

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 Vocational Nurse § AGREED
License Number 176580 §
issued to ROBERT LEE RUBIO § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of ROBERT LEE RUBIO, Vocational Nurse License Number 176580, 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 June 26, 2008, by Katherine A. Thomas, MN, RN, Executive Director.

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 vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Southwest Texas Junior College, Uvalde, Texas, on May 13, 2000. Respondent was licensed to practice vocational nursing in the State of Texas on July 20, 2000.
5. Respondent's vocational nursing employment history includes:

07/2000 - 04/2001	Unknown	
05/2001 - 07/2001	Staff Nurse	Canterbury Villa Carrizo Springs, Texas

Respondent's vocational nursing employment history continued:

07/2001 - 09/2002	Staff Nurse	Amistad Nursing & Rehabilitation Uvalde, Texas
10/2002 - 08/2005	Charge Nurse	Las Palmas Healthcare Center McAllen, Texas
09/2005 - Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Charge Nurse with Las Palmas Healthcare Center, McAllen, Texas, and had been in this position for two (2) years and five (5) months.
7. On or about March 18, 2005, while employed as a Charge Nurse at Las Palmas Healthcare Center, McAllen, Texas, Respondent failed to assess Resident DS following an incident of inappropriate sexual behavior by Resident I.R. and failed to follow facility protocols regarding the incident. Although the incident was reported during change of shift, Respondent was the oncoming nurse and failed to assess the patient at any time during his shift. Additionally, Respondent failed to initiate an incident report, as required, or insure that one had been completed, and failed to notify the physician and nurse management regarding the incident. Respondent's conduct resulted in an incomplete medical record and was likely to harm the patient from unrecognized emotional distress.
8. On or about April 5, 2005, while employed as a Staff Nurse at Las Palmas Healthcare Center, McAllen, Texas, Respondent failed to assess and/or document an assessment of Resident EM following an incident of inappropriate sexual behavior from Resident IR and failed to follow facility protocols regarding the incident. Respondent documented in the medical record of Resident IR regarding the inappropriate sexual behavior; however, there is no documentation for the date in the medical record of Resident EM regarding the incident. The Social Worker documented that the resident "remains emotionally stable and unchanged" in the medical record of Resident EM for the date April 8, 2005. Additionally, Respondent failed to initiate an incident report, as required, and failed to notify the physician and nurse management regarding the incident. Respondent's conduct resulted in an incomplete medical record and was likely to harm the patient from unrecognized emotional distress.
9. In response to the incidents in Findings of Fact Numbers Seven (7) and Eight (8), Respondent states that regarding Resident DS, report was about to be given when staff approached the Nurse's Station and reported the incident. Respondent, who worked evening shift, states that he believed the day nurse did the documentation. Respondent is "unable to state who was made aware, or what procedures were followed." Regarding Resident EM, Respondent states that he advised the Social Worker about the inappropriate sexual behavior towards the resident and later that same day a meeting was held with the Administrator, Assistant Director of Nursing, and Social Worker; consequently, Respondent believed "from the information gathered the incident was reported and investigated."

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)&(2)(A) and 217.12(1)(A),(1)(B)&(6)(C).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 176580, heretofore issued to ROBERT LEE RUBIO, including revocation of Respondent's license to practice vocational 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 REMEDIAL EDUCATION, 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 Vocational 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 multistate licensure privilege, if any, to practice vocational 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 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:

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to ROBERT LEE RUBIO to the office of the Texas Board of Nursing within ten (10) days of 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. *Information regarding Board-approved courses in Texas Nursing Jurisprudence may be found at the Board's website <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order

for the course to be approved, the target audience shall include Nurses. The didactic portion of this course shall be a minimum of six (6) hours in length. RESPONDENT SHALL perform physical assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The clinical component SHALL focus on tasks of physical assessment only and shall be provided by the same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. Performing assessments on mock patients or mannequins WILL NOT be accepted. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor 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 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.bon.state.tx.us/disciplinaryaction/stipscourses.html>.

(5) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in "Detecting and Preventing Abuse and Neglect ...," a five (5) contact hour workshop presented in various locations by the Texas Department of Aging and Disability Services. In order to receive credit for completion of this workshop, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this workshop 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 website:*
<http://www.dads.state.tx.us/providers/training/jointtraining.cfm> or by contacting (512) 438-2201.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice vocational 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 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 when this Order becomes final and the terms of this Order become effective, 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this ____ day of _____, 20____.

ROBERT LEE RUBIO, Respondent

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

SEAL

Notary Public in and for the State of _____

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 when this Order becomes final and the terms of this Order become effective, 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 5th day of September, 2008.

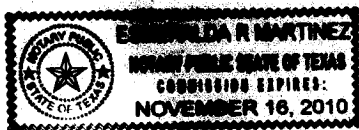
Robert Lee Rubio
ROBERT LEE RUBIO, Respondent

Sworn to and subscribed before me this 5th day of September, 2008.

SEAL


Emeralda R. Martinez

Notary Public in and for the State of Texas
County of Hidalgo



WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby ratify and adopt the Agreed Order that was signed on the 5th day of September, 2008, by ROBERT LEE RUBIO, Vocational Nurse License Number 176580, and said Order is final.

Effective this 9th day of September, 2008.



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