

5. Respondent's vocational nursing employment history includes:

8/10/01 to 3/02	GVN/Licensed Vocational Nurse (LVN) Avalon Place Nursing Home San Antonio, Texas
3/02 to 7/02	LVN Heartland of San Antonio San Antonio, Texas
3/02 to 2/03	LVN, Agency Nurse American Nurse Recruiters San Antonio, Texas
3/03 to 12/03	LVN Pathways Health Services San Antonio, Texas
12/4/03 to 11/11/04	LVN, Field Nurse Special Kids Care San Antonio, Texas
11/04 to 10/05	LVN Home Nursing and Therapy Services San Antonio, Texas
11/05 to 12/06	LVN American Medical Health Services San Antonio, Texas
12/06 to Present	LVN Gentiva Health Services San Antonio, Texas

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as a LVN Field Nurse with Special Kids Care, San Antonio, Texas, and had been in this position for one (1) month.

7. On or about January 2, 2004, through July 7, 2004, while employed with Special Kids Care, San Antonio, Texas, Respondent lacked fitness to provide safe patient care in that she was noted on at least four occasions to be asleep while on duty, as follows:

Date	Patient	Counseling Record	Respondent's Response
1/2/04	KW	Being asleep while on duty.	Respondent verbally agreed to stay awake.
6/3/04	JM	Being asleep while on duty on 5/28/04 and 6/2/04.	Respondent stated the sleeping issue was resolved as she no longer cared for her grandchild during the day.
7/2/04	DB	Being asleep on duty with pudding in one hand and a spoon in the other.	Respondent verbally denied the allegations and stated that she does not eat while on duty at night.
7/7/04	Unk.	Being asleep while on duty.	Respondent denied the allegation, signed the form and wrote that after she was spoken to about falling asleep prior to this she has made it a point to stay awake.

Respondent's conduct could have affected her ability to recognize subtle signs, symptoms, or changes in the patient's condition, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

8. On or about November 10, 2004, and November 11, 2004, while employed with Special Kids Care, San Antonio, Texas, and providing nursing care to pediatric Patient IH, Respondent accepted the assignment when her physical condition prevented the safe and effective delivery of care in that the patient's father and the maid found Respondent asleep while on duty. Respondent's conduct could have affected her ability to recognize subtle signs, symptoms, or changes in the patient's condition, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
9. On or about November 10, 2004, and November 11, 2004, while employed with Special Kids Care, San Antonio, Texas, and providing nursing care to pediatric Patient IH, Respondent failed to administer medications and/or treatments as ordered by the physician. Because the patient's Xopenex nebulizer breathing treatment was due at midnight and Respondent had not administered the treatment, the patient's mother had to administer the treatment approximately forty-five (45) minutes after it was due. In addition, the Xopenex nebulizer was to be administered every six (6) hours during the night for one (1) week, per physician's orders, and Respondent documented the administration of the medication at midnight, then again after only four (4) hours, at 4:00 a.m. Respondent's conduct was likely to injure the patient from an initial delay of the needed respiratory treatments which could have resulted in respiratory compromise, followed by a treatment administered too soon which could result in a rapid heart rate or nervousness.

10. In response to the incidents in Finding of Fact Number Seven (7), Respondent states she was tired from caring for her grandchild in the day and working at night, that she never really fell completely asleep, but she would bob her head back and forth in an effort to stay awake. Respondent also specifically denies sleeping while caring for Patient DB on July 2, 2004. Regarding the incident in Finding of Fact Number Eight (8), Respondent denies being asleep on duty, but that she had a headache and had her eyes shut to allow the Tylenol she had taken to take effect. In response to the incident in Finding of Fact Number Nine (9), Respondent states that the mother distracted her by visiting with Respondent, and Respondent offered to administer the breathing treatment; however, the mother wanted to administer the treatment. In addition, Respondent believed there is a window of an hour to administer the medication.
11. Charges were filed on March 26, 2007.
12. Charges were mailed to Respondent at her address of record on March 28, 2007.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, 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 Sections 301.452(b)(10), (12)&(13) and 302.402(a)(10)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§ 217.11(1)(B),(1)(C)&(1)(T)[*effective September 28, 2004*], 217.12(1)(A), (1)(E),(4)&(5)[*effective September 28, 2004*] and 239.11(27)(B).
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 182562, heretofore issued to DONNA LOUISE ROGERS, 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 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 privilege, if any, to practice vocational nursing in compact states.

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 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 DONNA LOUISE ROGERS, to the office of the Texas Board of Nursing within ten (10) days of the date 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.bon.state.tx.us/about/stipscourses.html>.*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in medication administration. 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. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. 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/about/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/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 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 A VOCATIONAL NURSE LICENSE (LVN) WILL NOT APPLY TO THIS STIPULATION PERIOD.

(5) 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.

(6) 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.

(7) RESPONDENT SHALL be supervised by a Registered Nurse or a Licensed Vocational 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.

(8) 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 or Licensed Vocational 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 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 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

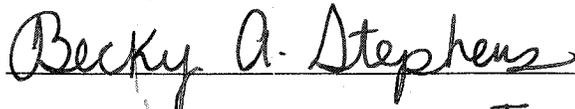
Signed this 28th day of October, 2007.



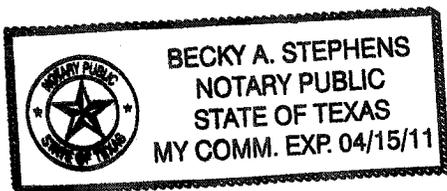
DONNA LOUISE ROGERS, Respondent

Sworn to and subscribed before me this 28th day of October, 2007.

SEAL



Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 28th day of October, 2007, by DONNA LOUISE ROGERS, Vocational Nurse License Number 182562, and said Order is final.

Effective this 17th day of January, 2008.



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