

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse                   §     AGREED  
License Number 628141                               §  
Issued to THEODORA NKIRU MBAH                 §     ORDER

An investigation by the Texas Board of Nursing, hereinafter referred to as the Board, produced evidence indicating that THEODORA NKIRU MBAH, Registered Nurse License Number 628141, hereinafter referred to as Respondent, may have violated Section 301.452(b)(10), Texas Occupations Code.

An informal conference was held on November 21, 2006, at the office of the Texas Board of Nursing, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Rachel Sheeran, Attorney at Law. Subsequent to the informal conference, Respondent retained Nancy Roper Willson, Attorney at Law. In attendance were Mary Beth Thomas, MSN, RN, Director, Professional Nursing, Executive Director's Designee; Victoria Cox, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Elise Dunham, Investigator; Noemi Reyes, Investigator; Marcia Wilson, RN, Investigator; Laura Ferrell, RN, Investigator; and J. L. Skylar Caddell, RN,C, Lead Investigator.

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 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.

4. Respondent received a Baccalaureate Degree in Nursing from Texas Woman's University School of Nursing, Denton, Texas, on May 16, 1987. Respondent was licensed to practice professional nursing in the State of California on August 31, 1990, and was licensed to practice professional nursing in the State of Texas on May 14, 1996.

5. Respondent's nursing employment history includes:

08/1990 - 12/1991	Unknown	
01/1992 - 01/1995	Agency Nurse	Health Staffers San Diego, California
02/1992 - 02/1996	Staff Nurse	Naval Medical Center San Diego, California
03/1996 - 06/1996	Agency Nurse	Nurse Works Dallas, Texas
07/1996 - 11/1996	Staff Nurse	Baylor Health Care System Dallas, Texas
08/1996 - 10/1996	Staff Nurse	Parkland Health & Hospital System, Dallas, Texas
11/1996 - 12/1998	Staff Nurse	Baylor Medical Center Irving, Texas
09/1997 - 07/2001	Staff Nurse	Zale Lipshy University Hosp. Dallas, Texas
02/1999 - 03/1999	Hospice Nurse	Visiting Nurse's Association Dallas, Texas
03/1999 - 07/2005	Staff Nurse	Baylor Medical Center Irving, Texas
08/2001 - 01/2002	Relief Nurse	Harris Methodist HEB Bedford, Texas
02/2002 - 06/2002	Relief Nurse	St. Paul Medical Center Dallas, Texas
11/2002 - 02/2003	Relief Nurse	Harris Methodist HEB Hospital, Bedford, Texas
03/2005 - Present	RN Administrator	Divine Home Health Agency Dallas, Texas

6. At the time of the initial incident, Respondent was employed as a Relief Nurse with Harris Methodist HEB Hospital, Bedford, Texas, and had been in this position for two (2) months.
7. On or about January 7, 2003, through January 8, 2003, while employed as a Relief Nurse with Harris Methodist HEB Hospital, Bedford, Texas, Respondent failed to assess and intervene appropriately regarding the respiratory status of Patient Number 188072 when the patient indicated that she could not breathe. Instead of listening to the patient's lungs and assessing the patient's respiratory function so that it could be reported to the physician, Respondent increased the flow of oxygen, applied a wash cloth to the patient's forehead, encouraged the patient to take deep breaths, and then left to have the respiratory department paged non-emergently, because, according to Respondent, the patient did not seem to be in any distress at the time. The respiratory department had still not responded to the page ten (10) minutes later, and Respondent requested that they again be paged while she notified the Charge Nurse. The Charge Nurse assessed the patient and found the patient to be gasping for breath while suffering from respiratory distress, with her color pale and extremities cool. Within minutes the patient suffered respiratory arrest and a code was called. The patient was resuscitated, transferred to ICU, and discharged two (2) weeks later in stable condition. Respondent's conduct may have contributed to the patient suffering respiratory arrest.
8. On or about January 22, 2003, through January 23, 2003, while employed as a Relief Nurse with Harris Methodist HEB Hospital, Bedford, Texas, Respondent failed to assess and intervene appropriately regarding changes in the condition of Patient Number 88550 when she determined that the patient was lethargic, had diminished breath sounds, was breathing in a very shallow manner, and had an increased pulse rate and elevated temperature. Instead of notifying the physician, Respondent called the respiratory therapy department and requested that the patient's pulse oximetry be checked. After the respiratory therapist arrived, Respondent left in order to obtain and administer pain medication to another patient. Another staff nurse notified the Charge Nurse of the patient's condition, and the Charge Nurse found the patient to be gray in color, vomiting, with dropping blood pressure, with heart rate too rapid and thready to count, and with pulse oximetry of 85 - 86 % on six (6) liters of oxygen. The Charge Nurse directed that a "STAT" call be placed to the physician, who ordered the patient be transferred to the Intensive Care Unit. Three (3) hours later the patient expired after suffering cardiopulmonary arrest. Respondent's conduct may have contributed to the patient's demise.
9. In response to the incidents in Findings of Fact Numbers Seven (7) and Eight (8), Respondent states that staff nurses were not allowed to directly contact the physician without contacting the charge nurse, and that she believed the facility's assignment of patients reflected that the most critical patients were assigned to relief nurses, whether or not the relief nurses had the necessary experience and skills to provide safe patient care. In addition, Respondent states she believed the patient involved in Finding of Fact Number Eight (8) was lethargic due to having been medicated earlier with Ativan and Zofran, and further states she believed that when the patient's blood pressure decreased and his pulse rate became elevated that these too were side effects of the medications.

