



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 218421	§	
issued to LINDY P. MFULA	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of LINDY P. MFULA, Vocational Nurse License Number 218421, 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)(10),(12)&(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 July 26, 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 Lone Star College - Kingwood, Kingwood, Texas, on August 5, 2008. Respondent was licensed to practice vocational nursing in the State of Texas on October 2, 2008.
5. Respondent's vocational nursing employment history includes:

2008 - 2009

LVN

Legend Oaks
Houston, TX

Respondent's vocational nursing employment history continued:

8/2009 - 7/2013	LVN	Healthsouth Rehabilitation Houston, Texas
5/2011 - 10/2013	LVN	Epic Health Services Houston, Texas
10/2013 - Present	LVN	Children's Home Care Houston, Texas

6. At the time of the incident, Respondent was employed as a Vocational Nurse with Epic Health Services, Houston, Texas, and had been in that position for two (2) years and five (5) months.
7. On or about October 13, 2013, while employed with Epic Health Services, Houston, Texas, and assigned to provide nursing care to Patient Medical Record Number 10442, Respondent may have lacked fitness to practice vocational nursing in that she was found sleeping while caring for said patient, who is ventilator dependent. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
8. In response to the incident in Finding of Fact Number Seven (7), Respondent states that the patient's father went into the room before going to work at 0530. Respondent adds that she had just sat down after checking on the patient and repositioning her. Respondent's legs were stretched onto another chair and they were covered as the room was always cold. Respondent states that she completed her shift and gave report to the patient's mother. Later that day, Respondent received a phone call from Epic regarding sleeping at work. Respondent states that she tried to explain that she may have been sitting with her eyes closed, but she was not asleep. Respondent admits that she sometimes sits and closes her eyes while at work to think or pray or simply rest her eyes, but she never actually falls asleep.
9. On or about September 12, 2014, Respondent successfully completed a Board approved class in Texas Nursing Jurisprudence and Ethics, which would have been a requirement of this Order.
10. On or about February 9, 2016, Respondent successfully completed a Board approved class in Sharpening Critical Thinking Skills, 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 violation(s) of 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B)&(1)(T) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(4)&(5).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10),(12)&(13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 218421, heretofore issued to LINDY P. MFULA.
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 **WARNING 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. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse, providing direct patient care in a licensed healthcare setting including with Children's Home Care, for a minimum of sixty-four (64) hours per month for four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until four (4) 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. **Incident Reporting for Current Position at Children's Home Care, Houston, Texas:** For so long as Respondent remains employed at Children's Home Care, Houston, Texas, RESPONDENT SHALL CAUSE her employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT,

as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.

- D. Indirect Supervised Practice Requirements for Subsequent Positions, if any, Should Respondent's Employment cease for Children's Home Care, Houston, Texas:** Should Respondent's employment at Children's Home Care, Houston, Texas, cease or change while under the terms of this Order, 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, for the remainder of the stipulation period of this Order, if any. 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 four (4) quarters [one (1) year] of employment as a nurse.

IV. 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.

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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 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.

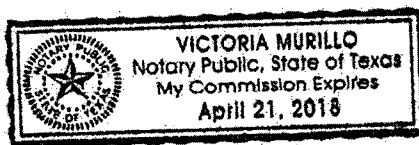
Signed this 18th day of August, 2016

Lindy P. Mfula

LINDY P. MFULA, Respondent

Sworn to and subscribed before me this 18th day of August, 2016.

SEAL



Victoria Murillo
VICTORIA MURILLO

Notary Public in and for the State of TEXAS

Approved as to form and substance.

Joyce Lilly
Joyce Lilly, RN, JD, Attorney for Respondent

Signed this 23 day of August, 2016

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 18th day of August, 2016, by LINDY P MFULA, Vocational Nurse License Number 218421, and said Order is final.

Effective this 13th day of September, 2016.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas".

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