

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	AGREED ORDER
Advanced Practice Registered Nurse License	§	
Number AP112978 &	§	
Registered Nurse License Number 652399	§	
issued to PAUL MYERS	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of PAUL MYERS, Advanced Practice Registered Nurse License Number AP112978, and Registered Nurse License Number 652399, 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)(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 May 14, 2020.

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. Respondent's license to practice as an advanced practice registered nurse in the State of Texas with authorization as a Nurse Anesthetist without Prescription Authorization is in current status.
4. Respondent received a Baccalaureate Degree in Nursing from University of Texas Health Science Center, Houston, Texas, on May 1, 1998. Respondent completed a Nurse Anesthetist Program from Baylor College of Medicine, Houston, Texas, on December 31, 2003. Respondent was licensed to practice professional nursing in the State of Texas on June 30, 1998. Respondent was licensed to practice advanced practice registered nursing in the State of Texas with authorization as a Nurse Anesthetist on January 21, 2004.

5. Respondent's nursing employment history includes:

06/98 – 01/04	RN	UT MD Anderson Cancer Center Houston, Texas
01/04 – 11/14	CRNA	UT MD Anderson Cancer Center Houston, Texas
05/05 – 05/09	CRNA	Lyndon B. Johnson General Hospital Houston, Texas
07/11 – 01/15	Locum Tenens CRNA	Vitruvian Medical Houston, Texas
07/11 – 01/15	Locum Tenens CRNA	Ben Taub General Hospital Houston, Texas
01/15 – 08/16	Retired	Retired
09/16 – 09/17	CRNA	Houston Hospital for Specialized Surgery Houston, Texas
09/16 – 08/18	CRNA	Compass Anesthesia Group Kingwood, Texas
09/16 – 08/18	CRNA	United Memorial Medical Center Houston, Texas
07/18 – 08/18	CRNA	United General Hospital Houston, Texas
09/18 – 03/19	Locum Tenens CRNA	Baptist St. Anthony's Hospital Amarillo, Texas
09/18 – 03/19	Locum Tenens CRNA	US Anesthesia Partners Houston, Texas
09/18 – 03/19	Locum Tenens CRNA	Vitruvian Medical Houston, Texas
04/19 – 03/20	Unknown	Unknown
04/20 – Unknown	CRNA	Avail Anesthesia Associates Houston, Texas

6. At the time of the incident, Respondent was employed as a Certified Registered Nurse Anesthetist (CRNA) with Vitruvian Medical, Houston, Texas, and contracted with BSA Hospital, Amarillo, Texas, and had been in that position for six (6) months.
7. On or about March 15, 2019, while employed as a CRNA with Vitruvian Medical, Houston, Texas, and contracted with Baptist St. Anthony's Hospital, Amarillo, Texas, Respondent lacked fitness to practice nursing in that he fell asleep during a surgical procedure and while Patient Number 546498 was under anesthesia. Respondent's conduct could have affected his ability to recognize subtle signs, symptoms or changes in the patient's condition, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
8. In response to Finding of Fact Number Seven (7), Respondent admits he closed his eyes during the procedure but believes he was responsive each time he was spoken to. Respondent further admits it was his responsibility to speak up and demand a replacement because he was recovering from an illness and was exhausted.
9. On or about February 20, 2020 and February 25, 2020, Respondent underwent an evaluation with Joyce M. Gayles, Ph.D., wherein Dr. Gayles advised that the conduct of falling asleep during an operation in the operating room represents a very serious and potentially life-threatening incident and significant danger to the patient. Dr. Gayles opines that Respondent's conduct was due to a serious lapse in judgment brought on by illness, stress, and lack of good self-care.

