

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

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse §
License Number 438523 § AGREED
issued to LILIA NAVEA § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of LILIA NAVEA, Registered Nurse License Number 438523, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(8), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on June 10, 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's license to practice professional nursing in the State of Texas is in inactive status.
4. Respondent received a Baccalaureate Degree in Nursing from Chinese General Hospital, Manila, Philippines, on April 1, 1973. Respondent was licensed to practice professional nursing in the State of Texas on March 23, 1977.
5. Respondent's complete professional nursing employment history is unknown.

6. On or about May 6, 2009, Respondent's license to practice professional nursing in the State of California was REVOKED by the California Board of Registered Nursing, Sacramento, California, however, the revocation was stayed, and Respondent was placed on PROBATION for a period of three (3) years, with Stipulations. A copy of the Accusation, and Stipulated Settlement and Disciplinary Order, issued by the California Board of Registered Nursing dated May 6, 2009, is attached and incorporated, by reference, as part of this Order.
7. In response to Finding of Fact Number Six (6), Respondent states that, at the advice of her attorney, and due to her medical problems, she agreed to settle this case with the California Board of Registered Nursing, to avoid stress.

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)(8), Texas Occupations Code.
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 438523, heretofore issued to LILIA NAVEA, 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 Registered Nurse License Number 438523, previously issued to LILIA NAVEA, to practice professional nursing in Texas is hereby SUSPENDED with the suspension STAYED and Respondent is hereby placed on PROBATION with the following agreed terms of probation:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable

to Respondent's multistate privilege, 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 multistate licensure 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 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 deliver the wallet-sized license issued to LILIA NAVEA, to the office of the Texas Board of Nursing within ten (10) days of the date of this Order.

(3) RESPONDENT SHALL fully comply with all the terms and conditions of the Order of the Board issued to LILIA NAVEA on May 6, 2009, by the California Board of Registered Nursing. RESPONDENT SHALL CAUSE the California Board of Registered Nursing to submit quarterly reports, on forms provided by the Texas Board, that LILIA NAVEA is in compliance with the Order of the Board, and RESPONDENT SHALL cause the California Board of Registered Nursing to submit written verification of Respondent's successful completion of that Order. Evidence of compliance/completion with the terms of the Order of the California Board of Registered Nursing will be accepted as evidence of compliance/completion of the terms of this Order issued by the Texas Board of Nursing.

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 and RESPONDENT shall be eligible for multistate licensure privileges, if any, to practice nursing in the State of Texas.

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

Signed this 1st day of July, 2009.

Lilia Navea

LILIA NAVEA, Respondent

Sworn to and subscribed before me this 01 day of July, 2009

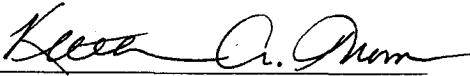
SEAL

Rodrigo M. Lumbang
Notary Public in and for the State of California



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 1st day of July, 2009, by LILIA NAVEA, Registered Nurse License Number 438523, and said Order is final.

Effective this 18th day of August, 2009.



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

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LILIA SOTO NAVEA
10082 Silver Meadow Court
Sacramento, CA 95829

Registered Nurse License No. 280266

Respondent

Case No. 2008-357

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on **May 6, 2009**.

IT IS SO ORDERED **April 6, 2009**.

Suzanne Phillips, MSN, RN, FNP-BC

President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 LESLIE E. BRAST, State Bar No. 203296
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-5548
Facsimile: (415) 703-5480
6

Attorneys for Complainant
7

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2008-357

11 **LILIA SOTO NAVEA**
10082 Silver Meadow Court
12 Sacramento, CA 95829

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

13 Registered Nurse License No. 280266

14 Respondent.
15

16 In the interest of a prompt and speedy settlement of this matter,
17 consistent with the public interest and the responsibility of the Board of Registered Nursing of
18 the Department of Consumer Affairs (Board), the parties hereby agree to the following Stipulated
19 Settlement and Disciplinary Order which will be submitted to the Board for approval and
20 adoption as the final disposition of the Accusation.

21 PARTIES

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant), is the Executive Officer of
23 the Board. She brought this action solely in her official capacity and is represented in this matter
24 by Edmund G. Brown Jr., Attorney General of the State of California, by Leslie E. Brast, Deputy
25 Attorney General.

26 2. Respondent Lilia Soto Navea (Respondent) is represented in this
27 proceeding by attorney George E. Clause of Ropers, Majeski, Kohn & Bentley whose address is
28 50 W. San Fernando St., Suite 1400, San Jose, CA 95113.

