

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Registered Nurse License Number 774805 §
issued to LOISE NJERI PENINAH § ORDER



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

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of LOISE NJERI PENINAH, Registered Nurse License Number 774805, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on November 14, 2014.

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 notice and hearing, and agreed to the entry of this Order.
3. Respondent's license to practice as a professional nurse in the State of Texas is in current status.
4. Respondent received a Diploma in Nursing from Kenya Medical Training College, Nairobi, Kenya, on March 22, 2006. Respondent was licensed to practice professional nursing in the State of Texas on September 2, 2009.
5. Respondent's nursing employment history includes:

9/2009 - 6/2010	Registered Nurse	Community Care Center of Garland Garland, Texas
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Respondent's nursing employment history continued:

6/2010 - 11/2012	Registered Nurse	Epic Health Services Dallas, Texas
9/2011 - Present	Registered Nurse	Maxim Home Health Services Dallas, Texas
12/2012 - Present	Registered Nurse	Golden Acres Living and Rehabilitation Dallas, Texas

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Epic Health Services, Dallas, Texas, and had been in this position for two (2) years and one (1) month.
7. On or about July 2012, through November 3, 2012, while employed Epic Health Services, Dallas, Texas, Respondent accepted assignment of providing nursing care to Patient Number 861, who was a twelve (12) year old trach dependent patient with diagnoses of Cerebral palsy, Tracheostomy, Respirator Dependent Status, and Alveoli Pneumonopathy, and who required use of a Passy-Muir Valve (PMV), without having been trained in the safe use of the PMV. Respondent's conduct unnecessarily exposed the patient to risk of injury from respiratory complications associated with possibly unsafe and/or inappropriate nursing care, including possible demise.
8. On or about November 3, 2012, while employed with Epic Health Services, Dallas, Texas, Respondent failed to deflate the trach cuff when using the Passy-Muir Valve (PMV) on the aforementioned Patient Number 861. The PMV is used to occlude the trach at the point of entry in order to allow the patient to breath through the nose and mouth and to speak. When Respondent did not deflate the cuff, Patient Medical Record Number 861 was able to breath in, but not able to breath out. Respondent's conduct was likely to injure the patient from respiratory compromise and injury, including possible demise.
9. On or about November 3, 2012, while employed with Epic Health Services, Dallas, Texas, Respondent failed to assess and evaluate the respiratory status of the aforementioned Patient Medical Record Number 861 while Respondent was transferring the patient to another room and while performing a diaper change. Fifteen (15) minutes later, the patient's mother arrived and noted that the patient's trach cuff had not been deflated and the patient was in a deep sleep or unconscious. Respondent did not assess the patient's respiratory status, oxygen saturation or vital signs, and did not recognize the change in the patient's respiratory and possibly neurological status. The mother called 911 so that the patient could be evaluated in a local emergency room, where the patient was stabilized and discharged back home with orders to return for any further complications. Respondent's conduct may have contributed to the patient suffering respiratory complications and unnecessarily exposed the patient to risk of demise.

10. On or about November 3, 2012, while employed with Epic Health Services, Dallas, Texas, Respondent failed to notify a supervisor or physician regarding the changes in respiratory and neurological status of the aforementioned Patient Medical Record Number 861. Further, Respondent failed to notify on-coming nurse of patient's change in condition. Respondent's conduct was likely to injure the patient from decisions by subsequent care givers made without the benefit of accurate and complete information about the patient's condition.
11. In response to the incidents in Findings of Facts Numbers Seven (7) through Ten (10), Respondent states that the patient's mother realized that the patient still had her Passy-Muir on and the trach was cuffed. Respondent states that the patient's mother was immediately shocked and she (Respondent) did not blame her. Respondent states that she owned it all because a mistake had certainly occurred. Respondent states that the mother immediately fixed the PMV and put the patient on 0.5 lpm of oxygen. The family decided to call 911. Respondent states that she is not convinced that the patient was unconscious. Regarding notifying supervisor, Respondent states that she called the supervisor at midnight for clarification. Respondent states that she completed nursing notes in detail and turned in notes on Monday morning.

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(s) of 22 TEX. ADMIN. CODE §§217.11(1)(A),(1)(B),(1)(C),(1)(D),(1)(H),(1)(M),(1)(T)&(3)(A) and 217.12(1)(B),(1)(E)&(4).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 774805, heretofore issued to LOISE NJERI PENINAH, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive
the sanction of **REPRIMAND WITH STIPULATIONS** in accordance with the terms of this Order.

- A. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- B. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to 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.

III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) **within one (1) year of the effective date of this Order, unless otherwise specifically indicated:**

- A. **A Board-approved course in Texas nursing jurisprudence and ethics** that 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. Home study courses and video programs will not be approved.
- B. **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/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at www.bon.texas.gov/compliance.*

IV. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse, providing direct patient care in a licensed healthcare setting, for a minimum of sixty-four (64) hours per month for eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) quarterly periods of employment as a nurse have elapsed. Any quarterly period without continuous employment with the same employer for all three (3) months will not count towards completion of this requirement. 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 period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** RESPONDENT SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.

- C. **Indirect Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this Order, 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.
- D. **Incident Reporting:** For the remainder of the stipulation period [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL CAUSE each employer 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.
- E. **Nursing Performance Evaluations:** 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 and these reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month quarterly period for eight (8) quarters [two (2) years] of employment as a nurse.

V. **RESTORATION OF UNENCUMBERED LICENSE(S)**

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 may 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 violation(s) alleged herein. By my signature on this Order, I agree to the entry of this 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 when this Order becomes final and the terms of this Order become effective, 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 possible revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 11th day of Dec, 2014.

Loise Peninah
LOISE NJERI PENINAH, Respondent

Sworn to and subscribed before me this 11th day of December, 2014.

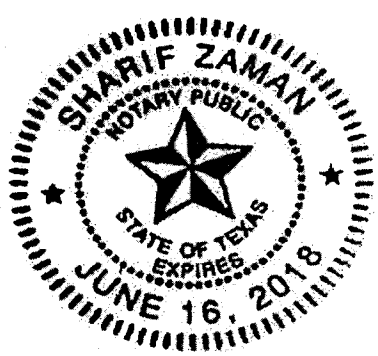
SEAL

Sharif Zaman
Notary Public in and for the State of Texas

Approved as to form and substance.

Taralynn R. Mackay
Taralynn Mackay, Attorney for Respondent

Signed this 15th day of December, 2014.



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 11th day of December, 2014, by LOISE NJERI PENINAH, Registered Nurse License Number 774805, and said Order is final.

Effective this 22nd day of January, 2015.



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