BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse	§	AGREED
License Number 553326	§	
issued to ERNA JEANNE BEAVER	§	ORDER

TEXAS BOARD OF NURSING
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.
Executive Director of the Board

An investigation by the Texas Board of Nursing, hereinafter referred to as the Bo produced evidence indicating that ERNA JEANNE BEAVER, hereinafter referred to as Respondent, Registered Nurse License Number 553326, may have violated Section 301.452(b)(10)&(13), Texas Occupations Code.

An informal conference was held on April 5, 2011, at the office of the Texas Board of Nursing, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Joyce Stamp Lilly, Attorney at Law. In attendance were Mary Beth Thomas, PhD, RN, Director of Nursing, Executive Director's Designee; John F. Legris, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; and J. L. Skylar Caddell, RN-BC, Legal Nurse Investigator.

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 consented to the entry of this Order.

3. Respondent is currently licensed to practice professional nursing in the State of Texas.

4. Respondent received an Associate Degree in Nursing from Abraham Baldwin Agricultural College, Tifton, Georgia, on June 6, 1970. Respondent was licensed to practice professional nursing in the State of Georgia on June 5, 1972, and was licensed to practice professional nursing in the State of Texas on July 31, 1989.

5. Respondent's nursing employment history includes:

1970 - 1973	Staff Nurse	Palmyra Pack Hospital Albany, Georgia
1973 - 1978	Staff Nurse	Winter Haven Hospital Winter Haven, Florida
1978 - 1979	Staff Nurse	Palmyra Park Hospital Albany, Georgia
1980 - 1981	Staff Nurse	Wake Medical Center Raleigh, North Carolina
1981 - 1988	Staff Nurse	Joan Glancy Hospital Deluth, Georgia
1989		Unknown
1990 - 2009	Staff Nurse	Conroe Regional Medical Center Conroe, Texas
2010 - Present	Staff Nurse	Nexus Speciality Hospital The Woodlands, Texas

6. At the time of the initial incident, Respondent was employed as a Staff Nurse with Conroe Regional Medical Center, Conroe, Texas and had been in this position for seventeen (17) years.

7. On or about August 3, 2007, while employed as a Staff Nurse in the Critcial Care Unit at Conroe Regional Medical Center, Conroe, Texas, Respondent failed to detect and then further assess and intervene regarding changes in the status of Patient Number BH00376448, who earlier that day had undergone left carotid artery bypass surgery, after Respondent documented in her initial assessment that the patient's condition may have changed, including that the patient had what appeared to be new onset dysphagia and diminished breath sounds in the upper and middle lobes of his right lung. Instead, Respondent medicated the patient with Ativan for anxiety one (1) hour after completing her initial assessment, and, over the next hour, failed to assess the apparent ineffectiveness of the Ativan as both the patient's blood pressure and pulse rate increased while the blood oxygen level declined. Once Respondent noted an obvious change in the patient's respiratory status, she increased the oxygen being administered, obtained the patient's arterial blood gases, and notified the physician; however, five (5) minutes later the patient went into full cardiac and respiratory arrest and a code was called. One of the physicians who responded noted that the patient had a tracheal deviation to the right, which had not been present when Respondent completed her initial assessment of the patient. The patient was resuscitated within twenty

(20) minutes; however, less than one (1) week later it was determined that the patient had suffered an anoxic brain injury with respiratory failure, most likely due to upper airway obstruction with neck swelling and hematoma. On August 21, 2007, the patient was discharged to hospice and later died.

8. On or about June 29, 2009, through June 30, 2009, while employed as a Staff Nurse in the Critical Care Unit at Conroe Regional Medical Center, Conroe, Texas, Respondent failed to re-assess the arterial blood gases (ABG) of Patient Number BH00662377 after new settings were implemented for the patient's Bilevel Positive Airway Pressure treatments and after Respondent later increased the rate of oxygen delivery twice. Respondent did not document the physician's order to increase the oxygen, failed to notify the charge nurse that she had increased the rate of oxygen delivery in response to declines in the patient's blood oxygen level, and failed to notify the physician and charge nurse that she had re-attached the patient's temporary pacemaker when his heart rate declined significantly. Instead, Respondent continued to medicate the patient repeatedly with Morphine and Ativan for agitation. When the charge nurse checked on the patient two (2) hours before end of the shift, she found him obtunded with low blood pressure, an elevated respiratory rate, and further decreased blood oxygen level. Physicians were notified and the patient was intubated and stabilized, but his condition continued to decline over the next two (2) weeks into multisystem failure, and he died after several days of aggressive treatment.

