

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.

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of § AGREED ORDER
Advanced Practice Registered Nurse License §
Number AP129266 with Prescription §
Authorization Number 18963 §
& Registered Nurse License Number 852368 §
issued to PHILIP GARZA RODRIGUEZ §

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of PHILIP GARZA RODRIGUEZ, Advanced Practice Registered Nurse License Number AP129266 with Prescription Authorization Number 18963, and Registered Nurse License Number 852368, 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 28, 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 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 with authorization as a Family Nurse Practitioner is in current status with Prescription Authorization Number 18963 in current status.
4. Respondent received a Baccalaureate Degree in Nursing from Wayland Baptist University, San Antonio, Texas, on November 1, 2013. Respondent completed a Family Nurse Practitioner Program from Herzing University, Menomonee Falls, Wisconsin, on August 1, 2015. Respondent was licensed to practice professional nursing in the State of Texas on

February 25, 2014. Respondent was licensed to practice advanced practice registered nursing in the State of Texas with authorization as a Family Nurse Practitioner on October 7, 2015. Respondent was licensed to practice advanced practice registered nursing in the State of Texas with authorization as a Family Nurse Practitioner with Prescription Authorization on October 7, 2015.

5. Respondent's nursing employment history includes:

2/2014 – 9/2015	Unknown	
10/2015-Present	Owner/Family Nurse Practitioner	AM/PM Medical Centers Irving, Texas

6. At the time of the initial incident, Respondent was employed as a Family Nurse Practitioner and Owner of AM/PM Medical Centers, Irving, Texas, and had been in that position for one (1) year.
7. On or about October 27, 2016, through February 19, 2019, while licensed as a Family Nurse Practitioner and Owner of AM/PM Medical Centers, Irving, Texas, Respondent's practice fell below the minimum standards of nursing practice in that Respondent engaged in non-therapeutic prescribing practices for pain management patients, including Patients JB, MC, SC, MC, DH, BL, SM, FP, JT, and KZ. During this time period, Respondent issued prescriptions for controlled substances to patients without conducting appropriate nursing assessments to justify his prescribing practices and/or without exploring/ordering other treatment options in lieu of prescribing controlled substances to his patients. Respondent's conduct exposed the patients to a risk of harm from unnecessary treatment.
8. On or about October 27, 2016, through February 19, 2019, while licensed as a Family Nurse Practitioner and Owner of AM/PM Medical Centers, Irving, Texas, Respondent failed to completely and/or accurately document in the medical records of Patients JB, MC, SC, MC, DH, BL, SM, FP, JT, and KZ, including provider signatures on physical exams and treatment plans; documentation of complete and appropriate assessments/evaluations of the patients; sufficient, individualized treatment plans; informed consent; consultation and referrals; and medical justification for the prescribing of dangerous controlled substances. Respondent's conduct resulted in incomplete medical records.
9. On or about March 2018 through February 23, 2019, while licensed as a Family Nurse Practitioner and Owner of AM/PM Medical Centers, Irving, Texas, Respondent prescribed refills of controlled substances including Tramadol and Soma beyond the initial 90 days to Patient MC and Patient BL, without collaborating, and/or completely/accurately documenting collaboration with a delegating/collaborating physician in the patients' medical records. Respondent's conduct resulted in incomplete medical records, and exposed the patients to a risk of harm from unnecessary continued treatment with controlled substances.

