



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 628682 §
issued to RUTHIE M CAIN §
§

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of RUTHIE M CAIN, Registered Nurse License Number 628682, 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 August 12, 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 professional nurse in the State of Texas is in current status.
4. Respondent received an Associate Degree in Nursing from Lee College, Baytown, Texas, on May 1, 1996. Respondent was licensed to practice professional nursing in the State of Texas on June 11, 1996.
5. Respondent's nursing employment history includes:

06/96 – 05/09	RN	Memorial Hermann Hospital Houston, Texas
---------------	----	---

Respondent's nursing employment history continued:

04/07 – 06/08	RN	Methodist Hospital Houston, Texas
06/09 – 04/14	Unknown	
05/14 – 02/16	RN	Desert View Hospital Pahrump, Nevada
08/15 – 08/16	RN	Southern Arizona VA Hospital System Tucson, Arizona
09/16 – 04/17	Unknown	
05/17 – 08/17	Travel RN	Banner Page Hospital Page, Arizona
09/17 – 09/17	Unknown	
10/17 – 01/18	Travel RN	Kindred Hospital Phoenix, Arizona
01/18 – 07/18	Travel RN	Cancer Treatment Center of America Phoenix, Arizona
08/18 – 03/19	RN	Desert View Hospital Pahrump, Nevada
04/19 – 02/20	Unknown	
03/20 – Present	ER RN	Odessa Regional Medical Center Odessa, Texas
Unknown	RN	Rhino Medical Services Arlington, Texas

- At the time of the incident, Respondent was employed as a Registered Nurse with Rhino Medical Services, Arlington, Texas, and was assigned at Prairie Acres Nursing Home, Friona, Texas, and had been in that position for less than one month.

7. On or about June 14, 2020, while employed as a Registered Nurse (RN) with Rhino Medical Services, Arlington, Texas, and assigned at Prairie Acres Nursing Home, Friona, Texas, Resident FS had a diagnosis of pneumonia secondary to COVID-19 and was experiencing a low oxygen saturation. Respondent placed a non-breather mask on the Resident at 0000, but failed to calculate when the oxygen tank would empty and/or ensure herself or a Certified Nurse Assistant (CNA) reassessed the patient between 0409 and 0615. The resident was discovered at shift change by a Certified Medication Aide (CMA) with the non-rebreather mask off and an empty oxygen tank. Respondent's conduct unnecessarily exposed the resident to a risk of harm from undetected changes in respiratory status.
8. Respondent had never worked at a nursing home previous to this assignment. Her career has been as a travelling ICU nurse for the prior twenty-five (25) years. At the time of the incident she had only worked three (3) days at the facility. Her trainer failed to adequately train her in the nursing home requirements as she left for several hours during her training shift. On the night of the incident, Respondent was the only nurse covering four (4) hallways with forty (40) residents. There was a Certified Nursing Assistant (CNA) for each hallway. However, the facility had thirty-five (35) patients diagnosed with COVID which required isolation procedures, including donning new Personal Protective Equipment (PPE) for each patient. At least ten (10) of the COVID patients were also on oxygen. Respondent also had one patient that was expiring that evening as the family had withdrawn care.
9. In response to Finding of Fact Number Seven (7), Respondent admits that a certified nurse aide (CNA) reported that the resident was experiencing a low oxygen saturation of 66% so she contacted the provider on call and obtained an order for a non-rebreather mask with oxygen at 10 liters per minute and morning labs. Respondent states she stayed by the patient's bedside until her oxygen saturation read greater than 95%. Respondent states after this, she left the bedside to continue care for her other patients and charting. Respondent states the CNA reported the patient was fine when she made her rounds at 0500; however, at 0600 the medication aide went into the patient's room and the patient had her non-rebreather mask off and the oxygen tank was empty.
10. Formal Charges were filed on January 25, 2021.

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)&(3) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C) &(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 628682, heretofore issued to RUTHIE M CAIN.
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** 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. Until successfully completed, RESPONDENT may not practice nursing in the State of Texas except in accordance with the terms of this Order.
- D. 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. **A Board-approved course in nursing documentation** that shall be a minimum of six (6) hours in length. The course's content shall include: 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. Home study courses and video programs will not be approved.

- D. **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 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 four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until four (4) 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. **Indirect Supervision:** 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.
- D. **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 four (4) quarters [one (1) year] 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.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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 _____ day of _____, 20____.

DocuSigned by:
Ruthie Cain

RUTHIE M. CAIN, 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.
Betty Smith

Betty Smith, Attorney for Respondent

Signed this 23rd day of August, 2021.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 23rd day of August, 2021, by RUTHIE M CAIN, Registered Nurse License Number 628682, and said Agreed Order is final.

Effective this 14th day of September, 2021.



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