



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse § AGREED
License Number 585226 and Advanced §
Practice Authorization as a Nurse Midwife §
issued to BERNADETTE NICOLE OLIVIER § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board considered the matter of BERNADETTE NICOLE OLIVIER, Registered Nurse License Number 585226 and Nurse Midwife, 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 proceedings, notice and hearing, and agreed to the entry of this Order offered on July 15, 2010, 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 proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing and is currently authorized as a Nurse Midwife in the State of Texas.
4. Respondent received a Diploma in Nursing from Mohawk College of Applied Arts and Technology, Hamilton, Ontario, Canada, in 1992, received a Bachelor of Science in Nursing from The University of Texas Medical Branch, Galveston, Texas, in 1997, and received a Master of Science in Nursing specializing in Nurse-Midwifery from The University of Texas Medical Branch, Galveston, Texas, in 2004. Respondent was licensed to practice professional nursing in the State of Texas on August 27, 1992, and received authorization from the Texas Board of Nursing to practice as a Nurse Midwife on May 10, 2004.

5. Respondent's professional nursing employment history includes:

9/1992-10/2000	Staff RN Labor and Delivery	Bayshore Medical Center Pasadena, Texas
1993-1994	RN Home Health	Health Cor., Inc. Houston, Texas
1994-1995	Staff RN Burn ICU	University of Texas Medical Branch Galveston, Texas
1998-1999	Legal Nurse Consultant	Medical Litigation Management Houston, Texas
1/2000-4/2001	Staff RN OB/GYN	Bayshore Family Practice Pasadena, Texas
4/2001-2/2005	Staff RN RNII	Memorial Herman Southeast Hospital Houston, Texas
10/2004-present	CNM	Planned Parenthood Houston, Texas
10/2004-9/2006	CNM	E. Houston Regional Medical Center Houston, Texas
4/2006-present	CNM	Rite of Passage Women's Health and Birth Center Pearland, Texas
9/2008-present	Professor OB/GYN Course	Texas Chiropractic College Pasadena, Texas

6. At the time of the initial incident, Respondent was practicing as a Nurse Midwife and the owner/operator of Rite of Passage Women's Health & Birth Center, Pearland, Texas, and had been in this position for one (1) year four (4) months.

7. On or about August 2007, through December 11, 2007, while the Owner and Nurse Midwife for Rite of Passage Women's Health & Birth Center, Pearland, Texas, Respondent accepted Patient EW to services even though this patient was a high-risk pregnancy with a history of multiple pre-term labors, infants born with respiratory problems, a history of cramping during pregnancy, and McDonald sutures in her cervix to prevent premature birth. Respondent's conduct exposed the the patient unnecessarily to a risk of undue harm from medical complications.

8. On or about December 10, 2007, while the Owner and Nurse Midwife for Rite of Passage Women's Health & Birth Center, Pearland, Texas, Respondent went to the home of Patient EW, determined the patient was in labor and during her examination of the patient discovered there was at least one McDonald suture still in the patients cervix. While in the patient's home Respondent attempted to remove the cervical suture and when she was unable to remove the suture in the patient's home, she took the patient to the birthing center where she was, after a time and much discomfort for the patient, able to remove the suture from the patient's cervix. Respondent failed to notify, or request advice from, the physician of the patient's status, the onset of active labor and the discovery of a McDonald suture. Respondent's conduct exposed the the patient unnecessarily to a risk of injury to the cervix and was likely to deceive the physician who needed complete information on which to base his care.
9. On or about December 10, 2007, while the Owner and Nurse Midwife for Rite of Passage Women's Health & Birth Center, Pearland, Texas, Respondent administered Nubain, a pain medication, and Vistaril, a relaxant, medications that may cause respiratory compromise in an infant, to Patient EW while she was in labor. Respondent knew that the Patient had a history of infants born with respiratory problems. Respondent's conduct exposed the infant unnecessarily to a risk of harm from the medications including demise due to respiratory depression.
10. On or about December 11, 2007, while the Owner and Nurse Midwife for Rite of Passage Women's Health & Birth Center, Pearland, Texas Respondent failed to provide appropriate nursing interventions for the baby born to Patient EW at 12:06 AM, when the infant required supplemental oxygen due to his poor color and respiratory effort, and Narcan to counteract the respiratory depression from the Nubain and Vistaril given to mother, Patient EW, during her labor. Respondent failed to transfer the baby to a higher level of care when at 5:15 AM the infant was still not able to suck and continued to need supplemental oxygen. The infant stopped breathing, at 6:00 AM and required Cardiopulmonary Resuscitation, intubation and emergency transport to the hospital where he was later pronounced deceased. Respondent did not notify the physician of the newborn's birth or medical condition until after the infant had died. Respondent's conduct exposed the infant unnecessarily to a risk of harm, including demise due to respiratory depression and deceived the physician who needed complete information on which to base his care.
11. On or about December 11, 2007, while the Owner and Nurse Midwife for Rite of Passage Women's Health & Birth Center, Pearland, Texas, Respondent failed to maintain emergency equipment, including oxygen cylinders, and have them readily available in the birthing center. Consequently, when Patient EW's baby stopped breathing there was only an empty oxygen cylinder available. Respondent used an resuscitator bag (ambu bag) to provide manual ventilation to the baby without the benefit of supplemental oxygen and she failed to obtain a full oxygen cylinder that was kept in a nearby storage area for use with the infant. The infant went without oxygen for at least twenty (20) minutes until the arrival of Emergency Medical Technicians who intubated, provided oxygen to the infant and transported him to the hospital where he was later pronounced deceased. Respondent's conduct exposed the infant unnecessarily to a risk of harm, including demise due to respiratory depression.