1 3. On or about January 1, 1977, the Board issued Registered Nurse License
2 No. 280266 to Respondent. The license was in full force and effect at all times relevant to the
3 charges brought in Accusation No. 2008-357 and will expire on September 30, 2009, unless
4 renewed.

5 JURISDICTION

6 4. Accusation No. 2008-357 was filed before the Board on June 18, 2008,
7 and is currently pending against Respondent. The Accusation and all other statutorily required
8 documents were properly served on Respondent on July 2, 2008. Respondent timely filed her
9 Notice of Defense contesting the Accusation. A copy of Accusation No. 2008-357 is attached as
10 Exhibit A and incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and
13 understands the charges and allegations in Accusation No. 2008-357. Respondent has also
14 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
15 Settlement and Disciplinary Order.

16 6. Respondent is fully aware of her legal rights in this matter, including the
17 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
18 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
19 the right to present evidence and to testify on her own behalf; the right to the issuance of
20 subpoenas to compel the attendance of witnesses and the production of documents; the right to
21 reconsideration and court review of an adverse decision; and all other rights accorded by the
22 California Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
24 each and every right set forth above.

25 CULPABILITY

26 8. Respondent admits that she failed to recognize the improper placement of
27 a nasogastric tube in her patient's left lung cavity prior to initiating tube feeding as alleged in the
28 Second Cause for Discipline in Accusation No. 2008-357.

1 9. Respondent agrees that her Registered Nurse License is subject to
2 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the
3 Disciplinary Order below.

4 CIRCUMSTANCES IN MITIGATION

5 10. Respondent has been licensed and working continually as a Registered
6 Nurse since 1977; this is the first time she has been before the Board in a disciplinary matter in
7 her otherwise unblemished 32 year career.

8 CONTINGENCY

9 11. This stipulation shall be subject to approval by the Board of Registered
10 Nursing. Respondent understands and agrees that counsel for Complainant and Board staff may
11 communicate directly with the Board regarding this stipulation and settlement, without notice to
12 or participation by Respondent or her counsel. By signing the stipulation, Respondent
13 understands and agrees that she may not withdraw her agreement or seek to rescind the
14 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
15 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
16 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
17 the parties, and the Board shall not be disqualified from further action by having considered this
18 matter.

19 12. The parties understand and agree that facsimile copies of this Stipulated
20 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
21 force and effect as the originals.

22 13. In consideration of the foregoing admissions and stipulations, the parties
23 agree that the Board may, without further notice or formal proceeding, issue and enter the
24 following Disciplinary Order:

25 DISCIPLINARY ORDER

26 IT IS HEREBY ORDERED that Registered Nurse License No. 280266 issued to
27 Respondent Lilia Soto Navea is revoked; however, the revocation is stayed and Respondent is
28 placed on probation for three (3) years on the following terms and conditions.

1 **Severability Clause.** Each condition of probation contained herein is a separate
2 and distinct condition. If any condition of this Order, or any application thereof, is declared
3 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
4 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
5 and enforceable to the fullest extent permitted by law.

6 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
7 A full and detailed account of any and all violations of law shall be reported by Respondent to
8 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
9 compliance with this condition, Respondent shall submit completed fingerprint forms and
10 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
11 as part of the licensure application process.

12 **Criminal Court Orders:** If Respondent is under criminal court orders, including
13 probation or parole, and the order is violated, this shall be deemed a violation of these probation
14 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

15 2. **Comply with the Board's Probation Program.** Respondent shall fully
16 comply with the conditions of the Probation Program established by the Board and cooperate
17 with representatives of the Board in its monitoring and investigation of the Respondent's
18 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
19 within no more than 15 days of any address change and shall at all times maintain an active,
20 current license status with the Board, including during any period of suspension.

21 Upon successful completion of probation, Respondent's license shall be fully
22 restored.

23 3. **Report in Person.** Respondent, during the period of probation, shall
24 appear in person at interviews/meetings as directed by the Board or its designated
25 representatives.

26 4. **Residency, Practice, or Licensure Outside of State.** Periods of
27 residency or practice as a registered nurse outside of California shall not apply toward a reduction
28 of this probation time period. Respondent's probation is tolled, if and when she resides outside

1 of California. Respondent must provide written notice to the Board within 15 days of any change
2 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
3 returning to practice in this state.

4 Respondent shall provide a list of all states and territories where she has ever been
5 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
6 provide information regarding the status of each license and any changes in such license status
7 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
8 new nursing license during the term of probation.

