



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 BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Registered Nurse § AGREED
License Number 252490 and Vocational §
Nurse License Number 60202 §
issued to CLARA J. IRBY § ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of CLARA J. IRBY, Registered Nurse License Number 252490 and Vocational Nurse License Number 60202, 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 conference, notice and hearing, and agreed to the entry of this Order offered on April 4, 2007, 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 conference, 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. Respondent's license to practice vocational nursing in the State of Texas is currently in "delinquent" status.
4. Respondent received a Certificate in Vocational Nursing from Austin Community College, Austin, Texas, on February 19, 1974, and received an Associate Degree in Nursing from College of the Mainland, Texas City, Texas, on May 1, 1980. Respondent was licensed to practice vocational nursing in the State of Texas on May 5, 1974, and was licensed to practice professional nursing in the State of Texas on September 4, 1980.

5. Respondent's nursing employment history includes:

05/1974 - 03/1975	Staff Nurse LVN	Holy Cross Hospital Austin, Texas
03/1975 - 12/1976	Staff Nurse LVN	Seton Medical Center Austin, Texas
01/1977 - 05/1980	Unknown	
06/1980 - 03/1981	Staff Nurse GN & RN	University of Texas Medical Branch Galveston, Texas
04/1981 - Unknown	Staff Relief RN	Med-Staff Houston, Texas
1987 - 12/1993	Staff Relief RN	Allied Health Services Houston, Texas
01/1994 - 12/1995	Staff Relief RN	Nightingale's Nursing Services Houston, Texas
01/1996 - 12/1998	Staff Nurse RN	University of Texas Medical Branch Galveston, Texas
01/1999 - 05/2003	Staff Relief RN	Allied Health Services Houston, Texas
06/2003 - 06/2004	Staff Nurse RN	St. Francis Hospital Charleston, West Virginia
07/2004 - 08/2004	Unknown	
09/2004 - 01/2005	Staff Relief RN	Allied Health Services Houston, Texas
01/2005 - 08/2005	Staff Nurse RN	Clear Lake Regional Medical Center Webster, Texas
09/2005 - Present	Unknown	

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as a Staff Nurse with Clear Lake Regional Medical Center, Webster, Texas, and had been in this position for seven (7) months.

7. On or about August 13, 2005, through August 14, 2005, while employed as a Staff Nurse with Clear Lake Regional Medical Center, Webster, Texas, Respondent failed to perform and/or document comprehensive assessments of four patients assigned to her, as required, even though Respondent electronically documented routine care, vital signs, and blood sugar testing in the patients' medical records. Respondent's conduct was likely to injure the patients in that subsequent care givers would not have complete information on which to base their care decisions.
8. On or about July 28, 2005, through August 16, 2005, while employed as a Staff Nurse with Clear Lake Regional Medical Center, Webster, Texas, Respondent violated confidentiality of patient medical record information by misappropriating facility records for personal use and removing them from the facility, including four (4) pages of Nursing Worksheets which contained confidential patient medical information. Respondent's conduct was contrary to laws intended to ensure confidentiality of medical record information, and may constitute a violation of The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Title 45, Code of Federal Regulations, Parts 160 and 164, *et seq.*
9. On or about May 2, 2005, through June 2, 2006, Respondent obtained a photocopy of an electronic nurse note entry from an unknown patient's medical record, without authorization, from Clear Lake Regional Medical Center, Webster, Texas, and submitted the copy of the electronic nurse note as an attachment to her response to the Board. Respondent included the patient's name along with her own additional notations regarding the other nurse's documentation and the patient's care. Respondent's conduct was contrary to laws intended to ensure confidentiality of medical records, and may constitute a violation of The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Title 45, Code of Federal Regulations, Parts 160 and 164, *et seq.*
10. In response to the incidents in Findings of Fact Numbers Seven (7) through Nine (9), Respondent states that she documented all of her initial assessments and states that she believes that her assessments may have been deleted electronically because the facility's management wished to terminate her due to hospital politics and her stated intention to report both a physician and the facility regarding patient care issues. Regarding the unauthorized copy of a patient's medical record submitted to the Board, Respondent states that the Nurse's Note was given to her by a Respiratory Therapist who was also upset regarding this patient's care, and Respondent states she did not perceive the note as part of the patient's chart but as a record of false documentation by another nurse. Respondent also states that she submitted a copy of the note to the Nurse Manager, rather than the original, because she believed that she would need the note to refresh her memory if questioned about the incident by the Chief Executive Officer of the hospital. Further, Respondent states that the patient's name was not on the Nurse's Note.

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),(1)(E)&(3)(A) and 217.12(1)(A),(1)(B)&(1)(C).
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 252490 and Vocational Nurse License Number 60202, heretofore issued to CLARA J. IRBY, including revocation of Respondent's licenses to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privileges, if any, to practice nursing in compact states.

IT IS FURTHER AGREED and ORDERED that while Respondent's licenses are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas 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 licenses issued to CLARA J. IRBY, to the office of the Board of Nurse Examiners within ten (10) days from the date of ratification of this Order for appropriate notation.

(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) contact 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 Chemical Dependency, 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.bne.state.tx.us/about/stipscourses.html>.*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. 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. The course shall be a minimum of six (6)

hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office 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.bne.state.tx.us/about/stipscourses.html>

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(S) 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 NURSING 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 licenses. 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 licenses. 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) 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) months for one (1) year of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued unencumbered licenses and multistate licensure privileges, if any, to practice nursing in the State of Texas.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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

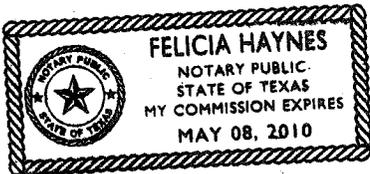
Signed this 22 day of June, 2007.
Clara J. Irby
CLARA J. IRBY, Respondent

Sworn to and subscribed before me this 22nd day of JUNE, 2007.

SEAL

FELICIA M. HAYNES

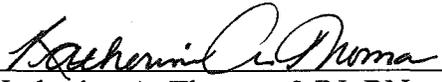
Notary Public in and for the State of TEXAS



Signed this 22nd day of JUNE, 2007.

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 22nd day of June, 2007, by CLARA J. IRBY, Registered Nurse License Number 252490 and Vocational Nurse License Number 60202, and said Order is final.

Effective this 14th day of August, 2007.


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