

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED
Registered Nurse License Number 846879	§	
issued to IRENE GUTIERREZ	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of IRENE GUTIERREZ, Registered Nurse License Number 846879, 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)&(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 April 24, 2017.

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 professional nurse in the State of Texas is in current status.
4. Respondent received an Associate Degree in Nursing from South Texas College, McAllen, Texas, on October 1, 2013. Respondent was licensed to practice professional nursing in the State of Texas on November 5, 2013.
5. Respondent's professional nursing employment history includes:

11/13 - 10/16	RN	Edinburg Regional Medical Center Edinburg, Texas
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Respondent's professional nursing employment history continued:

10/16 - Present	RN	Parallon Workforce Solutions McAllen, Texas
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6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Edinburg Regional Medical Center, Edinburg, Texas, and had been in that position for two (2) years and ten (10) months.
7. On or about September 25, 2016, while employed as a Registered Nurse in the Emergency Department of Edinburg Regional Medical Center, Edinburg, Texas, Respondent falsely documented vital signs and a pain assessment for Patient Number 699165, in the patient's medical record. Additionally, Respondent falsely documented that she discharged Patient Number 699165, and provided discharge instructions to the patient, in the patient's medical record. Video surveillance shows that Respondent was in the staff lounge at the time of her documentation. Respondent's conduct was deceptive, created an inaccurate medical record, and was likely to injure the patient in that subsequent care givers would not have accurate information to base their decisions for further care.
8. On or about September 25, 2016, while employed as a Registered Nurse in the Emergency Department of Edinburg Regional Medical Center, Edinburg, Texas, Respondent inappropriately allowed an individual, who was not an employee at the facility, to enter a secured medication room. Additionally, Respondent inappropriately allowed the individual to sit at the nurse's station for approximately three (3) hours. Respondent's conduct was contrary to laws intended to ensure patient confidentiality, Health Insurance Portability and Accountability Act of 1996 (HIPAA), Title 45, Code of Federal Regulations, Parts 160 and 164, *et seq.*
9. In response to Findings of Fact Numbers Seven (7) and Eight (8), Respondent denies that she falsely and/or intentionally documented erroneous information in the medical chart of Patient Number 699165. Respondent states she completed a thorough head-to-toe assessment of the patient and states she properly documented her assessment. Regarding the timing discrepancy between the video surveillance and Respondent's documentation, Respondent states it is not a result of any attempt to purposely document false information in the medical record. Respondent further states that the electronic medical record automatically schedules nursing events in the chart, that if not performed at the specific time designated, can later be interpreted as the time that the nursing care was completed. Respondent believes that she may have failed to properly input the time of her discharge evaluation, resulting in the pre-printed time to remain as the only time reflected in the chart. Further, Respondent admits she allowed a friend/acquaintance to sit at the nurse's station during her shift.

## 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),(B),(D)&(E) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(4),(6)(A)&(6)(H).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 846879, heretofore issued to IRENE GUTIERREZ.
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 AND A FINE** 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. UNDERSTANDING BOARD ORDERS

Within thirty (30) days of entry of this Order, RESPONDENT must successfully complete the Board's online course, "Understanding Board Orders," which can be accessed on the Board's website from the "Discipline & Complaints" drop-down menu or directly at: <http://www.bon.texas.gov/UnderstandingBoardOrders/index.asp>. Upon successful completion, RESPONDENT must submit the course verification at the conclusion of the course, which automatically transmits the verification to the Board.

### IV. 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](http://www.bon.texas.gov/compliance).*

V. **MONETARY FINE**

RESPONDENT SHALL **pay a monetary fine in the amount of two hundred fifty dollars (\$250.00) within forty-five (45) days of entry of this Order.** Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

VI. **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 clinical healthcare setting, 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:** RESPONDENT SHALL CAUSE each 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. **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 individual who supervises the RESPONDENT and these reports shall be submitted by the supervising individual 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.

## VII. 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 29 day of August, 2017.

*Irene Gutierrez*  
IRENE GUTIERREZ, Respondent

Sworn to and subscribed before me this 29<sup>th</sup> day of August, 2017.

SEAL

*Krista Mireles*

Notary Public in and for the State of ~~Hidalgo~~ Texas



Approved as to form and substance.  
*Edward J. Castillo*

Edward J. Castillo, Attorney for Respondent

Signed this 29 day of August, 2017

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 29th day of August, 2017, by IRENE GUTIERREZ, Registered Nurse License Number 846879, and said Order is final.

Effective this 26th day of October, 2017.



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