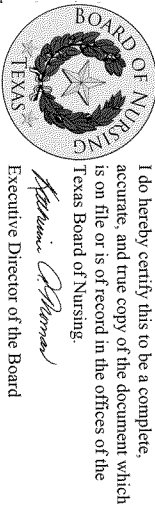


IN THE MATTER OF PERMANENT  
VOCATIONAL NURSE  
LICENSE NUMBER 310598  
ISSUED TO  
GILBERT MARTINEZ GARZA,  
RESPONDENT

§ BEFORE THE TEXAS  
§  
§ BOARD OF NURSING  
§  
§ ELIGIBILITY AND  
§  
§ DISCIPLINARY COMMITTEE



**ORDER OF THE BOARD**

TO: GILBERT MARTINEZ GARZA  
1425 YUCCA LN  
VERNON, TX 76384

During open meeting held in Austin, Texas, on **May 9, 2017**, the Texas Board of Nursing Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's license(s) to practice nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by

reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing [22 TEX. ADMIN.CODE § 213.16(j)]. All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Vocational Nurse License Number 310598, previously issued to GILBERT MARTINEZ GARZA, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

Entered this 9th day of May, 2017.

TEXAS BOARD OF NURSING

BY:



KATHERINE A. THOMAS, MN, RN, FAAN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Attachment: Formal Charge filed January 31, 2017.

dl7r(lvn)(2016.05.11)

Re: Permanent Vocational Nurse License Number 310598  
Issued to GILBERT MARTINEZ GARZA  
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 11 day of May, 2017, a true and correct  
copy of the foregoing DEFAULT ORDER was served and addressed to the following person(s), as  
follows:

Via USPS Certified Mail, Return Receipt Requested

GILBERT MARTINEZ GARZA  
1425 YUCCA LN  
VERNON, TX 76384

BY: 

KATHERINE A. THOMAS, MN, RN, FAAN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of	§	BEFORE THE TEXAS
Permanent Vocational Nurse	§	
License Number 310598	§	
Issued to GILBERT MARTINEZ GARZA,	§	
Respondent	§	BOARD OF NURSING

### FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, GILBERT MARTINEZ GARZA, is a Vocational Nurse holding License Number 310598, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

#### CHARGE I.

On or about June 22, 2015, through August 13, 2015, while employed as a Licensed Vocational Nurse with Advanced Rehab and Healthcare of Vernon, Vernon, Texas, Respondent signed out Hydrocodone/APAP and Tramadol for patients before clocking in for the day. Respondent's conduct left medications unaccounted for, was likely to deceive the facility, and placed the facility in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.11(1)(A)&(1)(B), and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(4)&(11)(B).

#### CHARGE II.

On or about June 22, 2015, through August 13, 2015, while employed as a Licensed Vocational Nurse with Advanced Rehab and Healthcare of Vernon, Vernon, Texas, Respondent signed out Hydrocodone/APAP and Tramadol for patients but failed to document and/or accurately and completely document the administration of the medications in the patients' Medication Administration Records and/or Nurse's Notes. Respondent's conduct was likely to injure the patients, in that subsequent care givers would rely on her documentation to further medicate the patients which could result in an overdose. Additionally, Respondent's conduct placed the facility in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B),(1)(C)&(1)(D), and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C),(4)&(11)(B).

### CHARGE III.

On or about June 22, 2015, through August 13, 2015, while employed as a Licensed Vocational Nurse with Advanced Rehab and Healthcare of Vernon, Vernon, Texas, Respondent failed to follow physicians' orders for the administration of pain medications, in that he admitted to giving pain medications to patients before they were due. Furthermore, he admitted to giving patients pain medications before the physician authorized refills and would do so by removing the medication from another patient's supply. Respondent's conduct was likely to injure the patients, in that the administration of pain medications in excess dosage/ frequency physician's order, could result in the patients suffering from adverse reactions. Additionally, Respondent's conduct placed the facility in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B),(1)(C)&(2), and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(4)&(11)(B).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

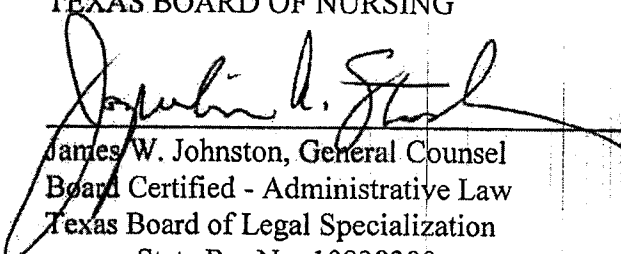
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely related to Behavior Involving Lying and Falsification; and related to Behavior Involving Fraud, Theft, and Deception, which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.  
CONTINUED ON NEXT PAGE.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, located at 22 TEX. ADMIN. CODE §213.33(b), which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

Filed this 31<sup>st</sup> day of January, 2017.

TEXAS BOARD OF NURSING

  
James W. Johnston, General Counsel  
Board Certified - Administrative Law  
Texas Board of Legal Specialization  
State Bar No. 10838300

Jena Abel, Assistant General Counsel  
State Bar No. 24036103

John R. Griffith, Assistant General Counsel  
State Bar No. 24079751

Robert Kyle Hensley, Assistant General Counsel  
State Bar No. 50511847

John F. Legris, Assistant General Counsel  
State Bar No. 00785533

Jacqueline A. Strashun, Assistant General Counsel  
State Bar No. 19358600

John Vanderford, Assistant General Counsel  
State Bar No. 24086670

333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701

P: (512) 305-8657

F: (512) 305-8101 or (512)305-7401