



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	§	AGREED
Vocational Nurse License Number 162856	§	
issued to JAMES SCOTT HEROY	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JAMES SCOTT HEROY, Vocational Nurse License Number 162856, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(1),(10)&(13), Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on January 4, 2016.

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(s).
2. Respondent waived notice and hearing, and agreed to the entry of this Order.
3. Respondent's license to practice as a vocational nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Howard College at San Angelo, San Angelo, Texas, on June 16, 1997. Respondent was licensed to practice vocational nursing in the State of Texas on June 19, 1997.
5. Respondent's nursing employment history includes:

6/1997-1998	Licensed Vocational Nurse	St. John's Hospital San Angelo, Texas
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Respondent's nursing employment history continued:

1999-2002	Licensed Vocational Nurse	Shannon Hospital San Angelo, Texas
10/2002-Present	Licensed Vocational Nurse	Bluebonnet Homes, Inc. San Angelo, Texas

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with Bluebonnet Homes, Inc., San Angelo, Texas, and had been in that position for eleven (11) years and nine (9) months.
7. On or about July 9, 2014, through October 10, 2014, while employed as a Licensed Vocational Nurse with Bluebonnet Homes, Inc., San Angelo, Texas, Respondent failed to properly identify his licensing credentials on nursing documentation for Consumer W4. Respondent's conduct resulted in an inaccurate and incomplete medical record.
8. On or about September 1, 2014, through October 17, 2014, while employed as a Licensed Vocational Nurse with Bluebonnet Homes, Inc., San Angelo, Texas, Respondent exceeded his scope of practice by providing care to patients without the supervision of a registered nurse, as required. Respondent's conduct exposed the patients to a risk of harm from vocational nursing care provided without adequate professional nursing oversight.
9. On or about October 10, 2014, while employed as a Licensed Vocational Nurse with Bluebonnet Homes, Inc., San Angelo, Texas, Respondent failed to notify the physician and/or nursing supervisors when Consumer W4 experienced a change in condition. The patient had complaints of constipation and fell from the toilet, hitting his nose and causing an abrasion. Subsequently, the patient became drowsy, then unresponsive, necessitating calling Emergency Medical Services (EMS) and the patient expired that night. Respondent's conduct was likely to injure the patient by depriving the physician of vital information that would be required to institute timely medical interventions to stabilize the patient's condition.
10. In response to the incidents in Findings of Fact Numbers Seven (7) through Nine (9), Respondent states that as he was the only LVN documenting in the nursing notes overall for more than a decade, and he felt it was obvious who was documenting. Respondent adds that he never had any intention to deceive or misrepresent who was doing the documentation, and has since shown more clarity to his signature. Respondent states that prior to the date in question, RN notification was always completed via text, person to person, or by email. Respondent states that at the time, the RN was unavailable due to the transition between the old RN whom abruptly left and the hiring of a new one. Regarding the patient's condition, Respondent states that the laceration as documented to his nose was mostly superficial. Respondent adds that due to the minimal depth of laceration, normal vital signs, and no signs

or symptoms of major concern, there did not appear to be a need for physician intervention at that time. Respondent states that the patient often isolated to the bathroom for long periods of time, so the behavior was not unusual, and also that while in his care the patient did not show signs or symptoms suggesting that emergency medical care was needed.

11. Formal Charges were filed on July 29, 2015.
12. Formal Charges were mailed to Respondent on July 30, 2015.

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 violation(s) of 22 TEX. ADMIN. CODE §§217.10(c), 217.11(1)(A), (1)(B), (1)(D), (1)(M), (1)(P), (1)(T)&(2) and 217.12(1)(A), (1)(B), (1)(C)&(4).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1), (10)&(13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 162856, heretofore issued to JAMES SCOTT HEROY, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **REPRIMAND WITH STIPULATIONS** in accordance with the terms of this Order.

- A. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- B. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

- C. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Order.

III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) **within one (1) year of the effective date of this Order, unless otherwise specifically indicated:**

- A. **A Board-approved course in Texas nursing jurisprudence and ethics** that shall be a minimum of six (6) 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 Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. Home study courses and video programs will not be approved.
- B. **A Board-approved course in nursing documentation** that shall be a minimum of six (6) hours in length. The course's content shall include: 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. Home study courses and video programs will not be approved.
- C. 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/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at www.bon.texas.gov/compliance.*

IV. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse in the State of Texas, providing direct patient care in a licensed healthcare setting, for a minimum of sixty-four (64) hours per month for eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) quarterly periods of employment as a nurse have elapsed. Any quarterly period without continuous employment with the same employer for all three (3) months will not count towards completion of this requirement. Periods of unemployment or of employment that do not require the use of a registered nurse (RN) or a vocational nurse (LVN) license, as appropriate, will not apply to this period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** RESPONDENT SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five

(5) days of employment as a nurse.

- C. **Direct Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse. Direct supervision requires another nurse, as applicable, to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on 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.
- D. **Indirect Supervision:** For the remainder of the stipulation period, RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as 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.
- E. **Nursing Performance Evaluations:** 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 nurse who supervises the RESPONDENT and these reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month quarterly period for eight (8) quarters [two (2) years] of employment as a nurse.

V. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

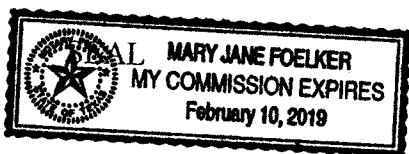
RESPONDENT'S CERTIFICATION

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 violation(s) alleged herein. By my signature on this Order, I agree to the entry of this 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 possible revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 2ND day of February, 2016.

James Scott Heroy
JAMES SCOTT HEROY, Respondent

Sworn to and subscribed before me this 2ND day of February, 2016.



Mary Jane Foelker
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 2nd day of February, 2016, by JAMES SCOTT HEROY, Vocational Nurse License Number 162856, and said Order is final.

Effective this 8th day of March, 2016.

A handwritten signature in cursive script, appearing to read "Katherine A. Thomas", is written over a horizontal line.

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