10. On or about June 9, 2018, through December 28, 2018, while licensed as a Family Nurse Practitioner and Owner of AM/PM Medical Centers, Irving, Texas, Respondent ordered Lisinopril for Patient MC, without documentation of assessment or diagnosis of the patient's condition and need for the medication. Respondent's conduct resulted in an incomplete medical record.
11. On or about February 11, 2019, through the present date, while licensed as a Family Nurse Practitioner and Owner of AM/PM Medical Centers, Irving, Texas, Respondent failed to maintain an adequate prescriptive authority agreement with his delegating physician that specifies the types or categories of drugs or devices that may/may not be ordered or prescribed, or the practice settings where Respondent is approved to see patients and prescribe medication, as required.
12. In response to the incident in Finding of Fact Number Seven (7), Respondent states that he uses orthopedic testing; checks reflexes; performs muscle testing to determine muscle weakness and neuropathies; listens to the heart and lungs and checks blood pressures on his patients; and reviews medical, family, and social history before prescribing any medications. Respondent states that over 90 percent of his patients are in automobile accidents and are in significant pain, and he tries to use anti-inflammatories and muscle relaxers first instead of pain medications. Respondent states he does not prescribe opiates unless the patient is in severe pain and has tried over the counter meds, nonsteroidal anti-inflammatory medication and physical therapy; he states that less than 1% of his patients receive opiates. Respondent states that he has been naïve about opiate prescribing and now follows recently published guidelines that state no more than 10-day prescriptions should be written, and anything over 90 days he refers out to pain management. In response to the incident in Finding of Fact Number Eight (8), Respondent states that he did not know that he had to sign physical exam forms. Respondent states that his handwriting is on the forms which matches his prescriptions and the handwritten notes are transcribed onto a final report that he approves. Respondent adds that he is in the process of implementing a new electronic medical record system which will result in better compliance, and he will sign all exam and treatment plan forms from now on. Respondent states that all patients had informed consent for treatment, a patient contract for medications which includes informed consent that talks about side effects, issues with pain medications, and informed consent to do injections. In response to the incident in Finding of Fact Number Nine (9), Respondent states that he always consulted with his collaborative physician regarding patients as required by the medical board. Respondent states that the collaborative physician knew what medications were prescribed and would look over files with Respondent. In response to the incident in Finding of Fact Number Ten (10), Respondent states that the patient was being treated for disc herniations and constant pain, and she had high blood pressure documented on several visits so was prescribed Lisinopril at a low dose; the patient did not experience the main side effect of coughing and her blood pressure improved with no side effects. Respondent adds that he cannot locate the note for that date because a staff member misfiled the paperwork. In response to the incident in Finding of Fact Number Eleven (11), Respondent states that his collaborative agreement is a standard one that he downloaded, and it does include the types of medications he can prescribe. Respondent states he will update the agreements to elaborate more on the medications but he feels they are adequate.

## 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 §217.10(c); 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B),(1)(D),(1)(M),(1)(P)&(4)(B); 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C)&(4); 22 TEX. ADMIN. CODE §222.5(c); 22 TEX. ADMIN. CODE §222.8(b)(2); and 22 TEX. ADMIN. CODE §228.1(b)(4),(b)(5),(c),(d),(e)&(f).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Advanced Practice Registered Nurse License Number AP129266 with Prescription Authorization Number 18963, and Registered Nurse License Number 852368, heretofore issued to PHILIP GARZA RODRIGUEZ.
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, subject to ratification by the Texas Board of Nursing, that:

Prescription Authorization Number 18963, previously issued to PHILIP GARZA RODRIGUEZ, is **LIMITED and RESPONDENT SHALL NOT prescribe or order any controlled substances**. Further, RESPONDENT SHALL surrender any and all DEA (United States Drug Enforcement Administration) Controlled Substances Registration Certificates and/or any other government issued certificates or authorizations to prescribed controlled substances, if any, on or before the effective date of this Order; and

Advanced Practice Registered Nurse License Number AP129266, and Registered Nurse License Number 852368, previously issued to PHILIP GARZA RODRIGUEZ, to practice nursing in the State of Texas are hereby **SUSPENDED** and said suspension is **STAYED** and RESPONDENT is hereby placed on **PROBATION** for a minimum of two (2) years **AND** until RESPONDENT fulfills the additional requirements 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 academic course in advanced practice physical assessment** of at least three (3) semester credit hours, including not less than one (1) semester credit hour, or three (3) clock hours per week, of clinical practicum with a minimum passing grade of not less than "C" or "Pass" if using a "Pass/Fail" grading system. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Instruction SHALL BE provided by an Advanced Practice Registered Nurse. RESPONDENT SHALL perform physical assessments on live patients in the clinical practicum component; 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 "Prescriptive Authority for APRNs,"** a 1.2 contact hour online program provided by the Texas Board of Nursing. Information about this course is available at <https://www.bon.texas.gov/catalog/product/#bon-course-rx> or from

the "CNE Workshops/Webinars" section of the Board's website under "News" menu.

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. **APRN EMPLOYMENT REQUIREMENTS**

In order to complete the terms of this Order, RESPONDENT must work as an advanced practice 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 eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) quarterly periods of employment as an advanced practice registered nurse have elapsed. Periods of unemployment or of employment that do not require the use of an advanced practice registered nurse (APRN) license will not apply to this period and will not count towards completion of this requirement. Further, Respondent may not work as a registered nurse (RN) or a vocational nurse (LVN) license, as applicable, while under the terms of this Order.

