LETTERHEAD

DATE

Via Fax: 512-305-7401

Enforcement Department
Texas Board of Nursing
333 Guadalupe Street, Ste 3-460
Austin, TX 78701

Re: RN, License #_____

Dear Ms. :

Please let this letter serve as my initial response to the letter received by me from the Texas Board of Nursing dated _____. In your letter it is alleged that I failed in a number of specific areas to care properly for my patient on _____ on the ICU.

I have included here a group of attachments that I believe will be helpful in your review of these allegations. I hope that after your review of the medical record, the various statements not only by me, but others, you will see that this incident was initially described incorrectly by the _____ Therapist, Jane Doe, then seemingly corroborated by others who did not actually witness anything, and ultimately used by those who preferred to see me leave XYZ Hospital, as a device for that end.

I take this complaint very seriously, and I believe I always take responsibility for my nursing actions. In this case, I strongly believe that I did what was correct in caring for this gentleman, who was extremely ill and had been in the hospital for over 30 days.

The allegations are that I did not respond appropriately to a ventilator alarm, and the complainants actually have stated that I continued to bathe a patient, ignoring the ventilator alarm. An accusation of this sort towards me does not begin to approach the way I have always cared for my patients, or my response to a ventilator alarm. I have been a nurse for 25 years, almost 17 in the ICU. To accuse me of ignoring an alarm on a ventilator does not comport with what others know is my habit and practice and serves to illustrate the bad faith that exists in the ICU at XYZ Hospital.

With regards to my continuing to bathe a patient in the face of sounding alarms, and reportedly just ignoring them, this is a misunderstood perception mixed with a lie. I had planned to bathe the patient, and there is a statement that I was observed to have brought linens to the room, but when the alarm sounded, I abandoned that plan, and immediately started my assessments and interventions with the patient as required by Critical Care Nursing standards of care and hospital policy.

I heard the alarm, and reacted by assessing my patient, re-connecting a disconnection at the trach site, and suctioning. My original statement is included in the Peer Review documents attached, and it is clearly evident that time passes quickly in these types of situations. As appropriate, I suctioned, suctioned again, and cleared a mucus plug. An aide came into the room to assist me in turning the patient, but when he saw that there was to be no bath, he left just as the respiratory therapist entered the room. The actual statement by the aide, found quoted at page 11 of my attached rebuttal statement, mentions nothing about my bathing the patient and ignoring the alarms, and is different than the "report" of his statement by Bob Jones, taken on _____, in which it is inferred that I was only bathing the patient and taking no other action. Nothing could be further from the truth.

On the contrary, I was responding immediately to the alarm, as one would expect, and as I have set out in all of my statements, in my attached letter to _____, my response to the Peer Review, and as is evident from the medical record. I was in the room and suctioning the patient immediately upon hearing the alarm.

Many of the issues here stem from a disintegration and miscommunication between the actual time, and the time as recorded on the ventilator, there is a 43 minute time difference. I have included the complete packet that I submitted to the Peer Review Committee which includes the time sheet graph for you to compare timing of these issues, explained in the peer review document. My statement also sets out the lack of actual documentation that would support these accusations. There is no print out from the ventilator, the exact ventilator in question is not known, and is somehow missing, the information was deleted from the ventilator "by mistake", and it was released back into service without any identification or a formal investigation. The number of the ventilator was not even documented so that there is no way to find out which ventilator was the one utilized for this patient.

XYZ Hospital put the ventilator aside for examination, it was examined by two staff persons, but was never looked at by the service person from _____, it was simply put back into service. XYZ Hospital never purchased the software that would allow print outs from the ventilator itself, so the only print out of the event in question is one done by hand, taken from the screen, in a hectic situation, by _____. The entire peer review evidence of timing and alarms depended upon a handwritten sheet of paper corroborated between _____ and _____.

At Peer Review, the Chairman of peer review agreed that XYZ did not have the ability to print out from the ventilator itself, and noted that the screen alarm information was deleted by their staff by mistake prior to the Peer Review. So the end result is that the machine was never checked appropriately, the log information was deleted, "by mistake" and the only notations of time are between two staff persons who hand wrote the information. This is not adequate documentation with which to convince anyone that I was deficient in my care of this patient and was the person upon whom blame can be set, especially in light of my typical practice, as documented by others who were all more than willing to speak on my behalf in their attached

letters. (Please note that I actually told all of the persons who wrote on my behalf that I was being investigated by the Texas Board. Although this in and of itself does not prove anything, it lends credence to the fact that I have a strong and positive clinical history with colleagues willing to vouch for that premise.)

According to my documentation, and according to my statements, I responded correctly, I reacted, suctioned, re-assessed, re-suctioned again. The _____, _____ a person who does not like me, appeared and saw a disconnection, re-connected and left the room, leaving while the alarm was still sounding, leaving so she could report that I was not doing the correct thing, yet not staying to be sure that the correct action would be taken, that is something that doesn't quite make sense.