9 **5. Submit Written Reports.** Respondent, during the period of probation,
10 shall submit or cause to be submitted such written reports/declarations and verification of actions
11 under penalty of perjury, as required by the Board. These reports/declarations shall contain
12 statements relative to Respondent's compliance with all the conditions of the Board's Probation
13 Program. Respondent shall immediately execute all release of information forms as may be
14 required by the Board or its representatives.

15 Respondent shall provide a copy of this Decision to the nursing regulatory agency
16 in every state and territory in which she has a registered nurse license.

17 **6. Function as a Registered Nurse.** Respondent, during the period of
18 probation, shall engage in the practice of registered nursing in California for a minimum of 24
19 hours per week for 6 consecutive months or as determined by the Board.

20 For purposes of compliance with the section, "engage in the practice of registered
21 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
22 work in any non-direct patient care position that requires licensure as a registered nurse.

23 The Board may require that advanced practice nurses engage in advanced practice
24 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
25 Board.

26 If Respondent has not complied with this condition during the probationary term,
27 and Respondent has presented sufficient documentation of her good faith efforts to comply with
28 this condition, and if no other conditions have been violated, the Board, in its discretion, may

1 grant an extension of Respondent's probation period up to one year without further hearing in
2 order to comply with this condition. During the one year extension, all original conditions of
3 probation shall apply.

4 7. **Employment Approval and Reporting Requirements.** Respondent
5 shall obtain prior approval from the Board before commencing or continuing any employment,
6 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
7 performance evaluations and other employment related reports as a registered nurse upon request
8 of the Board.

9 Respondent shall provide a copy of this Decision to her employer and immediate
10 supervisors prior to commencement of any nursing or other health care related employment.

11 In addition to the above, Respondent shall notify the Board in writing within
12 seventy-two (72) hours after she obtains any nursing or other health care related employment.

13 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
14 terminated or separated, regardless of cause, from any nursing, or other health care related
15 employment with a full explanation of the circumstances surrounding the termination or
16 separation.

17 8. **Supervision.** Respondent shall obtain prior approval from the Board
18 regarding Respondent's level of supervision and/or collaboration before commencing or
19 continuing any employment as a registered nurse, or education and training that includes patient
20 care.

21 Respondent shall practice only under the direct supervision of a registered nurse
22 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
23 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
24 are approved.

25 Respondent's level of supervision and/or collaboration may include, but is not
26 limited to the following:

27 (a) Maximum - The individual providing supervision and/or collaboration is
28 present in the patient care area or in any other work setting at all times.

1 (b) Moderate - The individual providing supervision and/or collaboration is in
2 the patient care unit or in any other work setting at least half the hours Respondent works.

3 (c) Minimum - The individual providing supervision and/or collaboration has
4 person-to-person communication with Respondent at least twice during each shift worked.

5 (d) Home Health Care.- If Respondent is approved to work in the home health
6 care setting, the individual providing supervision and/or collaboration shall have person-to-
7 person communication with Respondent as required by the Board each work day. Respondent
8 shall maintain telephone or other telecommunication contact with the individual providing
9 supervision and/or collaboration as required by the Board during each work day. The individual
10 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
11 site visits to patients' homes visited by Respondent with or without Respondent present.

12 9. **Employment Limitations.** Respondent shall not work for a nurse's
13 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
14 traveling nurse, or for an in-house nursing pool.

15 Respondent shall not work for a licensed home health agency as a visiting nurse
16 unless the registered nursing supervision and other protections for home visits have been
17 approved by the Board. Respondent shall not work in any other registered nursing occupation
18 where home visits are required.

19 Respondent shall not work in any health care setting as a supervisor of registered
20 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
21 nurses and/or unlicensed assistive personnel on a case-by-case basis.

22 Respondent shall not work as a faculty member in an approved school of nursing
23 or as an instructor in a Board approved continuing education program.

24 Respondent shall work only on a regularly assigned, identified and predetermined
25 worksite(s) and shall not work in a float capacity.

26 If Respondent is working or intends to work in excess of 40 hours per week, the
27 Board may request documentation to determine whether there should be restrictions on the hours
28 of work.

1 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
2 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
3 than six months prior to the end of her probationary term.

4 Respondent shall obtain prior approval from the Board before enrolling in the
5 course(s). Respondent shall submit to the Board the original transcripts or certificates of
6 completion for the above required course(s). The Board shall return the original documents to
7 Respondent after photocopying them for its records.

8 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
9 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
10 amount of \$4,225.00. Respondent shall be permitted to pay these costs in a payment plan
11 approved by the Board, with payments to be completed no later than three months prior to the
12 end of the probation term.

