

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	AGREED ORDER
Vocational Nurse License Number 186861	§	
issued to TOSHA HERRON BURTON	§	
	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of TOSHA HERRON BURTON, Vocational Nurse License Number 186861, 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 February 9, 2021.

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 Houston Community College, Houston, Texas, on August 8, 2002. Respondent was licensed to practice vocational nursing in the State of Texas on November 14, 2002.
5. Respondent's nursing employment history includes:

11/2002 – 02/2016	Unknown	
03/2016 – Present	Licensed Vocational Nurse	Special Kids Care Houston, Texas

Respondent's nursing employment history continued:

10/2018 – 05/2019	Licensed Vocational Nurse	Memorial Hermann Health System Houston, Texas
07/2019 – 11/2019	Licensed Vocational Nurse	Maxim Healthcare Services Stafford, Texas
02/2020 – Present	Licensed Vocational Nurse	Daisy Kids Care Houston, Texas

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with Maxim Healthcare Services, Stafford, Texas, and had been in that position for two (2) months.
7. On or about September 21, 2019, while employed as a Licensed Vocational Nurse with Maxim Healthcare Services, Stafford, Texas, and assigned to provide skilled nursing care to Patient GC, Respondent inappropriately submitted a flowsheet reflecting nursing care rendered on September 20, 2019, which was the same flowsheet she submitted to reflect nursing care rendered on September 17, 2019, after leaving the correct flowsheet at the patient's home. After the facility noted that the date and time were altered, Respondent submitted another flowsheet for September 20, 2019, that was significantly different from her first one. Respondent's conduct was deceiving and resulted in an inaccurate medical record.
8. In response to the incident in Finding of Fact Number Seven (7), Respondent admits that she did use a piece of paper on the 9/17 note to represent the 9/20 note for date and time accountability, as she had left the correct note at the patient's home and wanted credit for submitting on time.
9. Formal Charges were filed on August 13, 2020.

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)(D) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C),(4)&(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 Vocational Nurse License Number 186861, heretofore issued to TOSHA HERRON BURTON.
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 **REMEDIAL EDUCATION WITH 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. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" as applicable and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state using a Texas compact license.

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. MONETARY FINE

RESPONDENT SHALL **pay a monetary fine in the amount of two hundred fifty dollars (\$250.00) 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. SUBSEQUENT CRIMINAL PROCEEDINGS

IT IS FURTHER AGREED, should the RESPONDENT'S conduct, as outlined in the findings of fact of this Agreed Order, result in subsequent judicial action, including a deferred disposition, RESPONDENT may be subject to further disciplinary action, up to, and including, revocation of RESPONDENT'S license(s) to practice nursing in the State of Texas.

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) and/or privilege(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

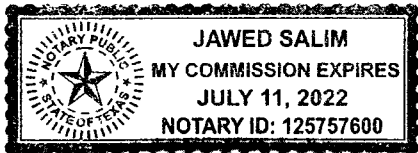
I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing and 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) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 21st day of APRIL, 20 21

Tosha Herron Burton
TOSHA HERRON BURTON, RESPONDENT

Sworn to and subscribed before me this 21st day of APRIL, 20 21

SEAL



Jawed Salim
Notary Public in and for the State of TEXAS

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 21st day of April, 2021, by TOSHA HERRON BURTON, Vocational Nurse License Number 186861, and said Agreed Order is final.

Effective this 23rd day of April, 2021.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas". The signature is written in a cursive style with a horizontal line extending from the end.

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