10. Formal Charges were filed June 21, 2006.
11. Formal Charges were mailed to Respondent at her address of record on July 3, 2006.
12. On or about March 20, 2007, Respondent successfully completed a Board approved class in Texas nursing jurisprudence, which would have been a requirement of this Order.

#### 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), Texas Occupations Code, and 22 TEX. ADMIN. CODE § 217.12(2)&(4).
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 628141, heretofore issued to THEODORA NKIRU MBAH, 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 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 Professional 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 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 license issued to THEODORA NKIRU MBAH, 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 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 on the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us) (under BON events).*

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

(3) RESPONDENT SHALL notify each present employer in professional 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 professional 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.

(4) RESPONDENT SHALL CAUSE each present employer in professional 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 professional nurse.

(5) 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 with the exception Divine Home Health Agency, Dallas, Texas. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited with the exception that Respondent may continue to work at Divine Home Health Agency, Dallas, Texas, as a nurse administrator in addition to the required minimum sixty-four hours per month of direct patient care and practice in a hospital, nursing home, or other clinical setting. The requirement for supervision may only be fulfilled in a hospital, nursing home or other clinical setting. Respondent's current position at Divine Home Health Agency, Dallas, Texas, will not count toward the supervision and work requirements of this order. If Respondent ceases to work at Divine Home Health Agency, Dallas, Texas, as a nurse administrator for any reason, multiple employers will be prohibited without exception and Respondent will be limited to working in a hospital, nursing home, or other clinical setting for the duration of this order.

(6) Should RESPONDENT choose to continue to work as a nurse administrator with Divine Home Health Agency, Dallas, Texas, in a clinical capacity, RESPONDENT'S practice of

professional nursing will be additionally subject to monitoring in that setting for the duration of this Order by a licensed Registered Nurse Consultant proficient in the area of home health nursing approved by the Board. RESPONDENT MUST, within ten (10) days of employment in the area of home health nursing, provide a list of three (3) RN's for the Board to select; the list should include the name, RN license number, educational experience and work experience of each proposed Registered Nurse Consultant. Monitoring shall commence no later than thirty (30) days following the date of Respondent's receipt of the name of the monitor selected by the Board. The monitor must identify and document individualized goals and objectives, resources to be utilized, and the methods to be used to determine successful completion of the monitoring period relative to the violations identified in this Order. RESPONDENT SHALL meet with the monitor at least twice a month, for a minimum of one (1) hour each session. RESPONDENT SHALL ensure that the monitor submits reports addressing Respondent's progress toward achievement of the identified monitoring goals and objectives to the office of the Board at the end of each three (3) months for the one (1) year stipulation period. Meetings may be longer and more frequent if the monitor determines necessary. If either improvement of documentation and/or physical assessment skills is a goal or objective of the monitoring, RESPONDENT SHALL perform assessments on and document assessment findings for live patients. Performing assessments on and documenting findings for mock patients or mannequins WILL NOT be accepted. Multiple employers are prohibited with the exception that Respondent may continue to work at Divine Home Health Agency, Dallas, Texas, as a nurse administrator in addition to the required minimum sixty-four hours per month of direct patient care and practice in a hospital, nursing home, or other clinical setting. The requirement for supervision may only be fulfilled in a

hospital, nursing home or other clinical setting. Respondent's current position at Divine Home Health Agency, Dallas, Texas, will not count toward the supervision and work requirements of this order. If Respondent ceases to work at Divine Home Health Agency, Dallas, Texas, as a nurse administrator for any reason, multiple employers will be prohibited without exception and Respondent will be limited to working in a hospital, nursing home, or other clinical setting for the duration of this order.

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

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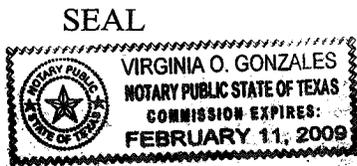
RESPONDENT'S CERTIFICATION

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 18<sup>th</sup> day of December, 2007.

Theodora Nkiru Mbah  
THEODORA NKIRU MBAH, Respondent

Sworn to and subscribed before me this 18<sup>th</sup> day of December, 2007.



Virginia O. Gonzales  
Notary Public in and for the State of TEXAS

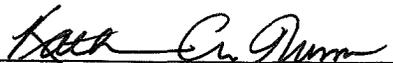
Approved as to form <sup>and</sup> ~~and~~ substance.

Nancy Rober Willson  
Nancy Rober Willson, Attorney for Respondent

Signed this 18<sup>th</sup> day of December 2007

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 18<sup>TH</sup> day of December, 2007, by THEODORA NKIRU MBAH, Registered Nurse License Number 628141, and said Order is final.

Effective this 12<sup>th</sup> day of February, 2008.

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