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Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED ORDER
Registered Nurse License Number 979071 §
& Vocational Nurse License Number 227991 §
issued to SILINDISIWE MABHENA §
§

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of SILINDISIWE MABHENA, Registered Nurse License Number 979071, and Vocational Nurse License Number 227991, 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 (also referred to herein as "Order") approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on February 24, 2021.

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 vocational nurse in the State of Texas is in current status. Respondent's license to practice as a professional registered nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Platt College, Dallas, Texas, on February 4, 2010. Respondent received an Associate Degree in Nursing from Capscare Academy for Healthcare, Lake Worth, Florida, on August 1, 2017. Respondent was licensed to practice vocational nursing in the State of Texas on May 4, 2010. Respondent was licensed to practice professional nursing as a registered nurse in the State of Texas on October 14, 2019.

5. Respondent's nursing employment history includes:

05/2010 – 10/2019	Licensed Vocational Nurse	Prairie Estates Frisco, Texas
10/2019– Present	Registered Nurse/Charge Nurse	Prairie Estates Frisco, Texas
11/2020 – Present	Registered Nurse	Haven Behavioral Hospital of Frisco Frisco, Texas

6. At the time of the incident described below in paragraphs 7 and 8, Respondent was employed as a Licensed Vocational Nurse with Prairie Estates, Frisco, Texas, and had been in that position for nine (9) years and five (5) months.

7. On or about October 13, 2019, while employed as a Licensed Vocational Nurse with Prairie Estates, Frisco, Texas, prior to becoming a licensed registered nurse, Respondent failed to adequately assess and intervene for Patient EB when he was found gasping for air with an oxygen saturation level of 79%. Respondent failed to check that the patient's oxygen concentrator was on and providing supplemental oxygen, and failed to assess the patient's pulse, blood pressure, or blood glucose. Additionally, Respondent failed to stop a licensed vocational nurse from incorrectly and repeatedly pressing on the patient's chest/abdomen to check for responsiveness, and inaccurately documented in the medical record that a sternal rub was performed. Subsequently, emergency medical services (EMS) transported the patient to the hospital where he suffered cardiac arrest and expired. Respondent's conduct was likely to injure the patient from clinical care decisions based upon incomplete assessment information, including a delay in treatment needed to prevent further complications.

8. In response to the incident in Finding of Fact Number Seven (7), Respondent states that the incident occurred when the X-ray tech left the room after obtaining the ordered chest X-ray. Respondent states that she suctioned the patient (who suffered from chronic respiratory failure and had a trach collar) frequently throughout the shift as she cared for him and her other 20 patients. Upon entering the patient's room, Respondent states that she observed him to be in acute respiratory distress, so she immediately stepped out of the room and summoned for help from the other nurses. Respondent states that she immediately suctioned to clear his airway and ensure patency then proceeded to give rescue breaths via Ambu bag to improve his oxygenation saturation which was around 79% via trach collar at the time. Respondent states that she called 911 herself while other nurses continued to give him rescue breaths, and then she gave EMS report. Respondent adds that she did not manually palpitate for a pulse because the patient had a pulse oximeter on at the time showing a pulse and oxygen saturation. Respondent states that she did not initiate chest compressions or direct any other nurse because the patient had a pulse. Respondent states that when EMS arrived, they did not perform cardiopulmonary resuscitation on the

patient as he was able to breathe spontaneously and his oxygen saturation was stable, which had increased to 97%-98% per the pulse oximeter readings.

9. Formal Charges were filed on June 17, 2020.
10. Respondent does not have a prior disciplinary history with the Board.

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)(M),(1)(P),(1)(U)&(3)(A) 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 979071, and Vocational Nurse License Number 227991, heretofore issued to SILINDISIWE MABHENA.
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" as applicable and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state using a Texas compact license.

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. **A Board-approved course in physical assessment** with a didactic portion of not less than six (6) hours and a clinical component of not less than twenty-four (24) hours. Both the didactic and clinical components must be provided by the same Registered Nurse. The course's content shall include physical assessment of all body systems. The clinical component SHALL include physical assessment of live patients in a clinical setting; Performing assessments on mock patients or mannequins WILL NOT be accepted. 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. Successful completion of this course requires RESPONDENT to successfully complete both the didactic and clinical portions of the course.
- C. **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.*

V. **EMPLOYMENT REQUIREMENTS**

In order to complete the terms and duration 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 at Haven Behavioral Hospital of Frisco, Frisco, Texas, 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.

After completion of the first year [four (4) quarters] of employment as a Nurse under this Order at Haven Behavioral Hospital of Frisco, Frisco, Texas, and for the second year [four (4) quarters] of employment as a Nurse under this Order at Haven Behavioral Hospital of Frisco, 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.

- D. **Indirect Supervision:** For the first year [four (4) quarters] of employment at Prairie Estates, Frisco, Texas, 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 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.

- E. **Incident Reporting:** For the second year [four (4) quarters] of employment as a Nurse under this Order at Prairie Estates, Frisco, Texas, RESPONDENT SHALL CAUSE Prairie Estates, Frisco, Texas 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.

Should Respondent's employment at Prairie Estates, Frisco, Texas, cease while under the terms of this order, Respondent shall comply with the requirements of paragraphs C and D of this section, as applicable, for the remainder of the Order.

RESPONDENT may be employed by both Prairie Estates, Frisco, Texas, and Haven Behavioral Hospital of Frisco, Frisco, Texas, at the same time for the purposes of this Order. All other multiple employers are prohibited.

- F. **Nursing Performance Evaluations:** RESPONDENT SHALL CAUSE each employer or individual 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 employer or individual who supervises the RESPONDENT, as applicable, and these reports shall be submitted by the employer or 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 during the term of this Order.

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 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.

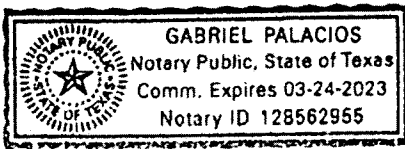
Signed this 10 day of March, 2021.

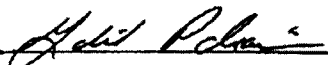


SILINDISIWE MABHENA, RESPONDENT

Sworn to and subscribed before me this 10th day of March, 2021.


SEAL





Notary Public in and for the State of Texas

Approved as to form and substance.



Michael Seale, Attorney for Respondent

Signed this 10th day of March, 2021.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 10th day of March, 2021, by SILINDISIWE MABHENA, Registered Nurse License Number 979071, and Vocational Nurse License Number 227991, and said Agreed Order is final.

Effective this 22nd day of April, 2021.



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