

3. Respondent is currently licensed to practice professional nursing in the State of Texas. Respondent's license to practice vocational nursing in the State of Texas is in inactive status.
4. Respondent received a Certificate in Vocational Nursing in December 1985; received a Baccalaureate Degree in Nursing from The University of Texas Health Science Center, San Antonio, Texas, on December 19, 1986; and received a Master's Degree in Nursing from The University of Texas Health Science Center (UTHSC), Neonatal Nurse Practitioner Program, San Antonio, Texas, on December 18, 1993. Respondent was licensed to practice vocational nursing in the State of Texas on May 22, 1986; was licensed to practice professional nursing in the State of Texas on March 18, 1987; became Board authorized as a Neonatal Nurse Practitioner in the State of Texas on July 23, 1994; and became Board authorized with Prescriptive Authorization as a Neonatal Nurse Practitioner in the State of Texas on December 17, 1995.
5. Respondent's nursing employment history includes:

1986 - 1988	Staff Nurse	Santa Rosa Children's Hospital San Antonio, Texas
1988	Staff Nurse	Kennestone Regional Hospital Marietta, Georgia
1988 - 1990	Charge Nurse	West Paces Ferry Hospital Atlanta, Georgia
1991	Per Diem Nurse	Grady Memorial Hospital Atlanta, Georgia
1991 - 1992	Contract Nurse	Wilford Hall Medical Center Lackland Air Force Base San Antonio, Texas
1991 - 1993	Per Diem Nurse	University Hospital San Antonio, Texas
1993 - 1994	Neonatal Nurse Practitioner (NNP)	Doctor's Regional Medical Center Corpus Christi, Texas
1994 - 1999	Nursing Coordinator	Children's Association for Maximum Potential (CAMP) and Littlest CAMP Child Care Center Lackland Air Force Base San Antonio, Texas

Respondent's nursing employment history continued:

1999 - 7/2003	Assistant Clinical Instructor, NNP, Developmental Disabilities Specialist	UTHSC, Department of Pediatrics Village of Hope Center San Antonio, Texas
7/2003 - 9/2009	Private Practice, Sole Proprietor	Grace Developmental Services San Antonio, Texas
10/2009 - Present		Unknown

6. On or about December 2000 through June 2001, while practicing as a NNP, Developmental Disabilities Specialist, San Antonio, Texas, Respondent violated professional nurse-patient boundaries by initiating foster care and adoptive proceedings for a four (4) year old male who had been her patient "a few times" in late October 2000 and November 2000. The patient, referred to as "son (A)" by Respondent, has remained in Respondent's foster adoptive care since June 2001. Respondent's conduct was likely to injure the patient from delayed harm due to the potential for conflict between the ambiguous role of the nurse care giver and the needs of the patient. Respondent specifically disagrees that this conduct constitutes a violation of the Nursing Practice Act.
7. On or about July 2003 through September 2, 2009, while employed in Private NNP Practice as the Sole Proprietor of Grace Developmental Services, San Antonio, Texas, Respondent exceeded her Board authorized scope of neonatal advanced nursing practice by managing medical aspects of psychological and/or psychiatric care for patients who were 3 to 17 years of age, the vast majority of whom had not received neonatal care from Respondent. Although Respondent completed a Fellowship in Developmental Disabilities in 1999 and represented herself as a Developmental Disabilities Specialist, Respondent was only authorized by the Board to provide patient care to neonates and to pediatric patients who had received neonatal care from Respondent. Respondent's conduct was likely to injure patients from care decisions made without the benefit of an appropriate and approved educational preparation in pediatric advanced practice nursing. Respondent specifically asserts that her four year teaching Fellowship far exceeds the rigors of academic and clinical training of the Pediatric Advanced Practice Program and states that services were provided under the supervision of a Developmental Pediatrician without incident.
8. On or about October 2003 through January 2004, while practicing as a NNP, Developmental Disabilities Specialist, San Antonio, Texas, Respondent again violated professional nurse-patient boundaries by initiating foster care and adoption proceedings for a second pediatric male, who was seventeen (17) months old when he had first been Respondent's patient in June 2002. Respondent again saw the patient professionally between November 2002 and May 2003, and initiated foster care and adoptive proceedings in Fall 2003. The patient, referred to as "son (B)" by Respondent, has remained in Respondent's foster adoptive care since January 2004. Respondent's conduct was likely to injure the patient from delayed

harm due to the potential for conflict between the ambiguous role of the nurse care giver and the needs of the patient. Respondent specifically disagrees that this conduct constitutes a violation of the Nursing Practice Act.