My statement submitted to Peer Review and my letter to _____ clearly explain the events of _____, and I will not restate them here, but at this time I would like to focus on my nursing career, my love of that career and my well known excellent skills as a nurse for my patients and a role model for my colleagues. I know that I am a valued clinician, and have worked as a teacher and preceptor for many years at this hospital. I sincerely believe that I always take full responsibility for my nursing care, and willingly accept suggestions or criticism from colleagues. I would also like to address the environment at XYZ Hospital and the ICU where I worked for just short of 25 years without incident.

In addition to being a dedicated nurse, I am a musician. I have played at many community venues and often volunteered to play at this and other hospitals. Sometimes I think people I work with think this is odd.

My life work however, is my nursing. I have worked at XYZ Hospital for almost 25 years. I was there through many changes, I was there through hundreds of staff coming and going, and I have always been a team member who went the extra mile for my colleagues and my patients. As I mentioned, I have been asked to be an orientation nurse, a teacher, a preceptor at various times throughout these years. Throughout my career, I have cared for thousands of very ill patients, the vast majority of whom have had not only serious surgical and/or medical problems, but of course were often connected to the adjunct devices: tracheostomies, ventilators, monitoring devices, at least one or two of the plethora of high tech machines used in the ICU today.

As you will see from the extremely positive letters attached here, I am a well respected clinician, and am considered a role model for others. I have always tried to practice according to the Standards of Nursing Practice as set out in the Nursing Practice Act, and endeavor to maintain professional ethics in my career.

There were difficulties in the ICU environment, I mention them here not as an excuse for these allegations, but as a reason for my being reported, a reason for the miscommunication and actual malice that is currently found on that unit. The dynamics of the XYZ Hospital ICU department had changed significantly under new management. _____, the new manager was a new nurse to the hospital, but had many friends working on this unit. There was

favoritism exhibited in staffing assignments, requests for time off, and scheduling of holidays. While I believe that _____ , another nurse on the unit and a friend to the new manager is no doubt a caring person who meant well, she exhibited inappropriate behavior at the nurses' station on many occasions, (giving manicures and eyebrow plucking to other staff) which I mentioned to our manager, to no good end.

I do not want these statements to be mistaken for a nurse's paranoia, but as examples of what is well known to occur, especially prevalent in highly specialized units, and that is bullying of particular staff. There is plenty of literature that documents that this is a known problem in nursing and inflicts harm not only to the nurses who are targeted, but also imparts negative influences upon patients, and healthcare delivery in general. Bullying in the Workplace, Reversing a Culture, Joy Longo, DSN, MS, I. Published by ANA, Nursingbooks.org, 2012.

With regards to the Peer Review process that I was involved with, once again the bullying continued. There was no confidentiality whatsoever. As stated above, I heard discussions on several occasions at the nurses' station specifically about my upcoming Peer Review and the issues involved.

I understand and appreciate the role of the Texas Board of Nursing in protecting the citizens of Texas from bad or unsafe practice. I sincerely ask that you realize that bullying is what brought this case, I have tried to explain how and why I have come to be here today, I believe that I did all I could do for this patient.

I hope that my explanation shows that I did what was called for in the care of this patient, and that the Board will consider seeing this entire action as a result of bullying in the workplace, and that the appropriate response for the Board is to close the case with no further action.

Alternatively, I ask that the Board consider this an appropriate case for Deferred Disciplinary Action Pilot Program under Rule 213.34 of the Texas Administrative Code. A Deferred Action would be appropriate here as I fit the qualifications set out in the rule: I have no prior disciplinary history with the Board, my alleged violation, if accepted as true, would be typically resolved with a Warning with Stipulations, or Remedial Education, or other choices under 213.34(d) (2), and this action occurred after September 2009.

Please call me at _____, or e-mail me at xyz@gmail.com, to confirm you have received this letter.

Very truly yours,

ATTACHMENTS
to
Response to BON
Your Name, RN, License #
Date

1. Statistical Data Questionnaire and Employment History
2. Medical record excerpts from XYZ Hospital
3. Peer Review Response packet submitted to Peer Review by RN
4. Witness statements from Peer Review
5. Statement from RN to _____ Date
6. Rebuttal Statement of RN to Peer Review
7. Letters of Reference
   - Dr. ABC Chairman of the Board, XYZ Hospital Hospital
   - Dr. DEF, FCCP
   - MNO, M.D.
   - BHN, RN, BSN, MBA
   - JN, RN, CCI
   - VB, RN BSN
   - RR, RN, MSN, CCI, ACNP, BC
8. Performance Evaluations 20xx, 20xx, 20xx XYZ Hospital