



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.
Patricia A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Vocational Nurse License Number 227946 §
issued to MARIA GUADALUPE WEAKS § ORDER

An investigation by the Texas Board of Nursing, hereinafter referred to as the Board, produced evidence indicating that MARIA GUADALUPE WEAKS, Vocational Nurse License Number 227946, hereinafter referred to as Respondent, may be subject to discipline pursuant to Sections 301.452(b)(10)&(13) and 301.453, Texas Occupations Code.

An informal conference was conducted on May 26, 2015, in accordance with Section 301.464, Texas Occupations Code. Respondent appeared in person. Respondent was represented by Oscar San Miguel, Attorney at Law.

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 current status.
4. Respondent received a Certificate in Vocational Nursing from Maric College Medical Career, San Diego, California, on January 24, 2001. Respondent was licensed to practice vocational nursing in the State of Texas on April 29, 2010.
5. Respondent's nursing employment history includes:

2001-2012	Unknown
3/2012-3/2013	Licensed Vocational Nurse Trinity Mission Nursing Home
3/2013-6/2013	Licensed Vocational Nurse Campwood Nursing Home

Respondent's nursing employment history continued:

3/2013-Present	Licensed Vocational Nurse	Hill Top Nursing and Rehab Kerrville, Texas
6/2013-6/2014	Licensed Vocational Nurse	Kerrville Edgewater Kerrville, Texas
8/2014-11/2014	Licensed Vocational Nurse	PSA Healthcare San Antonio, Texas

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with PSA Healthcare, San Antonio, Texas, and had been in that position for three (3) months.
7. On or about November 14, 2014, while employed as a Licensed Vocational Nurse with PSA Healthcare, San Antonio, Texas, Respondent accepted an assignment to care for ventilator dependant pediatric Patient Number 310386, in the patient's home, after Respondent realized she was not familiar with the ventilator the patient was using and she had received only a brief orientation from the off-going nurse. Respondent's conduct exposed the patient unnecessarily to the risk of harm from inadequate and/or inappropriate treatment.
8. On or about November 14, 2014, while employed as a Licensed Vocational Nurse with PSA Healthcare, San Antonio, Texas, Respondent failed to document in the medical record of ventilator dependant pediatric Patient Number 310386, interventions and assessments she may have provided while caring for the patient in her home. Respondent's conduct was likely to injure the patient in that subsequent care givers would rely on her documentation to provide further care.
9. On or about November 14, 2014, while employed as a Licensed Vocational Nurse with PSA Healthcare, San Antonio, Texas, Respondent failed to recognize the signs of respiratory distress in ventilator dependant pediatric Patient Number 310386, when the patient's respirations increased to fifty-four (54) breaths per minute from twenty-three (23) breaths per minute. Respondent failed to assess the patient's lung sounds when the increased respirations continued for several hours and falsely documented in the medical record that the patient's respirations were even and un-labored. The patient's mother discovered the patient's trach had become dislodged and, in spite of the mother replacing the trach, the patient became breathless, required cardiopulmonary resuscitation, and emergency transport to a hospital where the patient died the next day. Respondent's conduct exposed the patient unnecessarily to risk of harm from inadequate treatment and deprived the patient of the benefit of medical interventions, which may have contributed to the patient's death.
10. In response to Finding of Fact Numbers Seven (7), through Nine (9), Respondent states this was the first time she had cared for this child and she received about a one hour orientation from the off going nurse prior to her assuming care. Respondent states the vent was new to her. Respondent states the night had been quiet and the patient had slept well. At around 5:00 am, Respondent states, she was changing the child's diaper which caused the child to

cry and during this the alarms started to go off and the mother of the child came in the room to ask if everything was ok and Respondent told her yes, checked the trach and suctioned the baby. Respondent states the mother asked her to change the pulse ox to the child's foot. It was then they noticed no O2 sat reading and the mother shook the tubing to see if there was water in it and saw the child's trach was out and replaced it but the child wasn't breathing so Respondent started CPR and mom called 911 then helped with CPR until the EMS arrived and took over care. The child was transported to the hospital and later on the 15th the family decided to remove life support.

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)(P)&(2)(A) and 217.12(1)(A),(1)(B),(1)(E)&(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 227946, heretofore issued to MARIA GUADALUPE WEAKS, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
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 **REPRIMAND 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. **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.
- C. **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.

- D. 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 eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) 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. **Direct Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL be directly 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. Direct supervision requires another nurse, as applicable, to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on 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. **Indirect Supervision:** For the remainder of the stipulation/probation period, 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.
- 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 eight (8) quarters [two (2) years] 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.

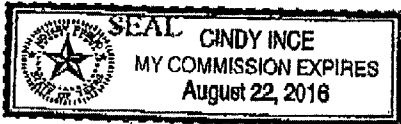
RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I 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 8th day of July, 2015.

Maria Guadalupe Weak's
MARIA GUADALUPE WEAKS, Respondent

Sworn to and subscribed before me this 8th day of July, 2015.



[Signature]
Notary Public in and for the State of TEXAS

Approved as to form and substance.

Oscar San Miguel
Oscar San Miguel, Attorney for Respondent

Signed this 8th day of July, 2015.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 8th day of July, 2015, by MARIA GUADALUPE WEAKS, Vocational Nurse License Number 227946, and said Order is final.

Effective this 11th day of August, 2015.



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