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Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED ORDER
Registered Nurse License Number 808160 §
& Vocational Nurse License Number 184564 §
issued to LUIS DEVADID PONCE §
§

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of LUIS DEVADID PONCE, Registered Nurse License Number 808160, and Vocational Nurse License Number 184564, 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 Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on January 11, 2020.

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 Agreed Order.
3. Respondent's license to practice as a vocational nurse in the State of Texas is in delinquent status. Respondent's license to practice as a professional nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Brightwood College, San Antonio, Texas, on March 5, 2002. Respondent received an Associate Degree in Nursing from St Philips College, San Antonio, Texas, on May 13, 2011. Respondent received a Baccalaureate Degree in Nursing from Grand Canyon University, Phoenix, Arizona, on March 1, 2014, and received a Master's Degree in Nursing from Chamberlain College, Downers Grove, Illinois, in February 2017. Respondent was licensed to practice vocational nursing in the State of Texas on May 30, 2002. Respondent was licensed to practice professional nursing in the State of Texas on September 13, 2011.

5. Respondent's nursing employment history includes:

5/2002 – 4/2006	Unknown	
5/2006 – 7/2014	Licensed Vocational Nurse	Christus Santa Rosa San Antonio, Texas
9/2011-7/2013	Registered Nurse	Christus Santa Rosa San Antonio, Texas
10/2011-3/2015	Registered Nurse	Edinburg Regional Hospital Edinburg, Texas
4/2012-12/2016	Registered Nurse	Texas Center for Infectious Diseases San Antonio, Texas
8/2014-9/2015	Instructor	Kaplan College of Nursing San Antonio, Texas
4/2015-2/2016	Registered Nurse	Nix Behavioral Health Center San Antonio, Texas
1/2017-Unknown	Instructor	Galen College of Nursing San Antonio, Texas
7/2017-4/2019	Assistant Chief Nurse	Texas Center for Infectious Diseases San Antonio, Texas

6. At the time of the initial incident, Respondent was employed as the Assistant Chief Nurse with Texas Center for Infectious Diseases, San Antonio, Texas, and had been in that position for one (1) year and eight (8) months.
7. On or about March 22, 2019, while employed as the Assistant Chief Nurse at Texas Center for Infectious Diseases, San Antonio, Texas, Respondent may have failed to completely assess Patient FT after the patient had collapsed to the floor, including checking the patient's blood pressure and glucose levels. Additionally, Respondent may have failed to document any assessment of or interventions for the patient in the patient's medical record. Respondent's conduct could have resulted in an incomplete medical record and exposed the patient to a risk of harm from potentially adverse complications of undetected and untreated changes in condition.

8. On or about March 22, 2019, while employed as the Assistant Chief Nurse at Texas Center for Infectious Diseases, San Antonio, Texas, Respondent failed to properly check for responsiveness of the aforementioned Patient FT, and instead continuously rubbed the patient's abdomen while the patient lay on the floor. Respondent's conduct could have exposed the patient to a risk of harm from clinical decisions based on inaccurate assessment information obtained through improper techniques.
9. On or about March 22, 2019, while employed as the Assistant Chief Nurse at Texas Center for Infectious Diseases, San Antonio, Texas, Respondent administered Ativan intramuscularly (IM) to the aforementioned Patient FT outside the parameters of the physician's orders. The Ativan was ordered for agitation, and the patient was laying on the floor without agitation. Additionally, Respondent inappropriately administered the IM injection to the patient through her clothing. Respondent's conduct could have exposed the patient to a risk of harm from possible infection and from sedating medication administered without indication.
10. In response to the incidents in Findings of Fact Numbers Seven (7) through Nine (9), Respondent states that the patient had a history of behavioral problems and he was called to talk to her frequently because he was able to convince her to behave appropriately. Respondent states that when he was called to the scene, he bent down and checked the patient's eyes and saw the eyes roll back and forth, and she did not respond to voice or touch. Respondent states that he believed the patient was having seizure activity, because of her eye movements. Respondent adds that he performed the vital signs that he could by relying upon signs and touch, as the vital sign machine could not reach their location in the hallway. Respondent states that he tried to elicit a response using supraorbital pressure and checked to see if she was breathing, and checked the patient's carotid pulse. Respondent states that he checked the patient's pupils and responsiveness. Respondent states that he rubbed the patient's abdomen initially and at various times he was with the patient to try to elicit a response to touch, rather than rub her sternum. Respondent states that he instructed the other nurses to contact the physician to obtain an order for Ativan, since the patient was having a seizure. Respondent adds that he assumed they did so, and he was unaware that there was not a specific order to give the Ativan for seizure activity. Respondent states that the assigned nurse documented the incident and followed up on the patient.

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)&(3)(A) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C)&(4).

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 808160, and Vocational Nurse License Number 184564, heretofore issued to LUIS DEVADID PONCE.
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. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state.

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.

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 and video programs will not be approved.
- B. **A Board-approved course in medication administration** 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: a review of proper administration procedures for all standard routes; computation of drug dosages; the six (6) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The clinical component SHALL focus on tasks of medication administration only. 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.*

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 of 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 Agreed Order, all encumbrances will be removed from RESPONDENT'S license(s) and/or privilege(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.

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RESPONDENT'S CERTIFICATION

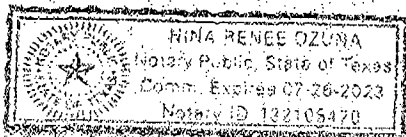
I understand that I have the right to legal counsel prior to signing this Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Texas Board of Nursing and a copy of this Order will be mailed to me once the Order becomes effective. 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) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 10 day of Feb, 2020

[Signature]
LUIS DEVADID PONCE, RESPONDENT

Sworn to and subscribed before me this 10 day of Feb, 2020

SEAL



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

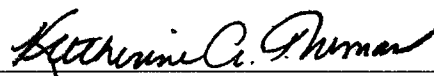
Approved as to form and substance.

[Signature]
Taralynn R. Mackay, Attorney for Respondent

Signed this 10 day of February, 2020

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 10th day of February, 2020, by LUIS DEVADID PONCE, Registered Nurse License Number 808160, and Vocational Nurse License Number 184564, and said Agreed Order is final.

Effective this 10th day of March, 2020.



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