gloves and gowns were always worn. After every patient, Respondent states that the dremel tool and the sanding disc was sterilized by wiping with alcohol, and if the tool was inadvertently exposed to blood during a treatment, the sanding disc was changed. Respondent also states that the unlicensed individual worked only on weekends and was scheduled with non-diabetic patients. Regarding the confidential medical information, Respondent states that he did not disclose any information that the two (2) patients didn't already know about each other because they had both been coming to get Insulin together twice a day, for four (4) years.

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)(B),(1)(E),(1)(N),(1)(O)&(3)(B) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(D)&(4).
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 603070, heretofore issued to HERMAN HENRY NUSZ, including revocation of Respondent's license(s) to practice 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, DEFERRED, 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, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

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

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse

licensure compact 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 not commit any violation of 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. for a period of five (5) years from the date of this Order.

(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) 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.texas.gov/disciplinaryaction/stipscourses.html>

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in "Infection Control," a 5.0 contact hours workshop presented in various locations by the Texas Department of Aging and Disability Services. In order to receive credit for completion of this workshop, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this workshop 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 Board-approved courses 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 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. *Board-approved courses may be found at the following Board website address: <http://www.bon.texas.gov/disciplinaryaction/stipscourses.html>.*

(5) RESPONDENT SHALL, within one (1) year of entry of this, successfully complete the course "Delegating Effectively," a 4.2 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 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 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(S) 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, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:

(6) 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.

(7) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S license(s). 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

conditions on RESPONDENT'S license(s). 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.

(8) RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational 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.

(9) 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 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 enter the one (1) of years year(s) of employment as a nurse.

IT IS FURTHER AGREED and ORDERED that should an additional allegation, complaint, accusation, or petition be reported or filed against Respondent prior to the completion of this Order, the deferral period shall be extended until the allegation, accusation, or petition has been finally acted upon by the Board.

IT IS FURTHER AGREED that should RESPONDENT commit a subsequent violation of the Nursing Practice Act or Board Rules, this Order shall be treated as prior disciplinary action.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, including the successful completion of the required period of deferral, the complaint or complaints which formed the basis for this action will be dismissed and this Order will be made confidential to the same extent as a complaint filed under Section 301.466, Texas Occupations Code. Further, all encumbrances will be removed from Respondent's license(s) to practice nursing in the State of Texas, and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

IT IS FURTHER AGREED that until such time that this Order is made confidential, this Order is subject to disclosure in accordance with applicable law.


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RESPONDENT'S CERTIFICATION

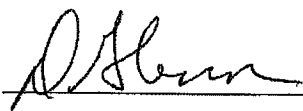
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and 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, the Board may stay the dismissal of the complaint filed against me, and that I will be subject to investigation and possible disciplinary sanction, including revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

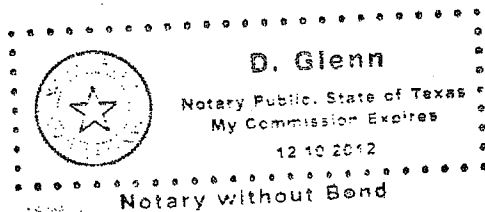
Signed this 20 day of June, 2012.


HERMAN HENRY NUSZ, Respondent

Sworn to and subscribed before me this 20 day of June, 2012.

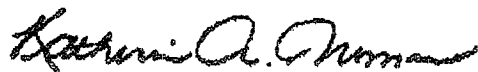
SEAL


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 for Deferred Discipline that was signed on the 20th day of June, 2012, by HERMAN HENRY NUSZ, Registered Nurse License Number 603070, and said Order is final.

Effective this 19th day of July, 2012.



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