

5. Respondent's professional nursing employment history continued:

10/2001 to 08/2002	Intensive Care Unit (ICU)	Harris County Hospital District Ben Taub General Hospital Houston, Texas
08/2002 to 04/2003	Coronary Care Unit (CCU)	Harris County Hospital District Ben Taub General Hospital Houston, Texas
04/2003 to 04/2004	Surgical ICU	V. A. Medical Center Houston, Texas
05/2004 to Unknown	Agency Nurse	MedRelief Staffing Agency Houston, Texas
01/2005 to 02/2005	ICU Nurse	St. Luke's Episcopal Health System Houston, Texas
03/2005 to 12/2005	Unknown	
2006 to 2007	Agency Nurse	Protouch Staffing Houston, Texas
Unknown to Present	Agency Nurse	UltraStaff Houston, Texas, assigned to Ben Taub Hospital Houston, Texas

6. On or about October 5, 2001, while applying for employment with Harris County Hospital District, Ben Taub General Hospital, Houston, Texas, Respondent failed to disclose, as part of his employment history, that between May 2001 and September 2001, he had been employed with Methodist Hospital, Houston Medical Center, Houston, Texas. Respondent's employment with Methodist Hospital, Houston Medical Center, Houston, Texas, was terminated on September 28, 2001. Respondent's conduct was deceptive and may have affected the facility's decision regarding his employment.

7. On or about May 6, 2004, while applying for employment with MedRelief Staffing Agency, Houston, Texas, Respondent again failed to disclose, as part of his employment history, that between May 2001 and September 2001, he had been employed with Methodist Hospital, Houston Medical Center, Houston, Texas. Respondent's employment with Methodist Hospital, Houston Medical Center, Houston, Texas, was terminated on September 28, 2001. Respondent's conduct was deceptive and may have affected the facility's decision regarding his employment.

8. On or about January 4, 2005, while applying for employment as an ICU Nurse with St. Luke's Episcopal Hospital, Houston, Texas, Respondent again failed to disclose, as part of his employment history, that between May 2001 and September 2001, he had been employed with Methodist Hospital, Houston Medical Center, Houston, Texas. Respondent's employment with Methodist Hospital, Houston Medical Center, Houston, Texas, was terminated on September 28, 2001. Respondent's conduct was deceptive and may have affected the facility's decision regarding his employment.
9. On or about June 1, 2006, through June 2, 2006, while employed with MedRelief Staffing Agency, Houston, Texas, and assigned to LBJ Hospital, Harris County Hospital District, Houston, Texas, Respondent failed to initiate and document a new physician's order to discontinue administration of Pepcid to Patient Number 31204038, and to instead administer Nexium. Consequently, Respondent continued to administer Pepcid to the patient, in error, and failed to administer Nexium, as ordered by the physician. Respondent's conduct was likely to injure the patient in that failure to administer medications as ordered by the physician could have resulted in ineffective treatment.
10. On or about June 1, 2006, through June 2, 2006, while employed with MedRelief Staffing Agency, Houston, Texas, and assigned to LBJ Hospital, Harris County Hospital District, Houston, Texas, Respondent failed to obtain lab values in order to periodically monitor the anticoagulant therapy level being administered to the aforementioned Patient Number 31204038, after Respondent assumed care of the patient immediately after the patient underwent surgery. Respondent did not notify a physician during his shift that the patient's venous access device was clogged or that the patient may have needed additional venous access. Respondent's conduct was likely to injure the patient due to possible excessive blood loss and/or possible death.
11. Charges were filed on August 2, 2007.
12. Charges were mailed to Respondent on August 8, 2007.
13. In response to the incidents in Finding of Fact Numbers Six (6) through Ten (10), Respondent states the following:
 - Due partly to Tropical Storm Allison and his lengthy orientation with Methodist Hospital, his actual clinical experience without a preceptor was in September 2001. Respondent contends that had he listed employment with Methodist Hospital from May 2001 through September 2001 as hospital experience, it would possibly have been misleading to potential employers;
 - That he administered Pepcid to the patient who returned from surgery based upon the physicians' orders present at the beginning of the shift; and
 - That he admits he missed drawing the blood for the necessary laboratory tests needed to monitor the coagulation status of Patient Number 31204038 due to the fact that he had no laboratory sticker to indicate blood was required for this test. Regarding the triple lumen catheter, Respondent states there was only one port which was clogged, that the other two (2) ports were functional, and that the clogged port should have been discovered while the patient was in surgery, which was prior to Respondent's arrival on the unit.

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 Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§ 217.11(1)(B),(1)(C), (1)(D),(1)(M)&(1)(P)[*effect. 9/28/04*], 217.12(22)&(23) and 217.12(1)(A),(1)(B),(4), (6)(H)&(6)(I)[*effect. 9/28/04*].
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 677385, heretofore issued to ROGER LEE HAYES, 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 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 professional 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 ROGER LEE HAYES, 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 and the course shall include a minimum of twenty-four (24) hours in clinical practice 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 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. 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/about/stipscourses.html>.*

(5) RESPONDENT SHALL, within one (1) year of entry of this Order successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program 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 web address: <http://www.learningext.com/products/generalce/critical/ctabout.asp>.*

(5) RESPONDENT SHALL pay a monetary fine in the amount of one thousand dollars (\$1,000.00). RESPONDENT SHALL pay this fine within ninety (90) days of entry of this Order. Payment is to be made directly to the Board of Nurse Examiners in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

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 REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD.

(6) 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.

(7) 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.

(8) 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 may continue his current employment with UltraStaff, Houston, Texas, while assigned to Ben Taub Hospital, Houston, Texas. Should Respondent's assignment to Ben Taub Hospital, Houston, Texas, cease, Respondent shall comply with this stipulation and all of its employment restrictions.** RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(9) 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 an unencumbered license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

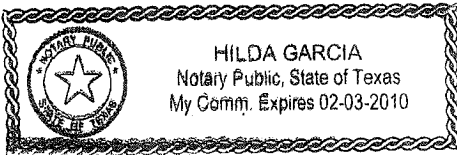
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid 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 19th day of November, 2007.

Roger Lee Hayes RN
ROGER LEE HAYES, Respondent

Sworn to and subscribed before me this 19 day of Nov., 2007.

SEAL



Hilda Garcia
Notary Public in and for the State of Texas


Approved as to form and substance.

Bruce Bigelow
Bruce Bigelow, Attorney for Respondent

Signed this 21 day of Nov, 2007

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 19th day of November, 2007, by ROGER LEE HAYES, Registered Nurse License Number 677385, and said Order is final.

Effective this 17th day of January, 2008.


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