

Commonwealth of Pennsylvania Bureau of Professional and Occupational Affairs

File No.:

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VS.

Marnie Mae Gilliland, R.N., Respondent **Docket No:**

1197-51-14

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and Marnie Mae Gilliland, R.N. ("Respondent") stipulate as follows in settlement of the above-captioned case.

APPLICABLE LAW

1. This matter is before the State Board of Nursing ("Board") pursuant to the Professional Nursing Law, Act of May 22, 1951, P.L. 317, ("Act"), as amended, 63 P.S. §§ 211-226; and/or the Act of July 2, 1993, P.L. 345, No. 48 ("ACT 48"), as amended, 63 P.S. §§ 2201-2207.

LICENSURE STATUS

2. At all relevant and material times, Respondent held the following license to practice as a registered nurse in the Commonwealth of Pennsylvania: license no. RN545135, which was originally issued on April 5, 2003, and which expired on April 30, 2004.

STIPULATED FACTS

3. The Respondent admits that the following allegations are true:

TRUE AND CORRECT COPY
CERTIFIED FROM THE RECORD
THIS JUMP DAY OF NOWAY AD. 2014

State the Director of the Board

- a. Respondent's license may be continually reactivated, renewed, or reinstated upon the filing of the appropriate documentation and payment of the necessary fees.
- b. Respondent's address on file with the Board is 2918 Bristol St, Denton,
 TX 76209.
- c. At all relevant and material times, Respondent was authorized to practice as a Registered Nurse and a Vocational Nurse in the State of Texas, Registered Nurse license number 653215 and Vocational Nurse license number 167105.
- d. On or about February 14, 2012, the Texas Board of Nursing ("Texas Nurse Board"), by way of Agreement and Order, Respondent received the disciplinary sanction of a warning with stipulations against her nursing licenses.
- e. Under the February 14, 2012 Agreement and Order, Respondent was required to successfully complete Board-approved courses in Texas nursing jurisprudence and ethics, medication administration, nursing documentation and critical thinking skills. Respondent was also ordered to practice as a nurse in the state of Texas for a minimum of sixty-four (64) hours per month for one (1) year while under supervision.
- f. A true and correct copy of the Texas Board's February 14, 2012

 Agreement and Order, is attached as Exhibit A and is incorporated by reference.
- g. Respondent has successfully completed all of the requirements of the Texas Board of Nursing's Agreement and Order of February 14, 2012.

ALLEGED VIOLATIONS

4. The Commonwealth alleges that the Board is authorized to suspend or revoke, or otherwise restrict Respondent's license under Section 14(a) of the Act, 63 P.S. § 224(a); or impose a civil penalty under Section 13(b) of the Act, 63 P.S. § 223(b), and/or Section 5(b)(4) of ACT 48, 63 P.S. §2205(b)(4) and/or impose the costs of investigation under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Act at Section 14(a)(6), 63 P.S. § 224(a)(6), in that Respondent had a license suspended or revoked or has received other disciplinary action by the proper licensing authority in another state, territory, possession or country.

PROPOSED ORDER

- 5. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of this matter:
 - a. The Board finds that it is authorized to suspend or revoke, or otherwise restrict Respondent's license under Section 14(a) of the Act, 63 P.S. § 224(a); or impose a civil penalty under Section 13(b) of the Act, 63 P.S. § 223(b), and/or Section 5(b)(4) of ACT 48, 63 P.S. §2205(b)(4) and/or impose the costs of investigation under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Act at Section 14(a)(6), 63 P.S. § 224(a)(6), in that Respondent had a license suspended or revoked or has received other disciplinary action by the proper licensing authority in another state, territory, possession or country.

PUBLIC REPRIMAND

b. A PUBLIC REPRIMAND shall be placed on Respondent's permanent disciplinary record with the Board.

- c. This Order constitutes disciplinary action by the Board and shall be reported to other licensing authorities and any applicable national licensing databank as a disciplinary action by the Board.
- d. This case shall be deemed settled and discontinued upon the Board issuing an Order adopting this Consent Agreement.

ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS

6. Respondent agrees that if Respondent is charged with a violation of an Act enforced by this Board in the future, this Consent Agreement and Order shall be admitted into evidence without objection in that proceeding.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

7. Respondent acknowledges receipt of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and knowingly and voluntarily waives the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

8. Respondent acknowledges that she is aware that she has the right to consult with, and/or be represented by, private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement.

Respondent had an opportunity to consult with Attorney Charles J. Hartwell, regarding this Consent Agreement.

WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS

9. Respondent expressly waives any constitutional rights and issues, such as commingling of prosecutorial and adjudicative functions by the Board or its counsel, which may arise or have arisen during the negotiation, preparation and/or presentation of this Consent Agreement. Respondent specifically agrees that if the Board rejects this agreement, it may assume that the facts and averments as alleged in this Consent Agreement are true and correct for the limited purpose of recommending a sanction, based on those assumed facts, that would be acceptable to the Board before hearing the case. In the event that the Board does assume the facts and averments as alleged in this Consent Agreement are true for purposes of making a recommendation as to an acceptable sanction, such action shall not constitute commingling of prosecutorial and adjudicative functions by the Board or its counsel, and the Respondent expressly waives any constitutional rights and issues related to alleged commingling, bias, or violation of due process rights to have an unbiased and impartial adjudicator in any subsequent hearing. If a hearing is subsequently held, neither this Consent Agreement nor the proposed terms of settlement may be admitted into evidence and any facts, averments, and allegations contained in the Consent Agreement must be proven at hearing unless otherwise separately stipulated. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

NO MODIFICATION OF ORDER

10. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

AGREEMENT NOT BINDING ON OTHER PARTIES

11. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Board issues the stipulated Order.