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).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(12)&(13), Texas Occupations Code, to take disciplinary action against Advanced Practice Registered Nurse License Number AP112978, and Registered Nurse License Number 652399, heretofore issued to PAUL MYERS.
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. 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 of this Order, RESPONDENT must work as an advanced practice registered 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 an advanced practice registered nurse have elapsed. Periods of unemployment or of employment that do not require the use of

an advanced practice registered nurse (APRN) license will not apply to this period and will not count towards completion of this requirement. Further, Respondent may not work as a registered nurse (RN) or a vocational nurse (LVN) license, as applicable, while under the terms of this Order.

- A. **Notifying Present and Future Employers, Practice Sites and Credentialing Agencies:** RESPONDENT SHALL notify each present employer, practice site and/or credentialing agency 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, practice site and/or credentialing agency in nursing within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers, practice sites and/or credentialing agencies in nursing and present a complete copy of this Order, including all attachments, if any, to each future employer, practice site and/or credentialing agency in nursing prior to accepting an offer of employment and/or assignment.
- B. **Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer, practice site and/or credentialing agency in nursing to submit the Board's "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, practice site and/or credentialing agency in nursing to submit the Board's "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.
- C. **Exception for Employment at Houston Digestive Diseases Consultants:**

While employed with Houston Digestive Diseases Consultants, Houston, Texas, and under the terms of this Order, RESPONDENT SHALL CAUSE Houston Digestive Diseases Consultants 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 Houston Digestive Diseases Consultants, Houston, Texas, cease while under the terms of this Order, Respondent shall comply with the requirements of paragraph D of this section, as applicable, for the remainder of the duration of the Order. Multiple employers are prohibited.

- D. **Indirect Supervision:** RESPONDENT SHALL be supervised by an Advanced Practice Registered Nurse or Physician who is on the premises. The supervising Advanced Practice Registered Nurse or Physician 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 Advanced Practice Registered Nurse or Physician shall have a minimum of two (2) years of experience in the same or similar practice setting to which the RESPONDENT is currently working. If being supervised by an Advanced Practice Registered Nurse, the supervising APRN must be in the same advanced role and population focus area as RESPONDENT. 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 supervising Advanced Practice Registered Nurse or Physician 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 Advanced Practice Registered Nurse or Physician who supervises the RESPONDENT and these reports shall be submitted by the supervising Advanced Practice Registered Nurse or Physician 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. THERAPY REPORTS

While working as a nurse under the terms of this Order, RESPONDENT SHALL participate in therapy with a professional counselor with credentials approved by the Board. RESPONDENT SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT'S progress in therapy, rehabilitation and capability to safely practice nursing. The report must indicate whether or not the RESPONDENT'S stability is sufficient to provide direct patient care safely. For the first three (3) month quarterly period RESPONDENT works as a nurse under the terms of this Order, reports are to be submitted to the Board each and every month. If therapy is recommended by the counselor for an additional period of time, the reports shall then be submitted to the Board at the end of each three (3) month quarterly period in which the RESPONDENT is working as a nurse under the terms of this Order, for the remainder of the term of the Order, or until RESPONDENT is dismissed from therapy, whichever is earlier.

VII. 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.

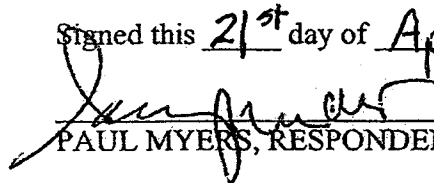
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RESPONDENT'S CERTIFICATION

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 21st day of April, 20 21.



PAUL MYERS, RESPONDENT

Sworn to and subscribed before me this _____ day of _____, 20 ____.

SEAL

Notary Public in and for the State of _____

Approved as to form and substance.



Taralynn Mackay, Attorney for Respondent

Signed this 21st day of April, 20 21.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 21st day of April, 2021, by PAUL MYERS, Advanced Practice Registered Nurse License Number AP112978, and Registered Nurse License Number 652399, and said Agreed Order is final.

Effective this 8th day of June, 2021.

A handwritten signature in cursive script, reading "Katherine A. Thomas".

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