9. On or about December 2, 2004, through June 30, 2005, while employed in Private NNP Practice as the Developmental Disabilities Specialist and Sole Proprietor of Grace Developmental Services, San Antonio, Texas, Respondent exceeded her Board authorized scope of prescriptive NNP practice by ordering Schedule II Controlled Substances without first collaborating with and obtaining and documenting a verbal order from the prescribing physician, as required. Respondent's conduct violated Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act) and was likely to injure patients from Schedule II Controlled Substances administered to patients without the benefit of a physician's expertise.
10. In response to the incidents in Findings of Fact Numbers Six (6) through Nine (9), Respondent denies that she exceeded her authorization, stating that she completed a Medical Fellowship in Developmental Disabilities in 1999. Respondent indicates she continued with the program after her Fellowship and worked as faculty in the Department of Pediatrics training graduate students in nursing and pediatric residents and interns. Respondent states that the title "Developmental Disabilities Specialist" was assigned to her by UTHSC in order to describe her role and population of patients, and at that time she was told that the specialty was a "hybrid specialty" with too few nurse practitioners in Texas working in developmental pediatrics to assign a designation. Respondent states that she was the sole proprietor of a private practice by the name of Grace Developmental Services in San Antonio, Texas, and acknowledges that she saw patients aged birth to teen, and which included former pre-term infants, children with pre-natal exposure to teratogens, as well as children with genetic syndromes. According to Respondent, Developmental Pediatrics is a trans-disciplinary specialty meant to evaluate the whole child and family, and that she follows many sibling groups and cousins, as well. Regarding the adoptions, Respondent states that "meeting a child during the course of duty who later is adopted by a professional is the back bone of adoptions from TDPRS (Texas Department of Protective and Regulatory Services) for children with special needs" and that her sons were not her patients at the time of their placement or subsequent adoptions, which occurred more than six (6) months after the last patient contact.

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),(12)&(15)[eff. 9/1999], 217.11(1)(A),(1)(P),(1)(T),(4)(A)&(4)(B)[eff. 9/28/04], 217.12(1),(12),(15)[eff. 9/1999], 217.12(1)(A),(1)(E)&(11)(B)[eff. 9/28/04], 221.12(1), and 222.6(b)(1)[eff. 11/26/03].

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 537713 and Vocational License Number 114148, heretofore issued to DIANA FRANCES PERRY, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that the VOLUNTARY SURRENDER of RESPONDENT'S authorization as a Neonatal Nurse Practitioner with Prescriptive Authority is accepted by the Texas Board of Nursing and 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 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 licenses are encumbered by this order the 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.

(1) RESPONDENT SHALL NOT practice as a Neonatal Nurse Practitioner, use the title "Neonatal Nurse Practitioner" or "Advanced Practice Nurse" or the abbreviation "NNP" or wear any insignia identifying herself as a neonatal nurse practitioner or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is an advanced practice nurse during the period in which the authorization is surrendered.

(2) RESPONDENT SHALL NOT petition for reinstatement of advanced practice authorization until one (1) year has elapsed from the date of this Order. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for reauthorization .

(3) 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.

(4) 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) contact 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/disciplinary_action

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in “Respecting Professional Boundaries,” a 3.9 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/03bf38973/summary>.*

(5) 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>.*

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 AND

RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(6) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S licenses. 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 licenses. 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) 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.

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.

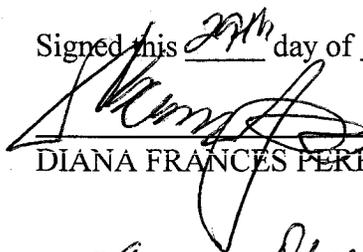
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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. 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.

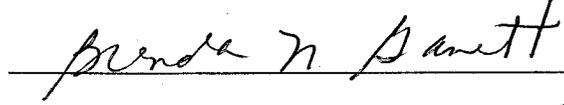
Signed this 29th day of December, 2010.



DIANA FRANCES PERRY, Respondent

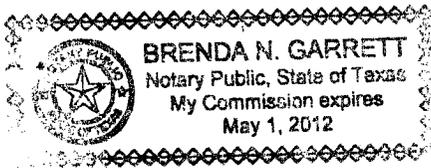
Sworn to and subscribed before me this 29 day of December, 2010.

SEAL



Brenda N. Garrett

Notary Public in and for the State of TX



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 29th day of December, 2010, by DIANA FRANCES PERRY, Registered Nurse License Number 537713 and Vocational Nurse License Number 114148, and said Order is final.

Effective this 8th day of March, 2011.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas". The signature is written in a cursive style and is positioned above a horizontal line.

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