13 If Respondent has not complied with this condition during the probationary term,
14 and Respondent has presented sufficient documentation of her good faith efforts to comply with
15 this condition, and if no other conditions have been violated, the Board, in its discretion, may
16 grant an extension of Respondent's probation period up to one year without further hearing in
17 order to comply with this condition. During the one year extension, all original conditions of
18 probation will apply.

19 12. **Violation of Probation.** If Respondent violates the conditions of her
20 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
21 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
22 license.

23 If during the period of probation, an accusation or petition to revoke probation has
24 been filed against Respondent's license or the Attorney General's Office has been requested to
25 prepare an accusation or petition to revoke probation against Respondent's license, the
26 probationary period shall automatically be extended and shall not expire until the accusation or
27 petition has been acted upon by the Board.

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13. **License Surrender.** During Respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender her license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- (1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- (2) One year for a license surrendered for a mental or physical illness.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, George E. Clause. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 01-14-2009

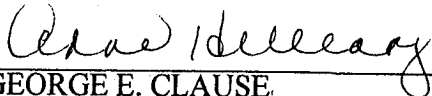
Lilia S. Navea

LILIA SOTO NAVEA
Respondent

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///
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1 I have read and fully discussed with my client, Respondent Lilia Soto Navea, the
2 terms and conditions and other matters contained in the above Stipulated Settlement and
3 Disciplinary Order. I approve its form and content.

4 DATED: January 16, 2009

5
6 
7 GEORGE E. CLAUSE
8 Attorney for Respondent

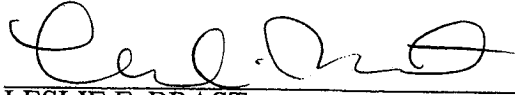
9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
12 Affairs.

13
14 DATED: 1/21/09

15 EDMUND G. BROWN JR., Attorney General
16 of the State of California

17 FRANK H. PACOE
18 Supervising Deputy Attorney General

19 
20 LESLIE E. BRAST
21 Deputy Attorney General

22 Attorneys for Complainant

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1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 LESLIE E. BRAST, State Bar No. 203296
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-5548
Facsimile: (415) 703-5480

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. *2008-357*

11 **LILIA SOTO NAVEA**
10082 Silver Meadow Court
12 Sacramento, CA 95829

ACCUSATION

13 Registered Nurse License No. 280266

14 Respondent.

15
16 Complainant alleges:

17 PARTIES

- 18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant), brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
20 (Board), Department of Consumer Affairs.
- 21 2. On or about January 1, 1977, the Board issued Registered Nurse License
22 Number 280266 to Lilia Soto Navea (Respondent). The license was in full force and effect at all
23 times relevant to the charges brought herein and will expire on September 30, 2009, unless
24 renewed.

25 JURISDICTION

- 26 3. This Accusation is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code (Code) unless
28 otherwise indicated.

1 4. Code section 2750 provides, in pertinent part, that the Board may
2 discipline any licensee, including a licensee holding a temporary or an inactive license, for any
3 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4 5. Code section 2764 provides, in pertinent part, that the expiration of a
5 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
6 against the licensee or to render a decision imposing discipline on the license.

7 6. Code section 2761 states:

8 “The board may take disciplinary action against a certified or licensed nurse or
9 deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the following:

11 (1) Incompetence, or gross negligence in carrying out usual certified or licensed
12 nursing functions. . .”

13 7. Code section 2725, subdivision (b), states, in pertinent part:

14 “The practice of nursing within the meaning of this chapter [the Nursing Practice
15 Act] means those functions, including basic health care, that help people cope with difficulties in
16 daily living that are associated with their actual or potential health or illness problems or the
17 treatment thereof, and that require a substantial amount of scientific knowledge or technical skill,
18 including all of the following:

19
20 (4) Observation of signs and symptoms of illness, reactions to treatment, general
21 behavior, or general physical condition, and (A) determination of whether the signs, symptoms,
22 reactions, behavior, or general appearance exhibit abnormal characteristics, and (B)
23 implementation, based on observed abnormalities, of appropriate reporting, or referral, or
24 standardized procedures, or changes in treatment regimen in accordance with standardized
25 procedures, or the initiation of emergency procedures.”

26 8. California Code of Regulations, title 16, section 1442, provides that “gross
27 negligence,” as used in Code section 2761, “includes an extreme departure from the standard of
28 care which, under similar circumstances, would have ordinarily been exercised by a competent

1 registered nurse. Such an extreme departure means the repeated failure to provide nursing care as
2 required or failure to provide care or to exercise ordinary precaution in a single situation which
3 the nurse knew, or should have known, could have jeopardized the client's health or life.”

