



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 A. Marana
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Registered Nurse License Number 720510 §
issued to XENA LEVINA MALONE § ORDER

An investigation by the Texas Board of Nursing, hereinafter referred to as the Board, produced evidence indicating that XENA LEVINA MALONE, hereinafter referred to as Respondent, Registered Nurse License Number 720510, may be subject to discipline pursuant to Sections 301.452(b)(10)&(13) and 301.453, Texas Occupations Code.

An informal conference was held on June 25, 2013, at the office of the Texas Board of Nursing, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Nancy Roper Willson, Attorney at Law. In attendance were Bonnie Cone, MSN, RN - Consultant for Nursing Practice, Executive Director's Designee; Nikki Hopkins, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Skylar Caddell, Nurse Investigator Specialist; Pamela Nemir, Nurse Investigator and, Peter Marana, Legal Intern.

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 nursing in the State of Texas.
4. Respondent received an Associate Degree in Nursing from Houston Community College, Houston, Texas, on May 14, 2005. Respondent was licensed to practice professional nursing in the State of Texas on September 6, 2005.

5. Respondent's nursing employment history includes:

2005 - 2007	Registered Nurse	San Jacinto Methodist Hospital Baytown, Texas
2007 - 2012	Registered Nurse	Memorial Hermann Northwest Hospital Houston, Texas
2012 - Present	Registered Nurse	A & A Home Health Services, Inc. Houston, Texas
2012 - Present	Registered Nurse	All About Staffing - West Houston Medical Center Houston, Texas

6. At the time of the incident, Respondent was employed as a staff nurse with Memorial Hermann Northwest Hospital, Houston, Texas, and had been in this position for five (5) years.

7. On or about February 1, 2012, February 7, 2012, and February 22, 2012, while employed with Memorial Hermann Northwest Hospital, Houston, Texas, Respondent inappropriately and falsely pre-documented the completion of assessments and provisions of care in patients' medical records prior to performing the care, as follows:

Date	Patient	Time and Type of Care	Time Documented
2/1/2012	Number 390180447500	04:30 & 06:30 - Frequent Nursing Interventions	0347
2/1/2012	Number 390180447500	06:30 - Focused Line Management	0346
2/7/2012	Number 355993257500	12:00 - Focused Line Management	1127
2/22/2012	Number 381495897502	04:00 & 05:00 - Neuro Checks	0338
2/22/2012	Number 381495897502	06:00 & 07:00 - Neuro Checks	0339
2/22/2012	Number 38149589702	07:05 - PRN Medication Response	0606
2/22/2012	Number 376614127506	07:00 - Frequent Nursing Interventions	0326

Respondent's conduct resulted in inaccurate medical records and was likely to deceive subsequent care givers who relied on the information while providing care to the patients.

8. On or about August 8, 2012, Respondent successfully completed the course, "Nursing Documentation", which would have been a requirement of this Order.

9. On or about September 1, 2012, Respondent successfully completed the course, "Sharpening Critical Thinking Skills", which would have been a requirement of this Order.
10. On or about May 4, 2013, Respondent successfully completed the course, "Texas Nursing Jurisprudence", which would have been a requirement of this Order.
11. Charges were filed on May 31, 2013.
12. Charges were mailed to Respondent on June 3, 2013.
13. In response to Finding of Fact Seven (7), Respondent states that during the one month time period the above incidents occurred, she was feeling pressured by the hospital to complete all charting prior to the end of her shift and clock out on time without getting a written counseling. In addition, Respondent states she felt pressured to get home on time for childcare reasons. Respondent states she never intended to be inaccurate in her charting or place her patients at risk, and if their statuses had changed, she would have made the appropriate changes in the medical records, accurately reflecting her patients' status. Respondent states she acknowledges pre-charting is not good practice and has not done it since leaving Hermann Memorial Northwest Hospital.

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 violation(s) of 22 TEX. ADMIN. CODE §§217.11(1)(A),(1)(D)&(3)(A) and 217.12(1)(A),(1)(B),(1)(C),(4)&(6)(A).
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 720510, heretofore issued to XENA LEVINA MALONE, 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 RESPONDENT SHALL receive the sanction of WARNING 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, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

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) is/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:

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 ONE (1) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS 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 STIPULATION PERIOD:

(1) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S license(s). 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 on RESPONDENT'S license(s). 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.

(2) 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.

(3) 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 with the exception of RESPONDENT'S current

employer of All About Staffing assigned specifically to West Houston Medical Center, Houston, Texas. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(4) 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 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 one (1) 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 may be eligible for nurse licensure compact privileges, if any.

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RESPONDENT'S CERTIFICATION

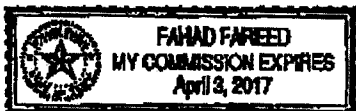
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to 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 20 day of July, 2013.

XENA LEVINA MALONE, Respondent

Sworn to and subscribed before me this 20 day of July, 2013.

SEAL



Fahad Fareed

Notary Public in and for the State of TEXAS

Approved as to form ^{and} ~~and substance~~.

Nancy Roper Willson
Nancy Roper Willson, Attorney for Respondent

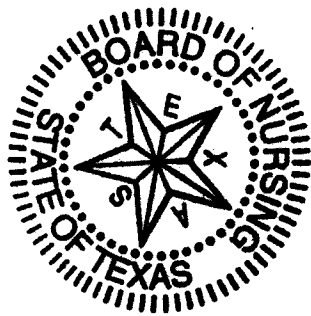
Signed this 21st day of July, 2013

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 20th day of July, 2013, by XENA LEVINA MALONE, Registered Nurse License Number 720510, and said Order is final.

Effective this 6th day of August, 2013.

Katherine A. Thomas

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



I certify this to be a true copy of the records on file with the Texas Board of Nursing.

Date: 8/7/13
Signed: [Signature]