

BEFORE THE TEXAS BOARD OF NURSING



In the Matter of Registered Nurse §
License Number 765530 § AGREED
issued to SHERRY IRENE BURGER § ORDER

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

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of SHERRY IRENE BURGER, Registered Nurse License Number 765530 hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on September 10, 2010, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

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.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received an Associate Degree in Nursing from Butler County Community College, El Dorado, Kansas, on December 12, 2008. Respondent was licensed to practice professional nursing in the State of Texas on February 12, 2009.

5/16/2009 05:52	Norco 5/325 1 tablet	""	04:50	Not documented	Documented the administration 62 minutes prior to withdrawal from Pyxis
5/16/2009 05:53	Norco 5/325 1 tablet	""	05:50	Not documented	Documented the administration 3 minutes prior to withdrawal from Pyxis and is in excess of physician's order
5/16/2009 21:56	Norco 5/325 1 tablet	""	21:00	Not documented	Documented the administration 56 minutes prior to withdrawal from Pyxis
5/16/2009 21:58	Norco 5/325 1 tablet	""	22:00	Not documented	Is in excess of physician's order
5/17/2009 05:45	Norco 5/325 1 tablet	""	Not documented	Not documented	
5/17/2009 05:46	Norco 5/325 1 tablet	""	Not documented	Not documented	Is in excess of physician's order
5/18/2009 20:46	Norco 5/325 1 tablet	""	21:00	Not documented	
5/18/2009 20:46	Norco 5/325 1 tablet	""	22:00	Not documented	Is in excess of physician's order
5/19/2009 19:07	Norco 5/325 1 tablet	""	19:00	Not documented	Documented the administration 7 minutes prior to withdrawal from Pyxis
5/19/2009 19:08	Norco 5/325	""	20:00	Not documented	Documented the administration 52 minutes prior to withdrawal from Pyxis and is in excess of physician's order

Respondent's conduct resulted in an inaccurate and incomplete medical record on which subsequent care givers would rely in order to provide further patient care.

8. On or about May 14, 2009, through May 19, 2009, while employed at East Texas Medical Center, Tyler, Texas, Respondent withdrew Norco 5/325 from the Pyxis Medication Dispensing System for Patient MR#3782367 in excess of physician's orders, as follows:

Date	Medication	Time removed	Time administered	Excess dose	Physician's order
5/15/2009	Norco 5/325 1 tablet	21:28	21:00	none	Norco by mouth every 6 hours as needed, may repeat after 60 minutes if ineffective.
5/15/2009	Norco 5/325 1 tablet	21:29	22:00	1 tablet	"
5/16/2009	Norco 5/325 1 tablet	05:52	04:50	none	"
5/16/2009	Norco 5/325 1 tablet	05:53	05:50	1 tablet	"
5/16/2009	Norco 5/325 1 tablet	21:56	21:00	none	"
5/16/2009	Norco 5/325 1 tablet	21:58	22:00	1 tablet	"
5/17/2009	Norco 5/325 1 tablet	05:45	not noted	none	"
5/17/2009	Norco 5/325 1 tablet	05:46	not noted	1 tablet	"
5/18/2009	Norco 5/325 1 tablet	20:46	21:00	none	"
5/18/2009	Norco 5/325 1 tablet	20:46	22:00	1 tablet	"
5/19/2009	Norco 5/325 1 tablet	19:07	19:00	none	"
5/19/2009	Norco 5/325 1 tablet	19:08	20:00	1 tablet	"

Respondent's conduct was likely to injure the patient in that the administration of Norco in excess frequency and/or dosage of the physician's order could result in the patient suffering from adverse reactions.

9. In response to the incidents in Findings of Fact Numbers Seven (7) and Eight (8), Respondent states she failed to note the time on the Pyxis when she withdrew the medication and she failed to document the wastage after she dropped the medication on the floor after administering the correct dose at the bedside. Respondent also states she wasted the medication by placing it in the sharps box with the charge nurse, who witnessed the wastage but forgot to waste it in the Pyxis system.

