



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

In the Matter of	§	AGREED
Registered Nurse License Number 875276	§	
issued to YAIMARA GONZALEZ PANTOJA	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of YAIMARA GONZALEZ PANTOJA, Registered Nurse License Number 875276, 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 August 31, 2016.

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 professional nurse in the State of Texas is in current status.
4. Respondent received a Baccalaureate Degree in Nursing from the University of Sacred Heart, San Juan, Puerto Rico, on June 13, 2014. Respondent was licensed to practice professional nursing in the State of Texas on March 20, 2015.
5. Respondent's professional nursing employment history includes:

05/15 - 02/16	RN	APPLE Home Health Houston, Texas
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Respondent's professional nursing employment history continued:

03/15 - Present	RN	Little Flower Home Health Sugar Land, Texas
03/15 - Present	RN	Gaspy Home Healthcare Houston, Texas
05/15 - Present	RN	Metro Health Services Houston, Texas
10/15 - Present	RN	Dynamic Home Health Services Houston, Texas

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with APPLE Home Health, Houston, Texas, and had been in that position for eight (8) months.
7. On or about January 4, 2016, through February 23, 2016, while employed with APPLE Home Health, Houston, Texas, Respondent failed to perform home health visits for Patients JM, MC, JCS, MG and CS, as ordered by the physician. Respondent's conduct unnecessarily exposed the patients to risk of harm from undetected complications.
8. On or about January 4, 2016, through February 23, 2016, while employed with APPLE Home Health, Houston, Texas, Respondent falsified home health visit notes for Patients JM, MC, JCS, MG and CS. Additionally, Respondent submitted fraudulent time sheets for hours not actually worked. Respondent's conduct was deceptive, created inaccurate medical records, and was likely to defraud APPLE Home Health of monies for hours not actually worked.
9. On or about February 2016, while employed with APPLE Home Health, Houston, Texas, Respondent violated the patient confidentiality of Patient MG by inappropriately sending her boyfriend, who is not an employee of APPLE Home Health, to perform a home health visit for the patient. Respondent's conduct exposed the patients unnecessarily to a risk of identity theft and was contrary to laws intended to ensure confidentiality of medical records, Health Insurance Portability and Accountability Act of 1996 (HIPAA), Title 45, Code of Federal Regulations, Parts 160 and 164, *et seq.*
10. In response to Findings of Fact Numbers Seven (7) through Nine (9), Respondent states she was in a car accident on February 10, 2016 and was unable to complete her scheduled visits. Respondent admits she communicated with the patients via phone and completed notes for those calls. Respondent states that due to cultural differences or a misunderstanding of company policy, she believed that phone call communication with the patients could meet the requirement of a home health visit where there was not an emergent issue. Respondent

also states that after her car accident she was anxious about driving to her visits so she asked her boyfriend, who is also a registered nurse, to drive and he accompanied her to see Patient MG. Respondent states she now clearly understands that under no circumstances may a phone call substitute for an actual home health visit, nor may she send a non-employee, however qualified, to take her place in the event of an emergency.

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),(B),(C),(D)&(E) and 217.12(1)(A),(1)(B),(1)(C),(4),(6)(A)&(6)(H).
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 875276, heretofore issued to YAIMARA GONZALEZ PANTOJA.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **WARNING WITH STIPULATIONS AND A FINE** 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. **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. MONETARY FINE

RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars (\$250.00) within forty-five (45) days of entry of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

V. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse in the State of Texas, providing direct patient care in a clinical 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: 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, at Dynamic Home Health, Houston, Texas. 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 other than Dynamic Home Health. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

Should RESPONDENT's employment with Dynamic Home Health, Houston, Texas, cease or change while under the terms of this Order, RESPONDENT must work as a nurse and 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, as approved by the Board for the duration of the Order. The supervising nurse is not required to be on the same unit, ward or home health visit as RESPONDENT, but should be 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 NOT be employed by a nurse registry, temporary nurse employment agency, hospice or home health agency other than a home health agency with Board-approved nurse supervision. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

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.

VI. 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

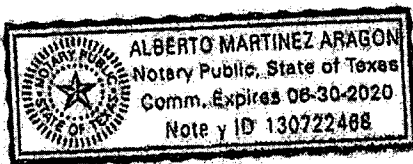
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary 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 19 day of January, 20 17.

Yaimara Gonzalez Pantoja
YAIMARA GONZALEZ PANTOJA, Respondent

Sworn to and subscribed before me this 19 day of January, 20 17.

SEAL



Alberto Martinez
Notary Public in and for the State of Texas

Approved as to form and substance.

Amanda J. Ellis
Amanda J. Ellis, Attorney for Respondent

Signed this 23rd day of January, 20 17

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 19th day of January, 2017, by YAIMARA GONZALEZ PANTOJA, Registered Nurse License Number 875276, and said Order is final.

Effective this 14th day of February, 2017.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas".

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