



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 664284 §
issued to JIMMY THI PHU § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JIMMY THI PHU, Registered Nurse License Number 664284, 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 May 8, 2012, by Katherine A. Thomas, MN, RN, FAAN; 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(s).
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 in the State of Texas.
4. Respondent received a Baccalaureate Degree in Nursing from Texas Christian-Harris College, Fort Worth, Texas, on May 1, 1998. Respondent was licensed to practice professional nursing in the State of Texas on September 27, 1999.
5. Respondent's nursing employment history includes:

6/1998 - 4/2000	Staff Nurse	Baylor All Saints Hospital Fort Worth, Texas
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Respondent's nursing employment history continued:

4/2000 - 8/2002	Staff Nurse	Osteopathic Medical Center of Texas Fort Worth, Texas
8/2002 - 9/2004	Staff Nurse	HCA North Hills Hospital North Richland Hills, Texas
5/2004 - Unknown	Nurse First- Assistant	Allied Surgical Assistants Fort Worth, Texas, practicing at North Hills Hospital Fort Worth, Texas
Unknown - Present	Nurse First- Assistant	Allied Surgical Assistants Fort Worth, Texas, practicing at: Forest Park Medical Center Fort Worth, Texas; and Baylor Surgical Hospital Fort Worth, Texas

6. At the time of the initial incident, Respondent was employed as a Nurse First-Assistant with Allied Surgical Assistants, Fort Worth, Texas, practicing at North Hills Hospital, Fort Worth, Texas, and had been in this position for four (4) years and four (4) months.
7. On or about September 16, 2008, while employed as a Nurse First-Assistant with Allied Surgical Assistants, Fort Worth, Texas, and practicing at North Hills Hospital, Fort Worth, Texas, Respondent failed to notify the circulating nurse that a blue towel had been used during the surgery of Patient MM and needed to be included on the count sheet because it had been placed inside the patient's abdominal cavity. Respondent failed to remind the physician that the blue towel had been placed inside Patient MM before closing the surgical wound. Subsequently, Patient MM developed an abdominal abscess requiring additional hospitalizations and surgery to remove the blue towel. Respondent's conduct resulted in Patient MM experiencing unnecessary pain, sepsis, abdominal abscess, and surgery to remove the blue towel.
8. In response to Finding of Fact Number Seven (7), Respondent states he acted solely at the direction of the surgeon.

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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)(D),(1)(M)&(1)(P) and 22 TEX. ADMIN. CODE §217.12(1)(B)&(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 664284, heretofore issued to JIMMY THI PHU, 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, 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, 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>.

(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. *Board-approved courses may be found at the following Board website address: <http://www.bon.texas.gov/disciplinaryaction/stipscourses.html>.*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AS A REGISTERED NURSE FIRST-ASSISTANT (RNFA) AND RESPONDENT MUST PRACTICE IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH, WITH THE EXCEPTION OF RESPONDENT'S CURRENT PRACTICE SETTINGS AT FOREST PARK MEDICAL CENTER, FORT WORTH, TEXAS, AND BAYLOR SURGICAL HOSPITAL, FORT WORTH, TEXAS, WHERE THE HOURS PRACTICED BY RESPONDENT AT THESE SETTINGS MAY BE COMBINED IN ORDER TO MEET THE MINIMUM REQUIREMENT OF SIXTY-FOUR (64) HOURS PER MONTH FOR PURPOSES OF THIS ORDER. SHOULD RESPONDENT'S CURRENT PRACTICE SETTINGS AT FOREST PARK MEDICAL CENTER, FORT WORTH, TEXAS, AND BAYLOR SURGICAL HOSPITAL, FORT WORTH, TEXAS, CEASE OR CHANGE, RESPONDENT MUST PRACTICE AS A REGISTERED NURSE FIRST-ASSISTANT (RNFA) A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH IN ONE (1) HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING. RESPONDENT SHALL PRACTICE UNDER THE

FOLLOWING STIPULATIONS FOR ONE (1) YEAR AND THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR PERIODS OF NON-NURSING EMPLOYMENT WILL NOT APPLY TO THIS STIPULATION PERIOD:

(3) RESPONDENT SHALL notify each present employer in nursing and/or setting granting RNFA nursing privileges to Respondent 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 in nursing and/or setting granting RNFA nursing privileges to Respondent within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing and/or settings granting RNFA nursing privileges to Respondent 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 in nursing and/or setting granting RNFA nursing privileges to Respondent prior to accepting an offer of employment, placement, or assignment.

(4) RESPONDENT SHALL CAUSE each present employer in nursing and/or setting granting RNFA nursing privileges to Respondent to submit the Board's 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 in nursing and/or setting granting RNFA nursing privileges to Respondent to submit the Board's "Notification of Employment" form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment, placement, or assignment as a RNFA. Notwithstanding the title of the

Notification of Employment form, RESPONDENT and the Board understand and agree that RESPONDENT is not employed by settings which grant privileges to practice as a RNFA at such settings, but RESPONDENT is still obligated to meet the requirements of this Order as they apply to such settings.

(5) RESPONDENT SHALL CAUSE each employer in nursing and/or setting granting RNFA nursing privileges to Respondent to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.

(6) RESPONDENT SHALL CAUSE each employer in nursing and/or setting granting RNFA nursing privileges to Respondent 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 surgeon who supervises the RESPONDENT at each employment, assignment, or practice setting. These reports shall be submitted by the supervising surgeon to the office of the Board at the end of each three (3) month period for one (1) year(s) of practice 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.

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RESPONDENT'S CERTIFICATION

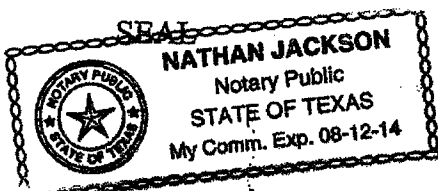
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

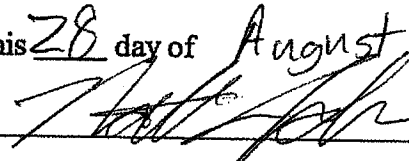
Signed this 28 day of AUGUST, 2012



JIMMY THU PHUU, Respondent

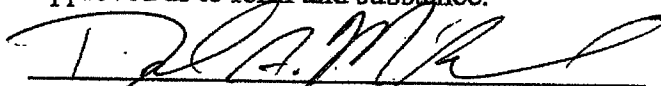
Sworn to and subscribed before me this 28 day of August, 2012.





Notary Public in and for the State of Texas

Approved as to form and substance.

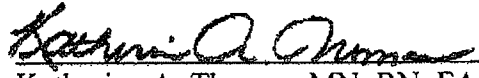


David A. McFarland, Attorney for Respondent

Signed this 28th day of August, 2012

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 28th day of August, 2012, by JIMMY THI PHU, Registered Nurse License Number 664284, and said Order is final.

Effective this 18th day of October, 2012.


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