



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 ORDER
Vocational Nurse License Number 192955	§	
issued to MANUEL MENCHACA	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MANUEL MENCHACA, Vocational Nurse License Number 192955, 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 September 14, 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 current status.
4. Respondent received a Certificate in Vocational Nursing from Texas Southmost College, Brownsville, Texas, on December 15, 2003. Respondent was licensed to practice vocational nursing in the State of Texas on March 4, 2004.
5. Respondent's nursing employment history includes:

3/2004 – 1/2007	Unknown
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Respondent's nursing employment history continued:

2/2007 – 4/2016	LVN	All About Kids Home Health Harlingen, Texas
5/2016 – 4/2020	LVN	Little Miracles Home Health Harlingen, Texas
5/2020 – Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse (LVN) with Little Miracles Home Health, and had been in that position for three (3) years and eleven (11) months.
7. On or about April 6, 2020, while employed as a Licensed Vocational Nurse (LVN) with Little Miracles Home Health, Harlingen, Texas, and providing care to Patient MT, Respondent physically abused Patient MT when he gouged the patient's eyes and ears; violently twisted the patient's neck; repositioned patient by forcefully grabbing patient's head/neck and pulling patient up in the bed; roughly opened his mouth to check the patient's lip; bent the patient's right hand and fingers back roughly; punched the left and right sides of the patient's head; struck the patient's left foot three times; hit the patient's knees against his head intentionally during a diaper change; and allowed patient's head and trunk to violently fall backward into the mattress. Additionally, Respondent's conduct was recorded on video surveillance. Subsequently, on April 12, 2020, Respondent was arrested by the Brownsville Police Department for INJURY TO A CHILD/ELDERLY/DISABLED WITH INTENTIONAL BODILY INJURY, a 3<sup>rd</sup> Degree Felony offense which is still pending.
8. On or about April 6, 2020, while employed as a Licensed Vocational Nurse (LVN) with Little Miracles Home Health, Harlingen, Texas, Respondent failed to provide ordered nursing care to Patient MT when he withheld multiple medications during shift (including anti-seizure medications), withheld gastrostomy tube feedings, failed to turn the patient (who is immobile) every two (2) hours, failed to assess the patient throughout the shift, failed to provide perineal care every two (2) hours, failed to provide trachea site care, failed to provide gastrostomy care, and failed to administer water flushes. Respondent's conduct was likely to injure the patient in that failure to provide care as ordered by the physician could have resulted in nonefficacious treatment and could have caused changes in the patient's condition to go undetected and untreated.
9. On or about April 6, 2020, while employed as a Licensed Vocational Nurse (LVN) with Little Miracles Home Health, Harlingen, Texas, and assigned to Patient MT, Respondent manually removed fecal impaction from the patient's rectum without a physician's order. Respondent's conduct was likely to injure the patient and could have resulted in rectal bleeding, perforation or even anal fissure formation.

10. On or about April 6, 2020, while employed as a Licensed Vocational Nurse (LVN) with Little Miracles Home Health, Harlingen, Texas, and assigned to Patient MT, Respondent lacked fitness to practice nursing in that he was observed sleeping on duty multiple times during his shift. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
11. On or about April 6, 2020, while employed as a Licensed Vocational Nurse (LVN) with Little Miracles Home Health, Harlingen, Texas, and assigned to Patient MT, Respondent falsified documentation on his nurse's notes for care that he documented that he completed but he failed to do. Respondent's conduct was deceptive and created an inaccurate medical record.
12. On or about April 6, 2020, while employed as a Licensed Vocational Nurse (LVN) with Little Miracles Home Health, Harlingen, Texas, and assigned to Patient MT, Respondent misappropriated medications belonging to Patient MT when he counted out the medications and slipped pills into his pocket. Respondent's conduct was likely to defraud the patient of the cost of the medications.
13. The Board states in paragraph 7, "Respondent physically abused Patient MT when he gouged the patient's eyes and ears." Respondent asserts he was performing a common massage procedure utilized when a patient is experiencing lacrimal duct obstruction. Lacrimal duct obstruction is a partial or complete blockage of the tear drainage system that can cause pain, infection and backflow of discharge/mucus to name a few. Patient MT often experienced lacrimal duct obstruction and Respondent would perform what is known as a crigler massage or a lacrimal duct massage which consists of Respondent with his fingers or a warm cloth applying pressure to the inner corner of the eye and pressing upward. The compression during the massage to the inner eye forces the lacrimal ducts to be cleared of built up fluid or discharge. Patient MT would be unwilling to allow Respondent to perform this procedure because it can be rather uncomfortable and Respondent would have to physically control Patient MT in order to carefully complete the massage. Patient MT has been diagnosed with cerebral palsy, mental retardation, developmental delay and epilepsy and Respondent has been providing care for Patient MT for approximately 12 years. Visually it may seem the Respondent is being insensitive in the care of Patient MT, however the crigler massage to clear lacrimal obstruction is an important part of the care of Patient MT. The Board states in paragraph 9, "Respondent manually removed fecal impaction from the patient's rectum without a physician's order. Respondent's conduct was likely to injure the patient and could have resulted in rectal bleedings, perforation or even an anal fissure formation." In response to finding of fact number nine (9), Respondent states that he had been caring for Patient MT for almost 12 years and the removal of fecal impaction from the patient's rectum was a necessary procedure because of how fecally impacted Patient MT would get. Patient MT has had a medical history of becoming fecally impacted due to the fact that he was immobile and the several medications he was prescribed. Patient MT's physicians were aware by their medical reports of Patient MT's bowel movement deficiencies that were a result of the

medications and his physical immobility. All parties who cared for Patient MT were aware that Respondent removed fecal impaction when it became necessary and Patient MT was in pain. Patient MT's mother, a Licensed LVN, also would ask and consent with Respondent removing fecal impaction when necessary. Patient MT's mother would oftentimes manually remove the fecal impaction herself. Respondent has no authority to force a doctor to order or make orders himself for the removal of fecal impaction on a daily or monthly basis. Alternatively, Respondent could have taken no action and allowed Patient MT to develop peritonitis or other bacterial infections of the intestine.

14. Respondent by his signature expresses his desire to voluntarily surrender the licenses.

#### 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)(M),(1)(O) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B), (1)(C),(4),(6)(A)(6)(C),(6)(G),(6)(H),(10)(B).
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 192955, heretofore issued to MANUEL MENCHACA.
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

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Vocational Nurse License Number 192955 is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice vocational nursing, use the title "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying himself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse during the period in which the license is surrendered.

2. RESPONDENT SHALL NOT petition for reinstatement of licensure until at least one (1) year has elapsed from the date of this Order.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

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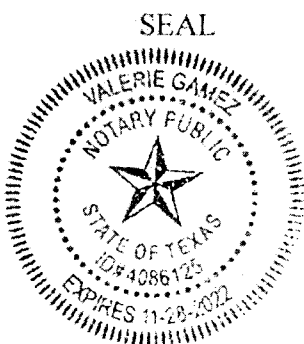
### RESPONDENT'S CERTIFICATION

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 becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing and 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) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 6<sup>th</sup> day of November, 2020.

[Signature]  
MANUEL MENCHACA, RESPONDENT

Sworn to and subscribed before me this 6<sup>th</sup> day of November, 2020.



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

Approved as to form and substance.

/s/ Aaron W. Rendon  
Aaron W. Rendon, Attorney for Respondent

Signed this 6 day of November, 2020.

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 6th day of November, 2020, by MANUEL MENCHACA, Vocational Nurse License Number 192955, and said Agreed Order is final.

Effective this 6th day of November, 2020.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas".

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