10. On or about June 6, 2009, while employed as a Staff Nurse with East Texas Medical Center, Tyler, Texas, Respondent inappropriately administered Morphine 160mg and Ativan 12 mg to Patient MR#039-10-07, who was unresponsive and on comfort care, in excess of the physician's orders, as follows:

Date	Time	Medication Administered	Physician's Order
6/6/09	2030	10 mg Morphine 12 mg Ativan	Morphine 4 mg IV q 1 hr prn Ativan 12 mg q 30
6/6/09	2045	10 mg Morphine	“”
6/6/09	2100	10 mg Morphine	“”
6/6/09	2110	12 mg Ativan	“”
6/6/09	2115	10 mg Morphine	“”
6/6/09	2130	10 mg Morphine	“”
6/6/09	2145	10 mg Morphine	“”
6/6/09	2200	10 mg Morphine 12 mg Ativan	“”
6/6/09	2215	10 mg Morphine	“”
6/6/09	2230	10 mg Morphine	“”
6/6/09	2245	10 mg Morphine	“”
6/6/09	2300	10 mg Morphine	“”
6/6/09	2330	12 mg Ativan	“”
6/7/09	0000	10 mg Morphine 12 mg Ativan	“”
6/7/09	0020	10 mg Morphine	“”
6/7/09	0040	10 mg Morphine	“”
6/7/09	0100	10 mg Morphine 12 mg Ativan	“”

Respondent's conduct resulted in the patient receiving excessive amounts of Morphine and Ativan, which may have contributed to the patient's demise.

11. In response to the incident in Finding of Fact Number Ten (10)), Respondent states she had post operative orders for Morphine and Ativan but the charge nurse told her to call the physician and ask for 10mg of Morphine every 10 minutes with Ativan 2mg every 30 minutes until patient demise. Respondent states that the family would report the patient presenting facial grimacing and tears on his face, and request additional pain medication. Respondent states she realizes she did not document the family's requests or any additional pain assessments.

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 violations of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(B),(C)&(D) and §217.12(1)(B),(4)&(10)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against License Number 765530, heretofore issued to SHERRY IRENE BURGER, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Registered Nurse License Number 765530, previously issued to SHERRY IRENE BURGER, to practice professional nursing in Texas is hereby SUSPENDED for a period of two (2) years with the suspension STAYED and Respondent is hereby placed on PROBATION for two (2) years with the following agreed terms of probation:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is

encumbered by this order the Respondent may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

(1) RESPONDENT SHALL 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.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It 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. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address:*

<http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>

(3) RESPONDENT SHALL, within one (1) year of entry of this Order successfully complete a course in medication administration. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include Nurses. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form, provided by the Board, to the office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address:*

<http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>

(4) RESPONDENT SHALL, within one (1) year of entry of this Order successfully

complete a course in nursing documentation. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: 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.

RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address:*

<http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>

(5) RESPONDENT SHALL, within one (1) year of entry of this Order successfully complete 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 program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address: <http://ncsbn.hivelive.com/hives/a0f6f3e8a0/summary>.*

(6) RESPONDENT SHALL pay a monetary fine in the amount of five hundred

dollars (\$500.00). RESPONDENT SHALL pay this fine 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.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(7) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the probation conditions on RESPONDENT'S license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the probation conditions on RESPONDENT'S license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(8) RESPONDENT SHALL CAUSE each present employer in nursing to submit the

Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(9) For the first year of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse. Direct supervision requires another professional nurse 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). The 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.

(10) For the remainder of the probation period, RESPONDENT SHALL be supervised by a Registered Nurse 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.

(11) 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 Registered Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for two (2) years of employment as a nurse.

IT IS FURTHER AGREED and ORDERED that 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.

IT IS FURTHER AGREED, that 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 shall 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 waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, 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 Board. When this Order is ratified, the terms of this Order become effective, 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 revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 10 day of January, 2011.



SHERRY IRENE BURGER, Respondent

Sworn to and subscribed before me this 10 day of Jan., 2011.

SEAL
NOTARY PUBLIC-STATE OF FLORIDA
 Callie Richter
Commission #DD661328
Expires: APR. 16, 2011
BONDED THRU ATLANTIC BONDING CO., INC.



Notary Public in and for the State of Florida

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 10th day of January, 2011, by SHERRY IRENE BURGER, Registered License Number 765530, and said Order is final.

Effective this 8th day of February, 2011.


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