



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 ORDER
Vocational Nurse License Number 315065 §
issued to BEN HENRY GBESSAY §
§

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BEN HENRY GBESSAY, Vocational Nurse License Number 315065, 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), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on June 21, 2019.

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 Agreed 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 America Health Care, Inc., Edison, New Jersey, on August 1, 2008. Respondent was licensed to practice vocational nursing in the State of Texas on August 6, 2013.
5. Respondent's nursing employment history includes:

6/13 – unknown	LVN	Estan Home Healthcare Service Stafford, Texas
----------------	-----	---

Respondent's nursing employment history continued:

12/15 – 4/16	Charge Nurse	West Oaks Nursing & Rehab Houston, Texas
4/16 – 4/19	LVN	Maxim Health Services Stafford, Texas
4/19 – Present	Unknown	

6. On or about June 13, 2017, Respondent's license to practice nursing in the State of Texas was Suspended with the Suspension stayed and Respondent was placed on probation through an Order of the Board. A copy of the June 13, 2017, Order is attached and incorporated herein by reference as part of this Agreed Order.
7. On or about June 19, 2017, Respondent failed to comply with the Agreed Order issued to Respondent on June 13, 2017, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Roman Numeral V. Employment Requirements, subsection (A), of the Agreed Order which states, in pertinent part: 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.
8. On or about June 24, 2017, Respondent failed to comply with the Agreed Order issued to Respondent on June 13, 2017, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Roman Numeral V. Employment Requirements, subsection (B), of the Agreed Order which states, in pertinent part: 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) day of receipt of this Order.
9. On or about June 19, 2017, Respondent failed to comply with the Agreed Order issued to Respondent on June 13, 2017, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Roman Numeral V. Employment Requirements, subsection (C), of the Agreed Order which states, in pertinent part: 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. RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency.

10. In response to Findings of Fact Numbers Seven (7) through Nine (9), Respondent states that he was and is in full compliance with the Board order. Respondent states he notified his employer and was instantly terminated even though he was working under the supervision of an RN.

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 §217.12 (11)(B):
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1)&(10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 315065, heretofore issued to BEN HENRY GBESSAY.
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, subject to ratification by the Texas Board of Nursing, that Vocational Nurse License Number 315065, previously issued to BEN HENRY GBESSAY, to practice nursing in the State of Texas is/are hereby **SUSPENDED** and said suspension is **STAYED** and RESPONDENT is hereby placed on **PROBATION** until RESPONDENT fulfills the additional requirements 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. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state.

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 Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Agreed Order.

III. COMPLIANCE WITH PRIOR ORDER

The Order of Suspend Probate issued to RESPONDENT on June 13, 2017 is still in effect in its entirety and RESPONDENT SHALL be responsible for completing the terms of that Agreed Order.

IV. 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.

V. MONETARY FINE

RESPONDENT SHALL **pay a monetary fine in the amount of five hundred dollars (\$500.00) within forty-five (45) days of the effective date 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. FURTHER COMPLAINTS

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against RESPONDENT'S license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

VII. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Agreed Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, RESPONDENT may be eligible for nurse licensure compact privileges, if any.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this 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 this Order is subject to ratification by the Texas Board of Nursing and a copy of this Order will be mailed to me once the Order becomes effective. 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) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 9th day of July, 2019.



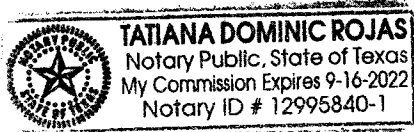
BEN HENRY GBESSAY, Respondent

Sworn to and subscribed before me this 9th day of July, 2019.



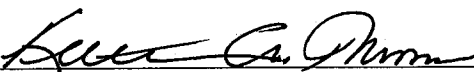
Notary Public in and for the State of Texas

SEAL



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 9th day of July, 2019, by BEN HENRY GBESSAY, Vocational Nurse License Number 315065, and said Agreed Order is final.

Effective this 13th day of August, 2019.



