



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 § AGREED ORDER
Registered Nurse License Number 589407 §
issued to DAVID SCOTT MACOMBER §
§

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of DAVID SCOTT MACOMBER, Registered Nurse License Number 589407, 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)(9),(10),(12)&(13), Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on December 12, 2018.

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 Agreed Order.
3. Respondent's license to practice as a professional nurse in the State of Texas is in retired inactive status.
4. Respondent received a Baccalaureate Degree in Nursing from Stephen F. Austin State University, Nacogdoches, Texas, on December 19, 1992. Respondent was licensed to practice professional nursing in the State of Texas on March 23, 1993.
5. Respondent's nursing employment history includes:

3/1993 – 1/1996	Staff RN	Harris Methodist Fort Worth Fort Worth, Texas
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Respondent's nursing employment history continued:

2/1996 – 8/1997	Unknown	
9/1997 – 5/2000	RN First Assist	University of North Texas Health Science Center Fort Worth, Texas
5/2000 – 4/2005	RN First Assist	Center for Neurological Disorders Fort Worth, Texas
5/2005 – 3/2018	RN	Cook Children's Medical Center Fort Worth, Texas
4/2018 – Present	Not employed in nursing	

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Cook Children's Medical Center, Fort Worth, Texas, and had been in that position for twelve (12) years and ten (10) months.
7. On or about March 26, 2018, while employed as a Registered Nurse with Cook Children's Medical Center, Ft. Worth, Texas, Respondent engaged in the intemperate use of alcohol, in that he produced a specimen for a drug screen that resulted positive for alcohol. The use of alcohol by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
8. On or about May 25, 2018, Respondent lacked fitness to practice professional nursing, in that he produced a specimen for a drug screen requested by the Texas Peer Assistance Program (TPAPN) that resulted positive for alcohol. Additionally, Respondent was evaluated to have a substance use disorder. The use of alcohol by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

9. In response to Finding of fact Number Seven (7), Respondent states a specimen was submitted voluntarily, and while positive, that he did not partake in alcohol while on duty. In response to Finding of Fact Number Eight (8), Respondent states he was no longer employed at Cook's as he was released from his position as a manager due to TPAPN restrictions that prevented him from supervising other nurses. Respondent stated that he had retired his license and does not wish to practice nursing as a career.
10. Formal Charges were filed on October 5, 2018.

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)(T) and 22 TEX. ADMIN. CODE §217.12 (1)(A),(1)(B),(4),(5)&(10)(A).
4. The evidence received is sufficient cause pursuant to Section 301.452(b) (9),(10),(12)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 589407, heretofore issued to DAVID SCOTT MACOMBER.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

TERMS OF ORDER

I. **SANCTION AND APPLICABILITY**

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **WARNING WITH STIPULATIONS** and RESPONDENT'S license(s) shall be placed in **INACTIVE** status.

Should RESPONDENT decide in the future to reactivate his/her license(s) to practice nursing in the State of Texas, RESPONDENT SHALL be required to petition the Board for reactivation of the license and satisfy all then existing requirements for reactivation. Further, RESPONDENT'S reactivated license(s) SHALL BE subject to, at a

minimum, the remedial education courses, work restrictions, supervised practice, and employer reporting which would have been requirements of this Order had RESPONDENT not chosen to inactivate his/her nursing license(s).

II. SUBSEQUENT CRIMINAL PROCEEDINGS

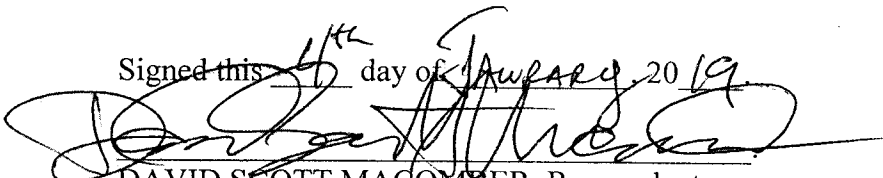
IT IS FURTHER AGREED, should the RESPONDENT'S conduct, as outlined in the findings of fact of this Agreed Order, result in subsequent judicial action, including a deferred disposition, RESPONDENT may be subject to further disciplinary action, up to, and including, revocation of RESPONDENT'S license(s) to practice nursing in the State of Texas.

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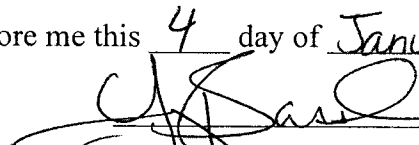
RESPONDENT'S CERTIFICATION

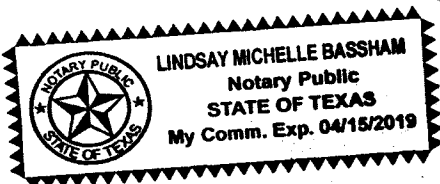
I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Texas Board of Nursing and a copy of this Order will be mailed to me once the Order becomes effective. 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) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance. I further understand that, should I decide in the future to reactivate my license(s), I will be required to satisfy, at a minimum, the additional requirements that would have been part of this Order had the license(s) not been placed in inactive status, as stated herein, as well as all then existing requirements for reactivation.

Signed this 16th day of January, 2019.

DAVID SCOTT MACOMBER, Respondent

Sworn to and subscribed before me this 4 day of January, 2019.

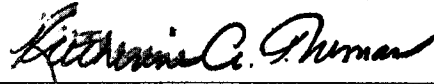
SEAL


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 that was signed on the 4th day of January, 2019, by DAVID SCOTT MACOMBER, Registered Nurse License Number 589407, and said Agreed Order is final.

Effective this 12th day of February, 2019.

A handwritten signature in cursive script, appearing to read "Katherine A. Thomas".

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