

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.

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED ORDER
Registered Nurse License Number 680134 §
issued to JENIFER KAY BERNHARDT §

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JENIFER KAY BERNHARDT, Registered Nurse License Number 680134, 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 Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on October 30, 2019.

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 current status.
4. Respondent received an Associate Degree in Nursing from Wharton County Junior College, Wharton, Texas, on May 18, 2001. Respondent was licensed to practice professional nursing in the State of Texas on July 24, 2001.
5. Respondent's nursing employment history includes:

7/2001 - 3/2002 Registered Nurse Texas Children's Hospital Houston, Texas

Respondent's nursing employment history continued:

3/2002- 1/2009	Registered Nurse	Rice Medical Center Eagle Lake, Texas
10/2003- 2005	Registered Nurse	Columbus Hospital Columbus, Texas
8/2006- 8/2007	Registered Nurse	Oak-Bend Hospital Richmond, Texas
9/2007-5/2013	Registered Nurse	Christus St, Catherine Hospital Katy, Texas
2/2011- 3/2012	Registered Nurse	Methodist West Houston Hospital Houston, Texas
3/2012- 7/2012	Registered Nurse	Children's Memorial Hermann Houston, Texas
7/2012- 11/2011	Registered Nurse	Memorial Hermann Sugar Land Sugar Land, Texas
5/2013- 2/2014	Registered Nurse	North Arkansas Regional Medical Center Harrison, Arkansas
8/2013- 2/2014	Registered Nurse	Cox Medical Center Branson Branson, Missouri
2/2014- 7/2019	Registered Nurse	Memorial Hermann Sugar Land Sugar Land, Texas
8/2019-Present	Unknown	

6. At the time of the incident, Respondent was employed as a Registered Nurse with Memorial Hermann Sugar Land, Sugar Land, Texas, and had been in that position for five (5) years and five (5) months.

7. On or about July 10, 2019, while employed as a Registered Nurse at Memorial Herman Sugar Land, Sugar Land, Texas, Respondent failed to timely notify the physician when Patient LB had repeated prolonged decelerations in the fetal heart rate throughout labor and pushing for approximately three (3) hours. Subsequently, the patient had an urgent cesarean delivery and the infant had an initial Apgar score of zero (0) out of ten (10) and required resuscitation. Respondent's conduct exposed both patients to a risk of harm from potentially adverse complications of untreated changes in fetal heart tone.

8. In response to the incident in Finding of Fact Number Seven (7), Respondent states that the patient's vital signs were stable and the strip was category II. Respondent states that during report she was informed that the patient had had a deceleration during the night shift. Respondent states that later, the patient had another deceleration. Respondent states that she went to the patient room and readjusted the patient to a different side, and the fetal heart tone recovered. Respondent states that she called and left a message the physician to notify him and give an update. Respondent states that a physician was in the nurse's station, and she pulled up the patient's strips for the physician to review. Respondent states that she informed the physician that the patient was intact, having variable decelerations off and on, and did have a prolonged deceleration that improved with position change. Respondent states that she went to the patient's room to change position again with a peanut ball and the patient turned to left-handed side and noted the patient to have a deceleration. Respondent states that while removing the peanut ball and changing the patient's position the physician came into the room to assess the patient and situation. Respondent reports that the physician performed a vaginal exam and artificial rupture of membranes (AROM), states that no fluid was noted, and an order for Pitocin was received. Respondent states that after checking on her other patients, she entered the patient's room to change position, administer oxygen, and give a fluid bolus. Respondent states that she called the physician to inform him that the patient still had a category II strip, but fetal heart tones were flatter than before and she would be unable to start the Pitocin. Respondent states that physician came to the room and requested patient to push. Respondent states that during pushing the monitor had to be held to help trace the fetal heart tones. Respondent states that the patient had a category II strip throughout, without fluids coming out. Respondent states that the physician attempted vacuum delivery, with the vacuum controlled by the physician. Respondent states that the physician called for cesarean section, the fetal heart tones were down when going back, and the cesarean section was urgent, but physician did not call stat. Respondent states that on arrival the fetal heart tones were one hundred and twenty (120) per Doppler. Respondent states that she cared for the patient until she transferred, along with the baby.

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)(D),(1)(M)&(1)(P)and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B)&(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 680134, heretofore issued to JENIFER KAY BERNHARDT.
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 **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. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state.

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 Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Agreed Order.

III. UNDERSTANDING BOARD ORDERS

Within thirty (30) days of entry of this Order, RESPONDENT must successfully complete the Board's online course, "Understanding Board Orders", which can be accessed on the Board's website from the "Discipline & Complaints" drop-down menu or directly at: <http://www.bon.texas.gov/UnderstandingBoardOrders/index.asp>. Upon successful completion, RESPONDENT must submit the course verification at the conclusion of the course, which automatically transmits the verification to the Board.

IV. 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 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.
- C. **A Board-approved course in "Advanced Fetal Monitoring"** that shall be at least 8 contact hours in length and must be approved by the Association of Women's Health, Obstetric and Neonatal Nurses (AWHONN).

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.

V. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse in the State of Texas, providing direct patient care in a clinical 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. 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. **Direct Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this order, RESPONDENT SHALL be directly 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. Direct supervision requires another nurse, as applicable, to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on 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. **Indirect Supervision:** For the remainder of the stipulation/probation period, 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 of 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.
- 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 individual who supervises the RESPONDENT and these reports shall be submitted by the supervising individual 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.

VI. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Agreed Order, all encumbrances will be removed from RESPONDENT'S license(s) and/or privilege(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, RESPONDENT may be eligible for nurse licensure compact privileges, if any.

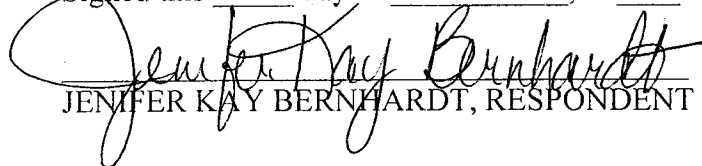
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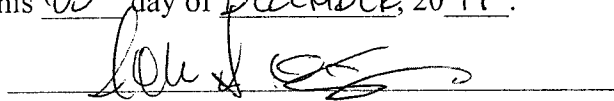
RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this 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.

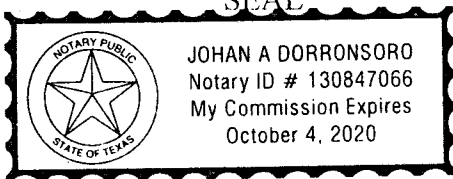
Signed this 03 day of DECEMBER, 2019.


JENIFER KAY BERNHARDT, RESPONDENT

Sworn to and subscribed before me this 03 day of DECEMBER, 2019.



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 3rd day of December, 2019, by JENIFER KAY BERNHARDT, Registered Nurse License Number 680134, and said Agreed Order is final.

Effective this 23rd day of January, 2020.



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