9. In response to the incidents in Findings of Fact Numbers Seven (7) and Eight (8), Respondent states that she was carefully monitoring the condition of Patient Number BH00376448 and that she responded appropriately to the crisis when it occurred. Regarding Patient Number BH00662377, Respondent acknowledges that she did not notify the charge nurse of the patient's condition and that she failed to do a follow up ABG, stating that, although there was no excuse for those omissions, they were uncharacteristic of her practice. Respondent states that she would always get an order from a physician to increase the oxygen in this type of situation and indicates that she must not have documented the physician's order. Regarding the pacemaker, Respondent states that she re-initiated its use because the Critical Care Unit operates under ACLS (Advanced Cardiac Life Support) protocol, which states that, when indicated, the re-initiation is to be done without hesitation and without the necessity of first obtaining a physician's order. Respondent points out that her performance evaluations during her tenure at the facility since 1990 routinely characterized her as being an excellent nurse with safe, prudent Critical Care Unit skills, who was well respected by both physicians and nursing peers as a consistently exceptional, solid performer, and whose caring and compassionate care became the backbone of the night shift so that she was looked up to as a resource for new nurses.

10. The Board finds that the physician for Patient Number BH00662377, Stephen P. Maniscalco, MD, wrote and submitted a letter to the Board regarding Respondent and Respondent's care of the patient. Regarding Respondent, Dr. Maniscalco stated that her nursing skills are of the highest quality and she has a broad range of critical care knowledge that has helped her take care of some of the sickest of the sick with good outcomes. Regarding Patient Number BH00662377, Dr. Maniscalco states that the patient was considered a very high risk patient for cardiac surgery who had no other options available to treat his significant heart disease. He also had severe chronic obstructive pulmonary disease (COPD) and, after long discussions with him, he elected to proceed with surgery. According to Dr. Maniscalco, the patient succumbed to respiratory failure from his severe COPD that could not be medically treated.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.

2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violations of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(B),(1)(C),(1)(D), (1)(M)&(3)(A) and 217.12(1)(B)&(4).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 553326, heretofore issued to ERNA JEANNE BEAVER, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a REPRIMAND WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE § 211.1 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It 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. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html.*

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include Nurses. The didactic portion of this course shall be a minimum of six (6) hours in length. RESPONDENT SHALL perform physical assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The clinical

component SHALL focus on tasks of physical assessment only and shall be provided by the same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. 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. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form, provided by the Board, to the office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html.*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: 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. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any,

and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html*

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete 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 program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address: http://learningext.com/hives/a0f6f3e8a0/summary.*

(5) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in "Professional Accountability ...," a 5.4 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 program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address: http://learningext.com/hives/f4e2615223/summary.*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING

STIPULATIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD.

(6) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S license. 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 within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT'S license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.:

(7) RESPONDENT SHALL CAUSE each present employer in nursing to submit the 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 to submit the 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.

(8) For the first year of employment as a Nurse under this Order, RESPONDENT SHALL be supervised by a Registered 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 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.

(9) For the remainder of the stipulation period, RESPONDENT SHALL CAUSE each employer 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.

(10) 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 Registered Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for two (2) years of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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CONTINUED ON NEXT PAGE.

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, 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 Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. 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 revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 25 day of April, 2011.

Erna Jeanne Beaver

ERNA JEANNE BEAVER, Respondent

Sworn to and subscribed before me this 25th day of April, 2011.

SEAL

AMY RAMEY
Notary Public, State of Texas
My Commission Expires
March 15, 2015

Amy Ramey

Notary Public in and for the State of Texas

Approved as to form and substance.

Joyce Stamp Lilly, Attorney for Respondent

Signed this _____ day of _____, 20___.

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I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, 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 Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. 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 revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this _____ day of _____, 20____.

_____
ERNA JEANNE BEAVER, 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.

_____
Joyce Stamp Lilly, Attorney for Respondent

Signed this 22 day of April, 2011.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 25th day of April, 2011, by ERNA JEANNE BEAVER, Registered Nurse License Number 553326, and said Order is final.

Effective this 14th day of June, 2011.

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

I certify this to be a true copy of the records on file with the Texas Board of Nursing.
Date: 06/15/11
Signed: Margarita