- 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 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 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 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 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 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 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. Monitored Practice:** RESPONDENT'S advanced practice registered nursing must be monitored by a Physician or an Advanced Practice Registered Nurse in the same advanced role and population focus area as RESPONDENT who has been approved by the Board. RESPONDENT MUST, within ten (10) days of entry of this Order or within (10) days of employment as an advanced practice registered nurse, provide to the Board a list of three (3) Advanced Practice Registered Nurses and/or three (3) Physicians from which the Board shall select an approved monitor. For each Advanced Practice Registered Nurse and Physician, the list must include name, license number or social security number, educational background and professional employment history. Monitoring shall commence no later than thirty (30) days following the date of RESPONDENT'S receipt of the name of the approved monitor selected by the Board. The monitor will offer guidance, advice and assistance to the RESPONDENT as necessary to ensure that deficiencies such as those set forth in this Order do not reoccur. RESPONDENT SHALL meet with the monitor at least twice a month, at least one (1) hour duration each. Meetings may be longer and more frequent if the monitor determines necessary. Multiple employers are prohibited.

**D. Nursing Performance Reports:** RESPONDENT SHALL CAUSE each supervising/monitoring Advanced Practice Registered Nurse or Physician 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 Advanced Practice Registered Nurse or Physician who supervises/monitors the RESPONDENT and these reports shall be submitted by the supervising/monitoring Advanced Practice Registered Nurse or Physician 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.

## **VI. FURTHER COMPLAINTS**

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against RESPONDENT'S license(s), the probationary period shall not



expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

**VII. RESTORATION OF UNENCUMBERED LICENSE(S) AND/OR FULL PRESCRIBING AUTHORIZATION**

With the exception of RESPONDENT'S Prescription Authorization, upon full compliance with the terms of this Agreed Order, all other 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 full compliance with the terms of this Order, RESPONDENT'S Prescription Authorization shall remain **LIMITED and RESPONDENT SHALL NOT be authorized to prescribe or order any controlled substances** until such time that RESPONDENT petitions and obtains written authorization from the Board to prescribe controlled substances, subject to the following additional requirements:

- A. RESPONDENT shall not petition the Board for the authority to prescribe controlled substances until RESPONDENT has successfully completed all of the terms and requirements of this Order.
- B. Upon petitioning for reinstatement of authority to prescribe controlled substances, RESPONDENT SHALL satisfy all then existing requirements in addition to having completed ten (10) hours of continuing education (CE) approved by the Board that relates to diagnosis and treatment of chronic pain. The topics covered by such CE must include: risk assessment, urine drug testing, addictions, evidence based conservative treatment options, care of patients with mental health comorbidities and accidental lethal drug overdose.
- C. The Board may impose additional restrictions or stipulations to accompany the re-issuance of the RESPONDENT'S authority to prescribe controlled substances, as deemed appropriate and necessary by the Board.

- D. RESPONDENT shall not re-register or otherwise obtain a DEA Controlled Substances Registration Certificate(s) and/or any other government issued certificates or authorizations to prescribe controlled substances until RESPONDENT obtains authorization in writing from the Board to prescribe controlled substances.

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**RESPONDENT'S CERTIFICATION**

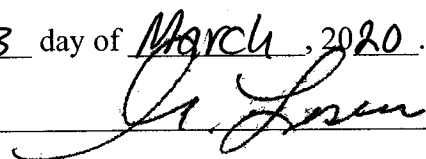
I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that 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.

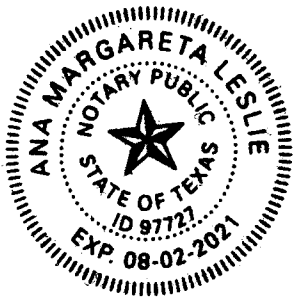
Signed this 13<sup>th</sup> day of March, 2020.

  
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PHILIP GARZA RODRIGUEZ, RESPONDENT

Sworn to and subscribed before me this 13 day of March, 2020.


SEAL

  
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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 13th day of March, 2020, by PHILIP GARZA RODRIGUEZ, Advanced Practice Registered Nurse License Number AP129266 with Prescription Authorization Number 18963, and Registered Nurse License Number 852368, and said Agreed Order is final.

Effective this 23rd day of April, 2020.

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