

BEFORE THE TEXAS BOARD OF NURSING



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In the Matter of Registered Nurse	§	AGREED
License Number 631640	§	
issued to BYRON W. SANDIFER	§	ORDER

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

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BYRON W. SANDIFER, Registered Nurse License Number 631640 hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on February 4, 2011, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

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.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed 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 Kilgore College, Kilgore, Texas, on May 1, 1996. Respondent was licensed to practice professional nursing in the State of Texas on July 10, 1996.
5. Respondent's professional nursing employment history includes:

05/96 - 09/98	RN Nurse	Columbia Longview Regional Medical Center Longview, Texas
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Respondent's professional nursing employment history continued:

10/98 - 12/99	RN Nurse	Good Shepherd Medical Center Longview, Texas
01/00 - 10/04	RN Nurse	Triad Longview Regional Medical Center Longview, Texas
11/04 - 08/07	RN Nurse	Select Specialty Hospital Longview, Texas
09/07 - 02/08	RN/Case Manager	Bethany Home Health Services Longview, Texas
03/08 - Present	Unknown	

6. At the time of the incident, Respondent was employed as a Registered Nurse Case Manager with Bethany Home Health Services, Longview, Texas, and had been in this position for four (4) months.
7. On or about January 30, 2008, while employed as a Registered Nurse Case Manager with Bethany Home Health, Longview, Texas, Respondent inappropriately touched Patient Medical Record Number COOVI 2911-01 in that, while performing a care assessment Respondent asked the patient to raise her knees to her chest and Respondent placed his fingers into the vagina of Patient Medical Record Number COOVI 2911-01. Respondent's conduct was likely to injure the patient in that it could have resulted in confusion between the needs of the nurse and those of the patient. In addition, Respondent's conduct may have caused delayed distress for the patient, which may not be recognized or felt by the patient until harmful consequences occur.
8. On November 18, 2010, Respondent completed a sexual offender evaluation performed by Timothy J. Proctor, PhD, ABPP, LSOTP, and a polygraph test performed by Bill Parker of Behavior Measures & Forensic Services Southwest, Inc. Results of the evaluation are consistent with the presence of a personality disorder with antisocial traits. His history includes a wide range of antisocial practices. Although not formally diagnosed, paraphilia (sexual arousal to objects, situations, or persons which are not normative stimulation and can cause problems for the paraphiliac or persons associated with him) is a concern and not ruled out. Respondent's history of antisocial behavior, sexual promiscuity, and allegations at work of sexual misconduct are risk factors and concerns. Dr. Proctor concluded that the risk of Respondent to have future episodes of sexual misconduct and or criminal behavior is "moderate". Also, the risk of Respondent to behave in accordance with Board rules is "low." The polygraph test showed deception when Respondent answered "No" to two questions about inserting his finger into the vagina of the patient.

Dr. Proctor recommended that if Respondent is to keep his license, he should complete a sex offender treatment program to include treatment focused on boundary issues, prior to resuming practice. Also, he should attend psychotherapy aimed at addressing personality issues, be restricted from working in home health environments, and instead, he should be required to be work in a supervised environment for at least two years.

9. In response to Finding of Fact Number Seven (7), Respondent denies placing his fingers into the vagina of Patient Medical Record Number COOVI 2911-01. Respondent acknowledges that, during an assessment of the patient, he examined the patient's vaginal region after noticing wads of paper in her under ware. He thought the paper in the under ware could be indicative of a problem. While her pants and under ware were still down, he had the patient sit for a leg strength test. Respondent acknowledges he exhibited poor judgment in asking the patient to do a lower extremity assessment with her pants and under ware at her feet. However, he feels he provided standard care for the patient. He denies any sexual misconduct with any patients during an assessment.

#### 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 a violation of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(B)&(J) and 22 TEX. ADMIN. CODE §217.12(1)(A),(6)(C),(D)&(E).
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 631640, heretofore issued to BYRON W. SANDIFER, including revocation of Respondent's license 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 Registered Nurse License Number 631640, previously issued to BYRON W. SANDIFER, to practice nursing in Texas is hereby SUSPENDED and said suspension is ENFORCED until Respondent completes a sex offender treatment program focusing on boundary

issues, approved by the Board, and provides documentation of successful completion of treatment.

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 is 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.

IT IS FURTHER AGREED, upon verification of successful completion of the approved treatment, the Suspension will be STAYED, and RESPONDENT will be placed on PROBATION for two (2) years with the following agreed terms of probation:

(1) 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.

(2) RESPONDENT SHALL pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.

(3) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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>.*

(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 "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/03fbf38973/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 TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) 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 all future employers in nursing of this Order of the Board and the probation conditions 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 directly supervised by a Registered Nurse. Direct supervision requires another nurse to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). The RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, long term care facility, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(9) For the remainder of the probation period, RESPONDENT SHALL be supervised by a Registered Nurse 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, long term care facility, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(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 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) months for two (2) years of employment as a nurse.

(11) RESPONDENT SHALL participate in therapy with a "professional counselor" possessing 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 professional nursing. The report must indicate whether or not the RESPONDENT'S stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the probation period, or until RESPONDENT is dismissed from therapy.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license, the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

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

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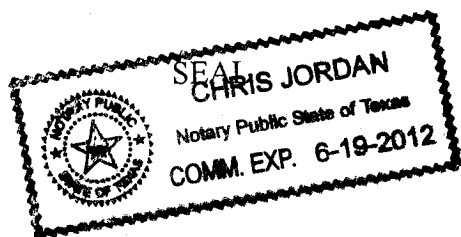
RESPONDENT'S CERTIFICATION

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 violation 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 to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 23 day of February, 2011.

Byron W. Sandifer  
BYRON W. SANDIFER, Respondent

Sworn to and subscribed before me this 23 day of February, 2011.



[Signature]  
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 23<sup>rd</sup> day of February, 2011, by BYRON W. SANDIFER, Registered Nurse License Number 631640, and said Order is final.

Effective this 28<sup>th</sup> day of April, 2011.



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