

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	AGREED ORDER
Registered Nurse License Number 708859	§	
issued to JOSEPH CLIFFORD MOTHERWAY	§	
	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JOSEPH CLIFFORD MOTHERWAY, Registered Nurse License Number 708859, 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 Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on December 10, 2018.

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 professional nurse in the State of Texas is in current status.
4. Respondent received an Associate Degree in Nursing from San Jacinto College, Pasadena, Texas, on March 3, 2004. Respondent was licensed to practice professional nursing in the State of Texas on August 10, 2004.
5. Respondent's nursing employment history includes:

08/2004 - 12/2005	Registered Nurse	San Jacinto Methodist Hospital Baytown, Texas
01/2006 - 03/2006	Unknown	

Respondent's nursing employment history continued:

04/2006 - 06/2015	Registered Nurse	Devereux Advanced Behavioral Health League City, Texas
03/2015 - 11/2015	Registered Nurse	The Watershed Addiction Treatment Program Webster, Texas
12/2015 - 01/2016	Unknown	
01/2016 - 04/2018	Charge Nurse	Devereux Advanced Behavioral Health League City, Texas
05/2018 - Present	Unknown	

6. At the time of the incident, Respondent was employed as a Charge Nurse with Devereux Advanced Behavioral Health, League City, Texas, and had been in that position for approximately two (2) years.
7. On or about January 31, 2018, while employed as the Charge Nurse at Devereux Advanced Behavioral Health, League City, Texas, Respondent did not unambiguously report in a timely fashion, the physical abuse of Patient DR and Patient FD to appropriate staff and/or State agency, after Respondent witnessed a staff member punching both patients. Respondent's conduct was likely to injure the patients in that it created an unsafe environment and may have unnecessarily exposed the patients to continued emotional, physical, and/or psychological harm.
8. In response to the incident in Finding of Fact Number Seven (7), Respondent states that he witnessed staff run to Patient DR from behind the nurse's station and attempt to restrain the patient physically, but fell to the ground and exchanged several "closed-fist blows." Respondent intervened by getting the staff member to release DR from the prone restraint. Respondent states that staff separated the fight, but the two began to fight again. Respondent states that staff separated the two, implemented de-escalation strategies, and secluded DR. Then, Patient FD ran full speed past Respondent and straight to staff, who then began fighting. Respondent states that during these two successive events, a code Green was called, he reported the restraints and seclusions to the Campus Supervisor, and called the appropriate physician to request approval to place the patients in seclusion. Respondent states that when he assessed both patients, he noticed quarter-sized contusions on both patients' left temporal region, and concluded that staff had indeed struck both patients contrary to other staff's claim. Respondent states that he made several verbal reports to the appropriate staff members, stating that the staff member and Patients were

“engaged” in physical contact leading to the restraint and seclusion. Respondent believed at the time that given staff’s experience with the patient and patient’s history at the facility, this term was sufficient to report the abuse. Respondent acknowledges he should have used more precise language and reported the incident more expeditiously.

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) and 22 TEX. ADMIN. CODE §217.12 (1)(A),(1)(B),(4)&(6)(C).
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 708859, heretofore issued to JOSEPH CLIFFORD MOTHERWAY.
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. 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. 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 and video programs will not be approved.

- B. **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 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. 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 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.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this 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 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 18th day of June, 2020.

Joseph Clifford Motherway
JOSEPH CLIFFORD MOTHERWAY, Respondent

Sworn to and subscribed before me this 18th day of June, 2020.

SEAL

Notary Public in and for the State of _____

Approved as to form and substance.

Kayleigh K. Smith
Kayleigh K. Smith, Attorney for Respondent

Signed this 18th day of June, 2020.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 18th day of June, 2020, by JOSEPH CLIFFORD MOTHERWAY, Registered Nurse License Number 708859, and said Agreed Order is final.

Effective this 23rd day of July, 2020.

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