



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

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In the Matter of § AGREED  
Vocational Nurse License Number 100818 §  
issued to MARY I. HERNANDEZ § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MARY I. HERNANDEZ, Vocational Nurse License Number 100818, 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 June 19, 2017.

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 South Plains College, Levelland, Texas, on January 12, 1983. Respondent was licensed to practice vocational nursing in the State of Texas on May 25, 1983.
5. Respondent's nursing employment history includes:

5/1983 - 1983	Licensed Vocational Nurse (LVN)	Methodist Hospital Lubbock, Texas
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Respondent's nursing employment history continued:

1983 - 1991	LVN	Dialysis Center of Lubbock Lubbock, Texas
1986 - 1988	LVN	South Park, Highland and West Texas Hospitals Lubbock, Texas
1988 - 1991	LVN	Southpark Hospital Lubbock, Texas
1991 - 1992	LVN	Caprock Home Health Lubbock, Texas
1991 - 1992	LVN	Lubbock State School Lubbock, Texas
1991 - 2002	LVN	Covenant Medical Center Lubbock, Texas
1/2002 - 6/2013	LVN	Arthritis & Osteoporosis Associates of Lubbock Lubbock, Texas
7/2013 - 9/2013	Unknown	
10/2013 - 7/2014	LVN / Charge	Crown Point Rehabilitation Suites Lubbock, Texas
8/2014 - 12/2016	LVN	Daybreak Community Services Lubbock, Texas
1/2017 - Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with Daybreak Community Services, Lubbock, Texas, and had been in that position for one (1) year and seven (10) months
7. On or about June 22, 2016, through November 1, 2016, while employed as a Licensed Vocational Nurse with Daybreak Community Services, Lubbock, Texas, Respondent failed to ensure that Resident Number 2164 received continuous positive airway pressure (CPAP) treatment, as ordered, by failing to document the settings and orders for the machine into the resident's medical record and medication administration record (MAR). The CPAP was not

added to the MAR until November 2016. Additionally, Respondent failed to ensure that the machine was in use and functioning, when house staff reported to her on November 18, 2016, that it was not working. Subsequently, the machine was not working or available for two (2) weeks. Respondent's conduct resulted in an incomplete medical record, and was likely to injure the resident from ineffective treatment.

8. On or about September 1, 2016, through December 4, 2016, while employed as a Licensed Vocational Nurse with Daybreak Community Services, Lubbock, Texas, Respondent failed to ensure that new physician orders were transcribed into the MAR for as-needed (PRN) medications for the aforementioned Resident Number 2164. Subsequently, the patient was not administered medication, as ordered. Respondent's conduct resulted in an incomplete medical record, and was likely to injure the resident from ineffective treatment.
9. On or about November 16, 2016, through December 4, 2016, while employed as a Licensed Vocational Nurse with Daybreak Community Services, Lubbock, Texas, Respondent failed to ensure that the aforementioned Resident Number 2164 had the medications Clozaril and Omeprazole available and administered, as ordered. Respondent's conduct exposed the resident to a risk of harm in that failure to administer medications as ordered by the physician could have resulted in non-efficacious treatment of the resident's condition.
10. In response to the incidents in Findings of Fact Numbers Seven (7) through Nine (9), Respondent states the patient went for sleep studies twice in late May or early June. Respondent states that the company that delivered the CPAP gave an inservice on how to apply the mask to someone who worked at the group home. Respondent states that she told the staff and the patient that he had to wear the CPAP every night. Respondent adds that she never cared for a patient on CPAP and she tried to find policies and procedures about the machine, but could not. Respondent states that she did not know the CPAP needed to be in the MAR until October, and she did not know that there were supposed to be night rounds to ensure that the patient was wearing the mask. Respondent states it wasn't until there was a new employee at the home that she found out the CPAP was broken, which was about 2 weeks before she was fired. Respondent states she then made a flow sheet so staff can document if patient is wearing the CPAP when making rounds every 2 hours, and also left the pulse oximeter. Regarding medications, Respondent states that she doesn't know what happened with patient's Clozaril, and once she found out the patient was out, she sent patient for his routine blood draws. Respondent states she notified the physician multiple times to change it or discontinue the medication.

#### 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)(C),(1)(D)&(1)(M) 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 Vocational Nurse License Number 100818, heretofore issued to MARY I. HERNANDEZ.
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** 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. UNDERSTANDING BOARD ORDERS**

Within thirty (30) days of entry of this Order, RESPONDENT must

successfully complete the Board's online course, "Understanding Board Orders," which can be accessed on the Board's website from the "Discipline & Complaints" drop-down menu or directly at: <http://www.bon.texas.gov/UnderstandingBoardOrders/index.asp>. Upon successful completion, RESPONDENT must submit the course verification at the conclusion of the course, which automatically transmits the verification to the Board.

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

## 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. 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, 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. 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 individual who supervises the RESPONDENT and these reports shall be submitted by the supervising individual 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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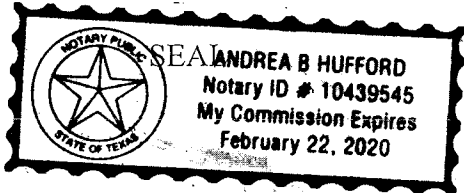
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RESPONDENT'S CERTIFICATION

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.

Signed this 18<sup>th</sup> day of August, 2017.  
Mary I. Hernandez  
MARY I. HERNANDEZ, Respondent

Sworn to and subscribed before me this 18<sup>th</sup> day of August, 2017.



Andrea B Hufford  
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 August, 2017, by MARY I. HERNANDEZ, Vocational Nurse License Number 100818, and said Order is final.

Effective this 26th day of October, 2017.



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