



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

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of § AGREED  
Registered Nurse License Number 233343 §  
issued to CARMEN MIDDLETON § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board considered the matter of CARMEN MIDDLETON, Registered Nurse License Number 233343, 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 informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on June 20, 2013, 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(s).
2. Respondent waived 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 a Baccalaureate Degree in Nursing from the University of Texas at Austin, Austin, Texas on May 1, 1975. Respondent was licensed to practice professional nursing in the State of Texas on August 6, 1975.
5. Respondent's nursing employment history includes:

7/1975 - 5/1976	Charge Nurse	El Paso Doctor's Hospital El Paso, Texas
5/1976 - 12/1976	Charge Nurse	Four Seasons Nursing Home Austin, Texas

Respondent's nursing employment history continued:

1/1977 - 3/1977	Charge Nurse	St. Joseph's Hospital Albuquerque, NM
3/1979 - 9/1979	Staff/Relief Nurse	Seton Medical Center Austin, Texas
1/2000 - 3/2000	Medical/Surgery Nurse	Big Bend Regional Medical Center Alpine, Texas
5/2002 - 2/2003	Director of Nursing	Cartwheel Lodge Nursing Home Luling, Texas
3/2003 - 11/2003	Charge Nurse	Seton Edgar B. Davis Hospital Luling, Texas
7/2003 - 11/2003	Staff Nurse	Care Inn of Gonzales Gonzales, Texas
11/2003 - 11/2004	Director of Nursing	Care Inn of Gonzales Gonzales, Texas
12/2004 - 7/2012	Staff Nurse	Oakcreek Nursing & Rehabilitation Luling, Texas
2/2005 - 7/2005	Administrator	Luling Care Center Luling, Texas
7/2005 - 9/2005	Interim Director of Nursing	Hacienda Oaks Nursing & Rehab Seguin, Texas
8/2012 - Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Staff Nurse with Oakcreek Nursing & Rehabilitation, Luling, Texas, and had been in this position for seven (7) years and seven (7) months.
7. On or about November 2011, while employed with Oakcreek Nursing and Rehabilitation, Luling, Texas, Respondent failed to conduct an investigation after she received information from a staff member that Resident A.B. made allegations regarding being raped by a male nurse aide. On June 25, 2012, a staff member witnessed a sexual assault of the patient by a male CNA, who was later arrested. Respondent's failure to investigate exposed the patient unnecessarily to a risk of harm in that she allowed the patient to have continued exposure to employees who may have a propensity toward client abuse.

8. On or about November 2011, while employed with Oakcreek Nursing and Rehabilitation, Luling, Texas, Respondent failed to report to her supervisor and the Luling Police Department that Resident A.B. notified a staff member that she had been raped by a male nurse aide. Respondent's conduct deprived the supervisor and police of vital information that would be required to institute timely interventions to prevent the patient's continued exposure to employees who may have propensity toward client abuse.
9. In response to Finding of Fact Numbers Seven (7) and Eight (8), Respondent states that she took appropriate action when a staff member told her at the end of the shift "Oh, by the way, the resident said [staff member's name] raped her." Respondent states she assessed the resident finding no bruising anywhere on the body, no bleeding anywhere, and no skin tears present on the body. She states she also checked the resident's history, and asked her about being harmed, but Respondent points out the resident only used short words such as "yes" or "no" or grunted. When nothing resulted from the assessment to show a rape had occurred, she then looked to those involved to determine the next step. The staff member's presentation of the report and her known history of creating drama when compared to the CNA's denial and his work history led her to determine there was nothing to report. Respondent agrees she should have reported this suspected incident to her supervisor and the police.

#### 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)&(1)(M) 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 233343, heretofore issued to CARMEN MIDDLETON, 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 a LIMITED LICENSE 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) 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:

(1) While under the terms of this Order, RESPONDENT SHALL NOT provide direct patient care. For the purposes of this Order, direct patient care involves a personal relationship between the Nurse and the client, and includes, but is not limited to: teaching, counseling, assessing the client's needs and strengths, and providing skilled nursing care.

(2) SHOULD RESPONDENT desire to return to a clinical practice setting, which would require her to provide direct patient care, RESPONDENT SHALL petition the Board for such approval, at which time, the RESPONDENT MUST satisfy all then existing requirements for re-issuance of the privilege to provide direct patient care. Further, the Board may impose reasonable conditions that must be satisfied by the RESPONDENT before re-issuance of an unencumbered license.

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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 19<sup>th</sup> day of July, 2013.

Carmen Middleton

CARMEN MIDDLETON, Respondent

Sworn to and subscribed before me this 19<sup>th</sup> day of July, 2013.

SEAL



Brittany Saccomano

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 19<sup>th</sup> 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 19<sup>th</sup> day of July, 2013, by CARMEN MIDDLETON, Registered Nurse License Number 233343, and said Order is final.

Effective this 10<sup>th</sup> day of September, 2013.



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