BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse	§	AGREED
License Number 232778	§	
issued to BARRY BURTON COBB	§	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

On this day the Texas Board of Nursing, hereinafter referred to as the Bc considered the matter of BARRY BURTON COBB, Registered Nurse License Number 232' hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10),(12)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on April 28, 2010, 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 a Baccalaureate Degree in Nursing from the University of Texas at El Paso, El Paso, Texas, on December 1, 1974. Respondent was licensed to practice professional nursing in the State of Texas on March 25, 1975.

5. Respondent's professional nursing employment history includes:

03/1975 - 2001	Employment history unknown.	
1995 - 2001	RN	Tri-County MHMR Conroe, Texas

Respondent's professional nursing employment history continued:

2001 - 2004	RN	Cypress Creek Hospital Houston, Texas
2004 - 2005	RN	Doctor's Hospital-Tidwell Houston, Texas
2005 - 2006	RN	Kingwood Pines Psychiatric Facility Kingwood, Texas
2006 - 2007	RN	Cypress Creek Hospital Houston, Texas
01/2007 - 08/2009	RN	The Menninger Clinic Houston, Texas

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with the Menninger Clinic, Houston, Texas, and had been in this position for two (2) years and eight (8) months.

7. On or about April 1, 2009, while employed as a Registered Nurse with The Menninger Clinic, Houston, Texas, Respondent lacked fitness to practice professional nursing, in that he was found "nodding off" while on duty. Subsequently, he was requested to submit to a Fitness for Duty Evaluation. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patients in potential danger.

8. In response to Finding of Fact Number Seven (7), Respondent states: "I was in an educational session with P. G., RN and nodded off, but never closed my eyes or went to sleep. At this time of my career with Menninger, my blood pressure was elevated. My doctor doubled my blood pressure medication and added Toprol XL 50mg, which can cause drowsiness. In early 2007, I was placed on Klonopin 1mg three times daily for panic attacks. I saw my doctor who changed my Toprol to bedtime and adjusted my Klonopin to maintain my alertness, in keeping with company policy. The past history I reviewed was related to the two components that caused me to be drowsy, which I corrected."

9. On or about June 9, 2009 through June 10, 2009, while employed as a Registered Nurse with The Menninger Clinic, Houston, Texas, Respondent was hospitalized for a Transient Ischemic Attack (TIA). Additionally, Respondent failed to disclose to his medical condition to his employer. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patients in potential danger.

10. In response to Finding of Fact Number Nine (9), Respondent states: "I was hospitalized for a stroke on July 3, 2008 at the Woodlands Hospital. I did not disclose to Menninger that I had a TIA because prior to the episode in question, I never had a TIA."

11. On or about July 12, 2009, while employed as a Registered Nurse with The Menninger Clinic, Houston, Texas, Respondent disclosed confidential health information during a psycho-educational group, in that he referred to the patient that was not present in the group. Additionally, he stated "that in my professional opinion, there is no hope for this patient." Respondent's conduct exposed the patient unnecessarily to a risk of harm from disclosure of her confidential medical information without her written authorization and constitutes a violation of HIPAA (The Health Insurance Portability and Accountability Act).

12. On or about July 12, 2009, while employed as a Registered Nurse with The Menninger Clinic, Houston, Texas, Respondent lacked fitness to practice professional nursing, in that while on duty he had trouble pronouncing words, appeared tired and guarded, and his affect was depressed. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patients in potential danger.

13. On or about July 15, 2009, while employed as a Registered Nurse with The Menninger Clinic, Houston, Texas, Respondent lacked fitness to practice nursing in that he was hospitalized for a Transient Ischemic Attack (TIA), and placed on FMLA (Family and Medical Leave Act) as recommended by his physician. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patients in potential danger.

14. In response to Findings of Fact Numbers Eleven (11) through Thirteen (13), Respondent states: "I deny compromising patient confidentiality. Further, I was not talking about a patient in out hospital, nor did I ever use any names. My accusers agreed that I never used names. I deny saying that the patient had no hope. I was slurring words and probably confused as I was suffering cerebral vascular accident. I went home after work and my wife saw a difference in my behavior. I saw my doctor on Tuesday July 14 and my FMLA started at that time to recover. I had full duty release on August 18, 2009.

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 of Section 301.452(b)(10),(12)&(13),

Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(A),(B)&(E) and 217.12(1)(A), (E),(4),(5)&(10)(A).

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 232778, heretofore issued to BARRY BURTON COBB, including revocation of Respondent's license to practice professional 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 WARNING 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 license is 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 deliver the wallet-sized license issued to BARRY BURTON COBB, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order.

(2) 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.*

(3) 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://www.learningext.com/products/generalce/critical/ctabout.asp.

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 STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION 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 STIPULATION PERIOD:

(4) 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.

(5) 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.

(6) For the duration of the stipulation period, 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.

(7) 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 one (1) year of employment as a nurse.

(8) RESPONDENT SHALL continue in treatment and participate in visits as required by his attending physician. RESPONDENT SHALL CAUSE the physician to submit written reports, on forms provided by the Board, as to the RESPONDENT's progress in treatment and capability to safely practice 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 treatment 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 stipulation period, or until RESPONDENT is dismissed from care.

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

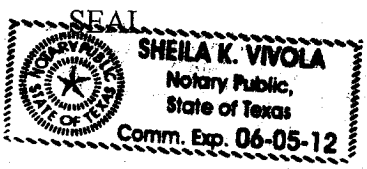
Signed this 17th day of May, 2010.

Barry Burton Cobb

BARRY BURTON COBB, Respondent

Sworn to and subscribed before me this 17th day of May, 2010.

SEAL

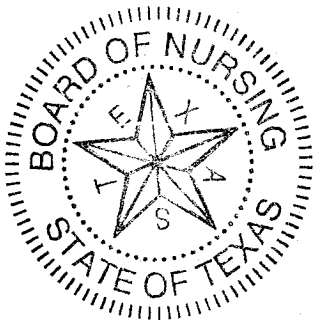


Sheila K Vivola

Notary Public in and for the State of 6-5-2012

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 17th day of May, 2010, by BARRY BURTON COBB, Registered Nurse License Number 232778, and said Order is final.

Effective this 22nd day of July, 2010.



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