

BEFORE THE TEXAS BOARD OF NURSING



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.
Patricia P. Thomas
Executive Director of the Board

In the Matter of Registered Nurse § AGREED
License Number 736368 and Vocational §
Nurse License Number 205463 §
issued to HIRJI KANJI BHUDIA § ORDER

An investigation by the Texas Board of Nursing, hereinafter referred to as the Bo produced evidence indicating that HIRJI KANJI BHUDIA, hereinafter referred to as Respondent, Registered Vocational Nurse License Number 736368 and Vocational Nurse License Number 205463, may have violated Section 301.452(b)(10), Texas Occupations Code.

An informal conference was held on June 22, 2010, at the office of the Texas Board of Nursing, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person and was represented by Taralynn Mackay, Attorney at Law. Also in attendance, in support of Respondent, was Marsha Janet Irwin, PhD, RN, Nursing Instructor, Kingwood College, Kingwood, Texas. In attendance were Mary Beth Thomas, PhD, RN, Director, Executive Director's Designee; John F. Legris, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Dominique Mackey, Investigator and James S. Smelser, Investigator.

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 consented to the entry of this Order.
3. Respondent is currently licensed to practice professional and vocational nursing in the State of Texas.

4. Respondent received a Certificate in Vocational Nursing from North Harris College, Houston, Texas on July 11, 2006. Respondent was licensed to practice vocational nursing in the State of Texas on August 29, 2006. Respondent received an Associate Degree in nursing from Kingwood College, Kingwood, Texas on December 13, 2006. Respondent was licensed to practice professional nursing in the State of Texas on January 9, 2007.

5. Respondent's nursing employment history includes:

01/2007 to 05/2009	Staff Nurse	Lyndon B. Johnson Hospital Houston, Texas.
03/2008 to 12/2008	Staff Nurse PRN	Cypress Fairbanks Medical Center Houston, Texas.
05/2009 to 07/2009	Not employed in nursing.	
07/2009 to Present	Staff Nurse	St. Joseph Medical Center Houston, Texas.

6. At the time of the incidents described in Findings of Fact Numbers Seven (7) and Eight (8), Respondent was employed as a Staff RN with Lyndon B. Johnson Hospital, Houston, Texas and had been in this position for two (2) years and five (5) months.

7. On or about July 26, 2008, while employed as a Registered Nurse with Lyndon Baines Johnson General Hospital, Houston, Texas, Respondent inappropriately touched patient MR #051644034, who had been admitted to the hospital for chest pains and swelling of his hands and feet, by examining the patient's genitals thereby performing a more extensive physical examination than might have been anticipated by the patient or required by the patient's chief complaint. Respondent also asked questions about the patient's sexual history, which may have been perceived as inappropriate by the patient based on his chief complaint of chest pain and swelling of his hands and feet. Respondent's conduct could have caused emotional harm to the patient including delayed distress for the patient, which may not be recognized or felt by the patient until after the harmful consequences occur.

8. On or about May 30, 2009, while employed as a Registered Nurse with Lyndon Baines Johnson General Hospital, Houston, Texas, Respondent inappropriately touched patient MR #013814554, who had been treated for a laceration to the left hand, by examining patient's testicles and penis, thereby performing a more extensive physical examination than what was required for the patient's chief complaint. Respondent also asked questions about the patient's sexual history which may have been perceived as inappropriate by the patient based on his chief complaint of a lacerated left hand. Respondent's conduct could have caused emotional harm to the patient including delayed distress for the patient, which may not be recognized or felt by the patient until after the harmful consequences occur.

9. Charges were filed on October 6, 2009.
10. Charges were mailed to Respondent on October 8, 2009.
11. In response to Findings of Fact Numbers Seven (7) and Eight (8), Respondent states that he was performing a full head to toe assessment and that questions about a patient's history, including questions about their sexual history, is part of the fact gathering process. Respondent states he understands the Board's stance and regarding the necessity for a full head to toe assessment. Respondent states in both cases, it was the clinical judgement of Respondent to conduct such an exam based on the patient's initial complaint or a complaint brought up by the patient during medical care of the patient. Respondent states he has become very careful with physical assessments and questions since he became aware of the patients' discomfort and he insist on having a clinical chaperone in the room when performing any such exam. Respondent presented the results of a polygraph examination indicating that the head to toe assessment s were not intentionally done for inappropriate reasons.
12. Marsha Janet Irwin, PhD, RN, Nursing Instructor, Kingwood College, Kingwood, Texas presented, in explanation for Respondent's actions, that he was taught, by her, to do full assessments on each patient presented to him and felt that Respondent appropriately assessed each of these patients.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, 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), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(J) and 22 TEX. ADMIN. CODE §217.12(6)(C),(D)&(E).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 736368 and Vocational Nurse License Number 205463, heretofore issued to HIRJI KANJI BHUDIA, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

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ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a REPRIMAND WITH STIPULATIONS, and 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.

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(s) are encumbered by this Order, 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.

IT IS FURTHER AGREED that:

(1) 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>.

(2) 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>.

(3) RESPONDENT SHALL, within one (1) year of entry of this Order successfully complete a course in “Respecting Professional Boundaries,” a 3.9 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/03fbf38973/summary>.*

(4) 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>.*

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 A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH

TWENTY FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE A REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD.

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations 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 stipulations 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.

(6) 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.

(7) 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.

(8) For the remainder of the stipulation period, RESPONDENT SHALL be supervised by a Registered 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.

(9) 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) year(s) of employment as a nurse.

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

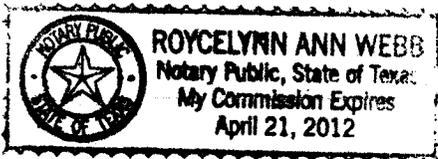
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid 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 13th day of September, 2010.

Hirji Kanji Bhudia
HIRJI KANJI BHUDIA, Respondent

Sworn to and subscribed before me this 13th day of September, 2010.

SEAL



Roycelyn Ann Webb
Notary Public in and for the State of Texas

Approved as to form and substance.

Taralynn R. Mackay
Taralynn Mackay, Attorney for Respondent

Signed this 20th day of September, 2010.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 13th day of September, 2010, by HIRJI KANJI BHUDIA, Registered Nurse License Number 736368 and Vocational Nurse License Number 205463, and said Order is final.

Effective this 21st day of October, 2010.



A handwritten signature in black ink, appearing to read 'Katherine A. Thomas', is written over a horizontal line.

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