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



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 315065 §
issued to BEN HENRY GBESSAY § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BEN HENRY GBESSAY, Vocational Nurse License Number 315065, 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 10, 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 vocational nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from America Health Care, Inc., Edison, New Jersey, on August 1, 2008. Respondent was licensed to practice vocational nursing in the State of Texas on August 6, 2013.
5. Respondent's nursing employment history includes:

8/2013 - 3/2014 Staff Nurse Water's Edge Rehabilitation Center
Trenton, New Jersey

Respondent's nursing employment history continued:

8/2013 - Unknown	Home Health Nurse	Estan Home Healthcare Services Stafford, Texas
12/2015 - 4/2016	Charge Nurse	West Oaks Nursing and Rehabilitation Houston, Texas
Unknown - Present	Staff Nurse	Correct Care Solutions Careers Nashville, Tennessee

6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a Charge Nurse with West Oaks Nursing and Rehabilitation, Houston, Texas, and had been in that position for four (4) months.
7. On or about April 10, 2016, while employed as a Charge Nurse with West Oaks Nursing and Rehabilitation, Houston, Texas, Respondent failed to timely intervene and notify the physician when he assessed Resident BW, who had sustained a fall with a hematoma to her forehead two (2) days earlier, and he found fluid coming from her right eye, facial bruising, oxygen saturation of 95% on room air, a blood pressure of 105/55 mmHg, and a pulse of 120 at the beginning of his 6 am to 6 pm shift. Respondent called the physician's office at 11 am with no response. Additionally, Respondent failed to intervene and contact the Director of Nursing (DON) when there was no response from the physician after his call at 11 am. Respondent's conduct was likely to injure the resident from a delay in care required to stabilize the resident's condition, and deprived the resident's physician the opportunity to institute timely medical interventions.
8. On or about April 10, 2016, while employed as a Charge Nurse with West Oaks Nursing and Rehabilitation, Houston, Texas, Respondent failed to call 911 when he assessed the resident at about 5:45 pm and found her unresponsive with an oxygen saturation of 75% on room air, blood pressure of 153/94, and a pulse of 193. Instead, Respondent called the Assistant Director of Nursing (ADON) who advised him to call the physician and family. The physician instructed Respondent to call the family as the resident was Do Not Resuscitate (DNR) status, and the daughter directed him to call 911. Emergency Medical Services (EMS) arrived within minutes, and the resident was declared dead on arrival. Respondent's conduct was likely to injure the resident from a delay in care required to stabilize the resident's condition, and may have contributed to the resident's subsequent demise.
9. On or about April 10, 2016, while employed as a Charge Nurse with West Oaks Nursing and Rehabilitation, Houston, Texas, Respondent failed to document his re-assessments and neurological assessments throughout his shift. Respondent's conduct resulted in an inaccurate medical record, and was likely to injure the resident in that subsequent care givers

would not have reliable information on which to base their care decisions.

10. In response to the incidents in Findings of Fact Numbers Seven (7) through Nine (9), Respondent states that the Administrator, DON, and ADON were present at the time that the resident fell and had sustained a hematoma to the right side of her forehead, and none of them contacted the physician. Respondent indicates that he reported to work two (2) days after the resident's fall, and the resident had a change in her condition per the off going nurse. Respondent explains that he was told that several calls had been placed to the physician, but there had been no response. Respondent adds that he also called the physician, left a message, and got no return call. Respondent states that he called the ADON, who said, "she is DNR; there is nothing we can do but call the physician again, and call the family also." Respondent indicates that he called the physician three (3) more times and finally got a response saying nobody called him, he wasn't aware, the resident was a DNR so to call the daughter. Respondent relates that he called the daughter, who asked him to call 911. Respondent explains that EMS came, and declared the resident dead.

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)(D),(1)(M),(1)(P)&(2)(A) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B)&(4).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 315065, heretofore issued to BEN HENRY GBESSAY, 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, subject to ratification by the Texas

Board of Nursing, that Vocational Nurse License Number 315065, previously issued to BEN HENRY GBESSAY, to practice nursing in Texas is hereby **SUSPENDED** with the suspension **STAYED** and Respondent is hereby placed on **PROBATION**, in accordance with the terms of this Order, for a minimum of two (2) years **AND** until Respondent fulfills the requirements 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.

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.*

V. 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 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/probation 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 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 eight (8) quarters [two (2) years] of employment as a nurse.

VI. FURTHER COMPLAINTS

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

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.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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 20 day of May, 2017

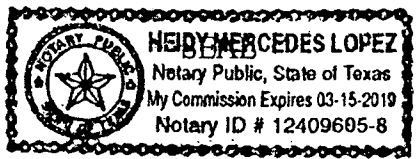
[Handwritten Signature]

BEN HENRY GBESSAY, Respondent

Sworn to and subscribed before me this 20 day of May, 2017.


[Handwritten Signature]

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 20th day of May, 2017, by BEN HENRY GBESSAY, Vocational Nurse License Number 315065, and said Order is final.

Effective this 13th day of June, 2017.



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