12. In response to Finding of Fact Number Seven (7) through Eleven (11), Respondent states she was aware of the patient's obstetric history and felt it would be challenging. She admits she went to the patient's home and found her to be in labor and had a McDonald suture in place. She states she and the patient went to the birth center and removed the suture causing the patient some discomfort. Respondent admits she gave the patient Nubain and Vistaril during her hours of labor. She states a viable male infant was born at 12:06 AM with an APGAR score of seven (7) and nine (9) and that the mother and baby were resting in no distress in the birth center until around 6:00 AM when it was noted the infant began making a choking sound, appeared to have stopped breathing and was assessed with a heart rate of 120 beats per minute, he was cold to the touch and had a blue face. Respondent states she immediately began bagging the infant with the Ambu bag, and was going to place the infant on oxygen, but noticed the oxygen cylinder was empty. She admits she was caught up in trying to revive the infant and chose not to leave the baby to get the other oxygen from the storage closet. She states she attempted to contact the private ambulance service that she typically contracted with but while she was doing this a family member of the patient's called 911 and requested an ambulance. City of Pearland EMS arrived shortly after the call and assumed care of the infant.
13. Charges were filed on November 23, 2010.
14. Charges were mailed to the Respondent on November 29, 2010.
15. On or about February 13, 2011, Respondent successfully completed a Board approved course in Pediatric Advanced Life Support (PALS), which would have been a requirement of this Order.
16. On or about June 16, 2011, Respondent successfully completed a Board approved course in Advanced Health Assessment, which included a didactic component of three (3) clock hours per week and a clinical practicum of four (4) clock hours per week, which would have been a requirement of this Order.
17. On or about June 16, 2011, Respondent successfully completed a Board approved course in Pharmacological Principles of Clinical Therapeutics, which included a didactic component of three (3) clock hours per week, which would have been a requirement of this Order.

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)(F),(1)(G),(1)(M),(1)(P),(1)(Q),(1)(T)&(3)(A) and 217.12(1)(A),(1)(E),(4)&(6)(C).

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 585226 and Advanced Practice Authorization as a Nurse Midwife, heretofore issued to BERNADETTE NICOLE OLIVIER, 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 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, 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 privilege, 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, 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.state.tx.us/disciplinaryaction/stipscourses.html>

(2) 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 STIPULATIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION 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 WITH ADVANCED PRACTICE AUTHORIZATION WILL NOT APPLY TO THIS STIPULATION PERIOD:

(3) 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 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.

(4) 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.

(5) For the first six (6) months of employment as a Nurse under this Order, RESPONDENT SHALL be supervised by a Obstetrician or Certified Nurse Midwife who is on the premises. The supervising Obstetrician or Certified Nurse Midwife 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 Obstetrician or Certified Nurse Midwife 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 contract for services. Multiple employers are prohibited.

(6) For the remainder of the stipulation period, RESPONDENT'S practice of professional nursing will be monitored by an Obstetrician or Certified Nurse Midwife who has been approved by the Board. Respondent must provide a list of three (3) Obstetricians and/or three (3) Certified Nurse Midwives for the Board to select. For the Obstetrician and/or Certified Nurse Midwife, the list must include the following for each: name, license number or social security number, educational background and professional employment history. Monitoring shall commence no later than thirty (30) days following the date of RESPONDENT's receipt of the name of the monitor selected by the Board. The monitor will offer guidance, advice and assistance to the RESPONDENT as necessary to ensure that deficiencies such as those set forth in this Order do not reoccur. RESPONDENT SHALL meet with the monitor at least twice a month, at least one (1) hour duration each. RESPONDENT SHALL ensure that the monitor submits reports, addressing RESPONDENT's progress in overcoming these deficiencies to the office of the Board at the end of each three (3) months for the remainder of the stipulation period. Meetings may be longer and more frequent if the monitor determines necessary. Multiple employers are prohibited.

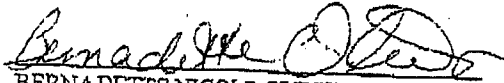
(7) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT's capability to practice nursing. These reports shall be completed by the Obstetrician or Certified Nurse Midwife who supervises the RESPONDENT. These reports shall be submitted by the supervising Obstetrician or Certified Nurse Midwife 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, that upon full compliance with the terms of this Order, 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.

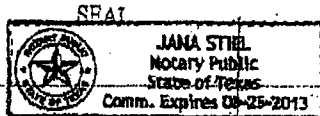
RESPONDENT'S CERTIFICATION

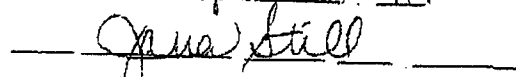
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid 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 16th day of Sept., 20 11.



BERNADETTE NICOLE OLIVIER, Respondent

Sworn to and subscribed before me this 16th day of September, 20 11.




Notary Public in and for the State of Texas

Approved as to form and substance.


Bill Hopkins, Attorney for Respondent

Signed this 16th day of September, 20 11.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 16th day of September, 2011, by BERNADETTE NICOLE OLIVIER, Registered Nurse License Number 585226, and said Order is final.

Effective this 27th day of October, 2011.



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