

Respondent's nursing employment history continued:

1/2012 - Present LVN Epic Health Services
San Antonio, Texas

6. At the time of the initial incident, Respondent was employed as a Vocational Nurse with Agape Adult Daycare, Inc., and had been in that position for one (1) year and ten (10) months.
7. On or about September 11, 2012, while employed with Agape Adult Daycare, Inc., San Antonio, Texas, Respondent failed to institute appropriate nursing intervention for Patient PZ, who had a history of strokes, after she was notified at 12:00 p.m. that he could not swallow drinks or food, the right side of his mouth had dropped, his speech was slurred, and he could not speak clearly. Respondent did not transfer the patient to the hospital for emergency medical care. The patient remained in the facility until 6:30 p.m. when his spouse picked him up and transferred him to the hospital where he was diagnosed with cardiovascular accident/stroke. Respondent's conduct exposed the patient unnecessarily to a risk of harm from complications due to a possible undiagnosed stroke and consequently, a delay in treatment as his condition progressed.
8. On or about September 11, 2012, while employed with Agape Adult Daycare, Inc., San Antonio, Texas, Respondent failed to timely document in the medical record for Patient PZ, the nursing care provided after she was notified at 12:00 p.m., that he could not swallow drinks or food, the right side of his mouth had dropped, and his speech was slurred, and he could not speak clearly. Respondent documented late entries on October 1, 2012. Respondent's conduct resulted in an incomplete medical record which was likely to deceive subsequent care givers who relied on the information while providing care to the patient.
9. On or about September 11, 2012, while employed with Agape Adult Daycare, Inc., San Antonio, Texas, Respondent failed to report to the physician the change in status of Patient PZ, as required per the physician's order. Respondent's conduct exposed the patient to risk of harm by depriving the physician of vital information that would be required to institute timely medical interventions to stabilize the patient's condition.
10. In response to Finding of Fact Numbers Seven (7) through Nine (9), Respondent states that on September 1, 2012 at about 12:00 p.m. a patient came to notify her that Patient PZ was having trouble eating. She went to the table where Patient PZ was pointing to his neck and mumbling. She asked the patient if he was choking and he shook his head and mumbled that he could not swallow. She reported the information to the LVN Director who instructed her to perform a neuro check on Patient PZ. She assisted the patient as he got his walker and walked slowly to the nursing station. She took the patient's vital signs, they were within parameter and she reported the vital signs to the Director who instructed her to do a neuro check and call Patient PZ's wife, while she called the doctor and EMS. When she told the patient that they were going to call EMS, he stated no, that he wanted them to call his wife.

Respondent tried to call Patient PZ's wife and received no answer. She took the Patient's vital signs again, did another neuro check which was PERRLA on eye check, and the Patient had a strong grip on both hands and was able to lift both arms equally with strong leg strength. The patient was able to drink fluid, but he had some dysplasia in that when he swallowed, a little fluid came out of his right side of the mouth and he was not able swallow food. She was instructed to call the patient's wife again and they would keep an eye on him. The Director informed her that there still was no answer at the doctor's office and she kept leaving messages on the wife's phone, and also tried calling other numbers on the record. She then took the patient's vital signs again and they were within normal range. Respondent asked the patient again if they could call EMS and he again stated "No", not without his wife.

11. Respondent submitted verification of her successful completion of the Board approved course in Nursing Jurisprudence and Ethics, dated January 14, 2015, which would have been required under this Order.

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),(1)(P)&(2)(A) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C)&(4).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 231735, heretofore issued to MARISELA SANTOS.

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 physical assessment with a didactic portion of not less than six (6) hours and a clinical component of not less than twenty-four (24) hours. Both the didactic and clinical components must be provided by the same Registered Nurse. The course's content shall include physical assessment of all body systems. The clinical component SHALL include physical assessment of live patients in a clinical setting; Performing assessments on mock patients or mannequins WILL NOT be accepted. 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. Successful completion of this course requires RESPONDENT to successfully complete both the didactic and clinical portions of the course.
- B. A Board-approved course in nursing documentation that shall be a minimum of six (6) hours in length. The course's content shall include: 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. Home study courses and video programs will not be approved.

- C. 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.*

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. **Indirect Supervision: Except while employed with Epic Health Services, San Antonio, Texas.** 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. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- D. **Incident Reporting: While employed with Epic Health Services, San Antonio, Texas,** RESPONDENT SHALL CAUSE her 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.
- E. **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.

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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 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.

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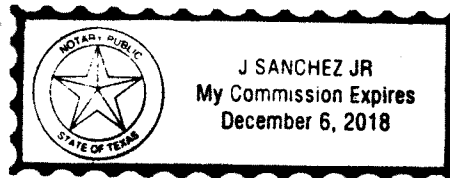
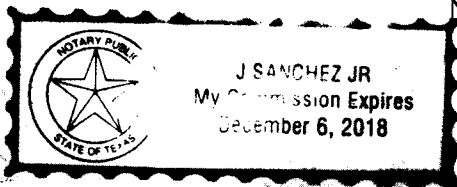
Signed this 7th day of MARCH, 2015.

Marisela Santos Low
MARISELA SANTOS, Respondent

Sworn to and subscribed before me this 7th day of MARCH, 2015.

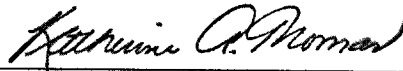
SEAL

[Signature]
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 7th day of March, 2015, by MARISELA SANTOS, Vocational Nurse License Number 231735, and said Order is final.

Effective this 16th day of April, 2015.



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