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*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 532550 §  
& Vocational Nurse License Number 111421 §  
issued to JAMES E. ANASTASIO § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JAMES E. ANASTASIO, Registered Nurse License Number 532550 and Vocational Nurse License Number 111421, 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 Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on December 31, 2014.

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 Order.
3. Respondent's license to practice as a vocational nurse in the State of Texas is in delinquent status. Respondent's license to practice as a professional nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Odessa College, Odessa, Texas on May 21, 1985, and received an Associate Degree in Nursing from Odessa College, Odessa, Texas on May 9, 1986. Respondent was licensed to practice vocational nursing in the State of Texas on December 4, 1985, and was licensed to practice professional nursing in the State of Texas on August 22, 1986.

5. Respondent's nursing employment history includes:

8/1986 - 12/1989	Staff Nurse	Midland Memorial Hospital Midland, Texas
1/1990 - 6/1990	Registered Nurse	Support Systems International Charleston, South Carolina
7/1990 - 1/1991	Staff Nurse	Visiting Nurse Services Midland, Texas
1/1991 - 5/1994	Staff Nurse	Midland Memorial Hospital Midland, Texas
6/1994 - 3/2006	Post Anesthesia Care Unit (PACU) Nurse	Midland Memorial Hospital Midland, Texas
3/2006 - Current	Circulating Nurse	Midland Memorial Hospital Midland, Texas

6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a Circulating Nurse with Midland Memorial Hospital, Midland, Texas, and had been in that position for eight (8) years.
7. On or about March 17, 2014, while employed as a Circulating Nurse with Midland Memorial Hospital, Midland, Texas, Respondent failed to perform a hand-off count or recount of items in the operating room (OR) when assuming care of Patient Number 4000019664 from another circulating nurse. The patient's surgical incision was closed and not long after, the patient experienced pain, abdominal distention, and a non mechanical bowel obstruction. An x-ray showed a retained foreign body, and a laparotomy sponge was surgically removed from the patient ten (10) days later. Respondent's conduct contributed to the patient unnecessarily requiring a second surgical procedure to remove a retained sponge from his abdominal cavity, and a prolonged hospital stay.
8. In response to the incident in Finding of Fact Number Seven (7), Respondent states that his clinical manager directed him to take over a pending case from another circulating nurse. Respondent relates when he entered the OR, the circulating nurse and the certified surgical technologist had just completed opening and counting the pending surgical case. Respondent indicates the other circulating nurse reported that the counts were done and correct. Respondent adds that as the case progressed he was asked several times to leave the OR and get different items for the physicians. Respondent relates he tracked on a dry erase board the count of laparotomy pads entering the abdomen. Respondent adds that as the surgery case came to a close, he and the CST completed three counts which were all correct.

## 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)(M),(1)(P)&(3)(A) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B)&(4).
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 532550 and Vocational Nurse License Number 111421, heretofore issued to JAMES E. ANASTASIO.

## TERMS OF ORDER

### **I. SANCTION AND APPLICABILITY**

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **WARNING WITH STIPULATIONS** 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. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

### **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 Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Order.

### III. 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 courses 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](http://www.bon.texas.gov/compliance).*

### IV. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse, providing direct patient care in a licensed healthcare setting, **for a minimum of sixty-four (64) hours per month** for four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until four (4) quarterly periods of employment as a nurse have elapsed. Any quarterly period without continuous employment with the same employer for all three (3) months **will not**

count towards completion of this requirement. 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 period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** RESPONDENT SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.
- C. **Incident Reporting:** RESPONDENT SHALL CAUSE each employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.
- D. **Nursing Performance Evaluations:** 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 and these reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month quarterly period for four (4) quarters [one (1) year] of employment as a nurse.

V. **RESTORATION OF UNENCUMBERED LICENSE(S)**

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.

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 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 when this Order becomes final and the terms of this Order become effective, 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) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 18 day of February, 2015.

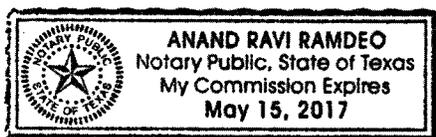
James E. Anastasio  
JAMES E. ANASTASIO, Respondent

Sworn to and subscribed before me this 18 day of February, 2015.

SEAL

Anand R. Ramdeo

Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 18th day of February, 2015, by JAMES E. ANASTASIO, Registered Nurse License Number 532550 and Vocational Nurse License Number 111421, and said Order is final.

Effective this 16<sup>th</sup> day April, 2015.



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