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Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Advanced Practice Registered	§	AGREED ORDER FOR
Nurse License Number AP122723	§	
& Registered Nurse License Number 671222	§	
issued to NANCY CASTILLO FERNANDEZ	§	DEFERRED DISCIPLINE

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of NANCY CASTILLO FERNANDEZ, Advanced Practice Registered Nurse License Number AP122723 and Registered Nurse License Number 671222, 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),(12)&(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 26, 2019.

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. Respondent's license to practice as an advanced practice registered nurse in the State of Texas is in current status.
4. Respondent received an Associate Degree in Nursing from San Jacinto College, Pasadena, Texas on May 1, 2000, and received a Masters Degree in Nursing from The University of Texas at Arlington, Arlington, Texas on May 12, 2012. Respondent was licensed to practice professional nursing in the State of Texas on July 25, 2000, and was licensed to practice as an advanced practice registered nurse in the role of neonatal nurse practitioner with prescriptive authority in the State of Texas on October 23, 2012.

5. Respondent's nursing employment history includes:

06/2000 - 12/2003	RN	Park Plaza Hospital Houston, Texas
12/2003 - 01/2005	RN	Texas Children's Hospital Houston, Texas
02/2005 - 04/2005	RN	Scripps Green Hospital La Jolla, California
05/2005 - 11/2005	RN	San Leandro Hospital San Leandro, California
12/2005 - 01/2010	RN	John Peter Smith Hospital Fort Worth, Texas
02/2010 - 01/2013	RN	Children's Medical Hospital Dallas, Texas
02/2013 - 11/2015	RN-APRN	John Peter Smith Hospital Fort Worth, Texas
07/2015 - 05/2016	RN-APRN	Newborn Intensive Care Specialist Houston, Texas
06/2016 - Present	Unknown	

6. At the time of the incident, Respondent was employed as a Nurse Practitioner with Newborn Intensive Care Specialist, P.A., Spring, Texas, and had been in that position for ten (10) months.
7. On or about one early morning between March 5, 2016 and March 12, 2016, while employed as a Neonatal Nurse Practitioner with Newborn Intensive Care Specialist, P.A., Houston, Texas, and on assignment at Methodist Richardson Medical Center, Richardson, Texas, Respondent was reported by a co-worker to have acted disoriented, had slurred speech, and had difficulty focusing. Respondent's alleged condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decision regarding patient care, thereby placing the patients in potential danger.
8. In response to Findings of Fact Number 7. (Seven), Respondent states she often slept as allowed in her employment contract while between duties in the on-call room while

working twenty-four (24) hour shifts. She states that on the night in question she was awakened from sleep by a phone call early in the morning to report back to duty and, while admittedly a bit groggy from sleep, immediately went straight to patient care. She states she was awake and competent to perform her duties and responsibilities and did so.

9. On or about February 23, 2017, Respondent underwent a Chemical Dependency Evaluation performed by Jim Womack, PhD. Dr. Womack advises Respondent's suspected impairment, if any, was unlikely to prevent her from practicing nursing with reasonable skill and safety to patients. Dr. Womack states psychological testing did not identify any alcohol or drug use patterns.
10. On or about August 3, 2017, Respondent's pain management physician, Luis Nieves, M.D., advised Respondent does not have any work accommodations. Dr. Nieves stated the medications Respondent was then prescribed were justifiable medications for Respondent's chronic bulging back disk injury. Dr. Nieves advised he evaluated Respondent and found her to be in compliance with her medication regimen. On July 30, 2019 Dr. Nieves had a follow up visit with Respondent at which time Respondent produced a clean drug screen. Dr. Nieves reported from his examination of Respondent that she has been weaned completely off of her prescribed opioid medications successfully since November 2018 and that her participation in her health is commendable and that she continues to improve gradually. Dr. Nieves stated he has no concerns with Respondent's ability to function as a nurse and is confident in her ability to manage any future flare ups of her back pain symptoms.

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)(T) and 22 TEX. ADMIN. CODE §217.12(1)(E),(4), & (5).
4. The evidence received is sufficient cause pursuant to Section 301.452 (b)(10),(12)&(13), Texas Occupations Code, to take disciplinary action against Advanced Practice Registered Nurse License Number AP122723 and Registered Nurse License Number 671222, heretofore issued to NANCY CASTILLO FERNANDEZ.
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, DEFERRED**, 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 Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Agreed Order.

Further, RESPONDENT SHALL not commit any violation of 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.* **for a period of three (3) years from the date of 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. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as either an advanced practice registered nurse or a registered 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 an advanced practice registered nurse or a registered nurse have elapsed. Periods of unemployment or of employment that do not require the use of an advanced practice registered nurse (APRN) or registered nurse (RN) license will not apply to this period and will not count towards completion of this requirement.

- A. Notifying Present and Future Employers, Practice Sites and Credentialing Agencies:** RESPONDENT SHALL notify each present employer, practice site and/or credentialing agency in nursing, as applicable, of this Order of the Board and the stipulations on RESPONDENT'S license(s). RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer, practice site and/or credentialing agency in nursing, as applicable, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers, practice sites and/or credentialing agencies in nursing, as applicable, and present a complete

copy of this Order, including all attachments, if any, to each future employer, practice site and/or credentialing agency in nursing, as applicable, prior to accepting an offer of employment and/or assignment.

- B. Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer, practice site and/or credentialing agency in nursing, as applicable, to submit the Board's "Notification of Employment" form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer, practice site and/or credentialing agency in nursing, as applicable, to submit the Board's "Notification of Employment" form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.
- C. Incident Reporting:** RESPONDENT SHALL CAUSE each employer, practice site and/or credentialing agency in nursing, as applicable, 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.
- D. Nursing Performance Evaluations:** RESPONDENT SHALL CAUSE each employer in nursing 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 submitted by the employer 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. EFFECT OF DEFERRED DISCIPLINE

Upon successful completion of the stipulated requirements of this Agreed Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code

Chapter 304, Article III, RESPONDENT may be eligible for nurse licensure compact privileges, if any.

Upon the successful completion of the required three (3) year period of deferral, the complaint or complaints which formed the basis for this action will be dismissed and this Order will be made confidential to the same extent as a complaint filed under Section 301.466, Texas Occupations Code.

Until such time that this Order is made confidential, this Order is subject to disclosure in accordance with applicable law.

Should an additional allegation, complaint, accusation, or petition be reported or filed against RESPONDENT prior to the time this Order is made confidential, the deferral period shall be extended until the allegation, accusation, or petition has been finally acted upon by the Board. Should RESPONDENT commit a subsequent violation of the Nursing Practice Act or Board Rules, this Order shall be treated as prior disciplinary action.

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 26 day of August, 2019.

Nancy Castillo Fernandez
NANCY CASTILLO FERNANDEZ, Respondent

Sworn to and subscribed before me this _____ day of _____, 20____.

SEAL

Notary Public in and for the State of _____

Approved as to form and substance [Signature]

Nancy Roper Willson
Nancy Roper Willson, Attorney for Respondent

Signed this 26th day of August, 2019.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 26th day of August 2019, by NANCY CASTILLO FERNANDEZ, Advanced Practice Registered Nurse License Number AP122723 and Registered Nurse License Number 671222, and said Order is final.

Effective this 10th day of September, 2019.

A handwritten signature in black ink, reading "Katherine A. Thomas". The signature is written in a cursive style with a horizontal line underneath the name.

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