EFFECT OF BOARD'S REJECTION OF CONSENT AGREEMENT

12. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

ENTIRE AGREEMENT

13. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

AGREEMENT DOES NOT PREVENT ADDITIONAL DISCIPLINE BASED ON OTHER COMPLAINTS

14. Nothing in this Order shall preclude the Prosecution Division for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Consent Agreement;

VERIFICATION OF FACTS AND STATEMENTS

15. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent

understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Margaret A. Sheaffer

Senior Prosecutor in Charge

DATED: 10-08-2014

Marnie Mae Gilliland, R.N.

Respondent

DATED:

Charles J. Hartwell

Attorney for Respondent

DATED: 10 .06.14

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse License Number 653215 and Vocational Nurse License Number 167105	60 60 60 60 60	AGREED
issued to MARNIE MAE GILLILAND	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MARNIE MAE GILLILAND, Registered Nurse License Number 653215, and Vocational Nurse License Number 167105, 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 representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on November 18, 2011, 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 representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
- 3. Respondent is currently licensed to practice nursing in the State of Texas.
- 4. Respondent received a Certificate in Vocational Nursing from Texas, on December 1, 1997 and received an Associate Degree in Nursing from North Central Texas College, Gainesville, Texas, on May 1, 1998. Respondent was licensed to practice vocational nursing in the State of Texas on March 26, 1998, and was licensed to practice professional nursing in the State of Texas on July 14, 1998.

EXHIBIT A

653215:147

5. Respondent's nursing employment history includes:

5/1998-7/2000

Staff Nurse

Denton Regional Medical Center

Denton, Texas

6/2000-6/2002

RN

Virtual Healthcare

Dallas, Texas

6/2001-1/2003

Staff Nurse

Denton Regional Medical Center

Denton, Texas

2/2003-5/2005

Staff Nurse Valley Baptist Brownsville, Texas

6/2005-12/2005

Unknown

1/2006-12/2006

Staff Nurse Mayhill Hospital Denton, Texas

7/2006-1/2007

Staff Nurse

Presbyterian Hospital of Denton

Denton, Texas

7/2006-9/2009

Staff Nurse

Medical Center of McKinney

McKinney, Texas

9/2009-6/2010

Staff Nurse

Denton Regional Medical Center

Denton, Texas

7/2010-Present

Unknown

- 6. At the time of the incident, Respondent was employed as a Staff Nurse with Denton Regional Medical Center, Denton, Texas, and had been in this position for nine (9) months.
- On or about June 6, 2010, while employed with Denton Regional Medical Center, Denton, Texas, Respondent inappropriately removed Versed from one patient's IV drip and administered the Versed to another patient who did not have a physician's order to receive Versed. At the change of shift Respondent reported to the oncoming nurse that she had given

the second patient "a little" Versed because he was "all over the place." Respondent failed to document in the second patient's medical record that she had administered the medication and later when the Charge Nurse inquired who the ordering physician was, Respondent told her that she had "slipped" him the Versed. Respondent then asked the Charge Nurse to cover for her and to say that she had named the wrong patient during report, that she had meant to name the first patient who was on the Versed drip. Respondent's conduct exposed the patient unnecessarily to risk of harm in that the administration of Versed to a patient without a physician's order could result in the patient suffering adverse reactions to the medication and Respondent's failure to document deprived subsequent care givers of vital information on which to base further nursing care and interventions.

8. In response to Finding of Fact Number Seven (7), Respondent denies that she misappropriated Versed from one patient to give to another. Respondent states she was misunderstood by the nurse she was giving report to at change of shift, or that she reported that she had given the versed to one patient when she actually meant to say the other patient.

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)(C),(1)(D)&(3)(A) and 217.12(1)(A),(4),(6)(H),(8),(10)(B)&(11)(B).
- 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 653215 and Vocational Nurse License Number 167105, heretofore issued to MARNIE MAE GILLILAND, 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.

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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 <u>not</u> 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 a course in medication administration. 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. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. 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 the following Board website address: a t http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html.

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(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. 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. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office 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.

(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.

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 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:

- (5) 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.
- (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 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.

(8) 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 one (1) year 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.

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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 license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 4th day of ______, 20/2_

MARNIE MAE GILLILAND, Respondent

Notary Public in and for the State of Texa S



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WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 4th day of January, 2012, by MARNIE MAE GILLILAND, Registered Nurse License Number 653215, and Vocational Nurse License Number 167105, and said Order is final.

Effective this 14th day of February, 2012.



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

I certify this	to be a true copy of the
records on fi of Nursing.	le with th Texas Board
Date:	
Signed:	

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF STATE BEFORE THE STATE BOARD OF NURSING

Commonwealth of Pennsylvania Bureau of Professional and

Occupational Affairs

File No.:

13-51-09342

VS.

Marnie Mae Gilliland, R.N., Respondent Docket No:

1197-51-14

ORDER

AND NOW, this 23rd day of October 2014, the STATE BOARD OF NURSING ("Board") adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

Travis N. Gery, Esa

Commissioner of Professional and

Occupational Affairs

For the Commonwealth:

BY ORDER:

STATE BOARD OF NURSING

Ann Michele Coughlin, MBA, MSN, RN

Chair

Margaret A. Sheaffer, Esquire 2601 North Third Street

P.O. Box 2649

Harrisburg, PA 17105-2649

For the For the Respondent:

Charles J. Hartwell, Esquire

DETHLEFS-PYKOSH LAW GROUP, LLC

2132 Market Street Camp Hill, PA 17011

Date of mailing: 10 28 14