BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse	§	AGREED
License Number 245904	§	
issued to MINERVA A. FLATO	§	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 Boa considered the matter of MINERVA A. FLATO, Registered Nurse License Number 245904, 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 October 9, 2009, 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, 1978. Respondent was licensed to practice professional nursing in the State of Texas on March 28, 1979.

5. Respondent's professional employment history includes:

1979 - 1981	Staff Nurse	Los Angeles County Medical Center Los Angeles, California

Respondent's professional nursing employment history continued:

1982 - 1984	Nursing Instructor	El Paso Community College El Paso, Texas
1985 - 1987	Unknown	
1988 - 1990	Faculty Nursing	University of Texas - El Paso El Paso, Texas
1990 - 1993	Staff Nurse Neonatal Intensive Care	R.E. Thomason General Hospital El Paso, Texas
1994 - 1997	Staff/ Charge Nurse All Areas	Columbia Medical Center East El Paso, Texas
1998	Nursing Instructor	El Paso Community College El Paso, Texas
1999	Faculty Nursing	University of Texas - El Paso El Paso, Texas
2000 - 2001	Agency Nurse	Advanced Temporaries El Paso, Texas
2000 - 2001	Agency Nurse	Medical Staffing Network El Paso, Texas
2002 - 2006	Staff Nurse	Highlands Regional Rehabilitation Hospital El Paso, Texas
2004 - 5/06	Instructor Pediatrics	New Mexico State University Las Cruces, New Mexico
6/02 - 7/07	Staff Nurse Home Care	Houston Hospice Houston, Texas
8/07 - 9/07	Unknown	
9/07 - 6/08	Instructor	Houston Baptist University Houston, Texas
7/08 - 10/08	Unknown	

Respondent's professional nursing employment history continued:

11/08 - 5/10	Staff Nurse	Clearlake Rehabilitation Hospital Webster, Texas
6/10 - Present	Not employed as a nurse.	

6. At the time of the initial incident ion Finding of Fact Number Seven (7), Respondent was employed as a Staff Nurse with Houston Hospice, Houston, Texas, and had been in this position for one (1) year.

7. On or about June 29, 2007, while employed as a Staff Nurse with Houston Hospice, Houston, Texas, Respondent failed to keep a scheduled home visit to assess Patient Medical Record Number 54181. Respondent's conduct resulted in an incomplete medical record and was likely to deceive subsequent care givers who relied on the information while providing care to the patient.

8. On or about June 29, 2007, while employed as a Staff Nurse with Houston Hospice, Houston, Texas, Respondent falsely documented a Skilled Nurse Visit Note in the medical record of Patient Medical Record Number 54181. Subsequently, Respondent changed the date of the assessment from June 29, 2007 to July 3, 2007, when she supposedly rescheduled the visit. However, according to Respondent's schedule for July 3, 2007, she was attending an Interdisciplinary Team (IDT) Meeting from 0830 to 1415. Respondent's deceptive conduct resulted in an inaccurate, incomplete medical record, and was likely to injure the patient in that subsequent care givers would rely on her documentation to order to provide further patient care.

9. In response to the incidents in Findings of Fact Numbers Seven (7) and Eight (8), Respondent states that she attempted to make a visit on June 29th and had called the patient's granddaughter an hour before the scheduled visit to make sure someone was there. Respondent was told that the patient's daughter was in the home. When Respondent arrived, she states that no one answered the door. Respondent explains that she returned to her car and called the patient's granddaughter who stated that she would try to leave work and meet Respondent at the house. Respondent informed the granddaughter that her schedule was full and she could not wait. They discussed how the patient was doing and the granddaughter expressed no needs or concerns so a visit was rescheduled for July 2, 2007. Respondent states that, once again, when she arrived at the patient's home on July 2, 2007, no one answered the door. Respondent does not agree that she harmed the patient, instead Respondent believes that if the patient could communicate, the patient would verify that the care was provided.

10. Respondent further states that she has recently suffered an on-the-job injury that prevents her from working. She is unsure of how long she will be unable to work. She is currently undergoing treatment for her injury.

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 violations of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(A),(1)(B),(1)(D)&(3)(A) and 217.12(1)(A),(1)(B),(4),(6)(A)&(6)(H).

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 245904, heretofore issued to MINERVA A. FLATO, 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 RESPONDENT SHALL receive the sanction of a LIMITED LICENSE and a FINE, 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 MINERVA A. FLATO, to the office of the Texas Board of Nursing within ten (10) days from date of ratification of this Order.

(2) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars ($250.00). RESPONDENT SHALL pay this fine within forty five (45) days of the date RESPONDENT obtains employment. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(3) While under the terms of this Order, RESPONDENT SHALL NOT provide direct patient care. For the purposes of this Order, direct patient care involves a personal relationship between the Nurse and the client, and includes, but is not limited to: teaching, counseling, assessing the client's needs and strengths, and providing skilled nursing care.

(4) SHOULD RESPONDENT desire to return to a clinical practice setting, which would require her to provide direct patient care, RESPONDENT SHALL petition the Board for such approval.

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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 24 day of May, 2010.

Minerva A. Flato

MINERVA A. FLATO, Respondent

Sworn to and subscribed before me this ____ day of _____, 20____.

SEAL

_____

Notary Public in and for the State of _____

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 24th day of May, 2010, by MINERVA A. FLATO, professional License Number 245904, and said Order is final.

Effective this 22nd day of July, 2010.

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