4 9. California Code of Regulations, title 16, section 1443, provides that
5 “incompetence,” as used in Code section 2761, “means the lack of possession of or the failure to
6 exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by
7 a competent registered nurse as described in Section 1443.5.”

8 10. California Code of Regulations, title 16, section 1443.5 states:

9 “A registered nurse shall be considered to be competent when he/she consistently
10 demonstrates the ability to transfer scientific knowledge from social, biological and physical
11 sciences in applying the nursing process, as follows:

12 (1) Formulates a nursing diagnosis through observation of the client's physical
13 condition and behavior, and through interpretation of information obtained from the client and
14 others, including the health team.

15 (2) Formulates a care plan, in collaboration with the client, which ensures that
16 direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and
17 protection, and for disease prevention and restorative measures.

18 (3) Performs skills essential to the kind of nursing action to be taken, explains the
19 health treatment to the client and family and teaches the client and family how to care for the
20 client's health needs.

21 (4) Delegates tasks to subordinates based on the legal scopes of practice of the
22 subordinates and on the preparation and capability needed in the tasks to be delegated, and
23 effectively supervises nursing care being given by subordinates.

24 (5) Evaluates the effectiveness of the care plan through observation of the client's
25 physical condition and behavior, signs and symptoms of illness, and reactions to treatment and
26 through communication with the client and health team members, and modifies the plan as

27 needed.

28

1 (6) Acts as the client's advocate, as circumstances require, by initiating action to
2 improve health care or to change decisions or activities which are against the interests or wishes
3 of the client, and by giving the client the opportunity to make informed decisions about health
4 care before it is provided.”

5 11. Section 125.3 of the Code provides, in pertinent part, that the Board may
6 request the administrative law judge to direct a licentiate found to have committed a violation or
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
8 and enforcement of the case.

9 FACTUAL BACKGROUND

10 12. On or about July 11 and 12, 1998, while working as an intensive care
11 nurse at Kaiser's Santa Theresa Medical Center in San Jose, Respondent undertook the care of a
12 59-year-old post-surgical patient with a nasogastric feeding tube improperly placed in the
13 patient's left lung cavity by another nurse.¹ Respondent did not make a proper assessment of the
14 placement of the nasogastric tube prior to initiating tube feeding, did not chart assessment of the
15 tube placement, did not halt feeding when the patient showed indications of respiratory distress,
16 and did not properly check the patient for residual feedings. The patient died the following day;
17 the Santa Clara County Medical Examiner attributed her death to atelectasis² and pneumonia, due
18 to the presence of 800cc of creamy food material in the left pleural cavity.

19 FIRST CAUSE FOR DISCIPLINE

20 (Gross Negligence and/or Incompetence)

21 13. Respondent is subject to disciplinary action for gross negligence and/or
22 incompetence pursuant to section 2761, subdivision (a)(1), in that she failed to properly assess
23 placement of a nasogastric tube in a post-surgical patient, as described in paragraph 13, above.

24 _____
25 1. The patient, who had Graves' disease (hyperthyroidism), had undergone a subtotal
26 thyroidectomy on July 7, 1998. She suffered post-operative respiratory distress and vocal chord
paralysis requiring a tracheotomy and nasogastric tube feeding.

27 2. Atelectasis is the collapse of part or all of a lung. It is caused by a blockage of the air
28 passages (bronchus or bronchioles) or by pressure on the lung.

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SECOND CAUSE FOR DISCIPLINE

(Gross Negligence and/or Incompetence)

14. Respondent is subject to disciplinary action for gross negligence and/or incompetence pursuant to section 2761, subdivision (a)(1), in that she failed to recognize the improper placement of a nasogastric tube in her patient's left lung cavity prior to initiating tube feeding, as described in paragraph 13, above.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence and/or Incompetence)

15. Respondent is subject to disciplinary action for gross negligence and/or incompetence pursuant to section 2761, subdivision (a)(1), in that she failed to properly assess her patient for residual feeding, as described in paragraph 13, above.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence and/or Incompetence)

16. Respondent is subject to disciplinary action for gross negligence and/or incompetence pursuant to section 2761, subdivision (a)(1), in that she failed to properly respond to her patient's increasing respiratory difficulty, as described in paragraph 13, above.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

17. Respondent is subject to disciplinary action for unprofessional conduct pursuant to Code section 2761, subdivision (a), in that she failed to document assessment of her patient's nasogastric feeding tube, as described in paragraph 13, above.

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PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 280266, issued to Lilia Soto Navea;

2. Ordering Lilia Soto Navea to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: 6/18/08


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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