



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

In the Matter of	§	AGREED ORDER
Vocational Nurse License Number 186437	§	
issued to REBECCA LEIGH GUTIERREZ	§	
	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of REBECCA LEIGH GUTIERREZ, Vocational Nurse License Number 186437, 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 August 19, 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 St. Philip College, San Antonio, Texas, on August 8, 2002. Respondent was licensed to practice vocational nursing in the State of Texas on October 31, 2002.
5. Respondent's nursing employment history includes:

10/2002 – 6/2016 Unknown

6/2016 – Unknown Licensed Vocational Nurse Atrium Rehab Center
San Antonio, Texas

Respondent's nursing employment history continued:

10/2017 – Unknown	Licensed Vocational Nurse	Westover Hills Rehab & Healthcare San Antonio, Texas
4/2018 – 6/2020	Licensed Vocational Nurse	Advanced Rehab & Healthcare Live Oak, Texas
6/2020 – Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with Advanced Rehab and Healthcare at Live Oak, Live Oak, Texas, and had been in that position for two (2) years.
7. On or about May 31, 2020, while employed as a Licensed Vocational Nurse with Advanced Rehab and Healthcare at Live Oak, Live Oak, Texas, and assigned to the South Unit, Respondent neglected patient medical record number 300049 in that she left her facedown on her bed after another nurse picked her up off the floor. Furthermore, while Respondent exited the room, the patient screamed "Help me." Subsequently, this incident was captured on video surveillance. Respondent's conduct was likely to cause emotional, physical, and/or psychological harm to the patient and could have interfered or disrupted this patient's treatment.
8. On or about May 31, 2020, while employed as a Licensed Vocational Nurse with Advanced Rehab and Healthcare at Live Oak, Live Oak, Texas, and assigned to the South Unit, Respondent falsified medical records for patient medical record number 300049, to indicate she completed a head-to-toe assessment when she had not. Respondent's conduct resulted in an inaccurate medical record and was likely to injure the patient in that subsequent care givers would not have complete information on which to base their care decisions.
9. On or about May 31, 2020, while employed as a Licensed Vocational Nurse with Advanced Rehab and Healthcare at Live Oak, Live Oak, Texas, and assigned to the South Unit, Respondent failed to assess patient medical record number 300049 for injuries after another nurse reported finding the patient on the floor. Respondent's conduct was likely to injure the patient in that failure to assess patient as required per fall protocol could have resulted in non-efficacious treatment.
10. In response to Findings of Fact Number Seven (7) through Nine (9), Respondent states on May 31, 2020, Nurse E. M. reported to her that resident M.G. was laying on the floor with a pillow under her head. Respondent states she immediately went to resident with Nurse E.M. to help her. Respondent states resident M.G. did not show any distress in anyway. Respondent states she denied pain. Respondent states at this time Nurse E.M. helped

resident off the floor after falling by picking her up and putting her in bed as it was low so he could. Respondent states resident being 150lbs wasn't light in weight and she accidentally but not aggressively went into bed on her stomach. Respondent states Nurse E.M. did in fact try to turn her over in bed as she screamed at him in spanish and gestures with her arms by moving them for him not to touch her at this time. Respondent states Nurse E.M. and her left room to find help to turn her over with another male nurse. Respondent states help was found within 1 minute who immediately went to her to help turn her and reposition her. Respondent states T, male nurse who helped her turn resident asked her for help, so she left and would return to complete head-to-toe assessment. Respondent states this would help her calm down and speak to her. Respondent states soon after resident was seen by her, walking with her walker in hallway so she asked her to go to her bathroom where she completed head-to-toe assessment and resident had no injury that she could see and resident continued to deny pain. Respondent states she would never falsify records.

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) add (1)(M)and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(4)&(6)(C) .
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 186437, heretofore issued to REBECCA LEIGH GUTIERREZ.
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 **REPRIMAND 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" as applicable and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state using a Texas compact license.

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 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.*

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 eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) 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. **Direct Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this order, RESPONDENT SHALL be directly 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. Direct supervision requires another nurse, as applicable, to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on 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. **Indirect Supervision:** For the remainder of the stipulation/probation period, 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.
- E. **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 eight (8) quarters [two (2) years] 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.

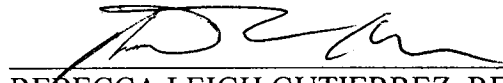
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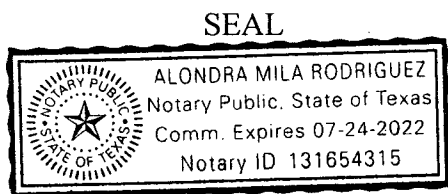
RESPONDENT'S CERTIFICATION

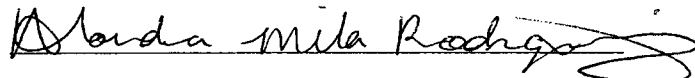
I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, 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 30 day of September, 2020.


REBECCA LEIGH GUTIERREZ, RESPONDENT

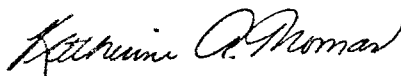
Sworn to and subscribed before me this 30th day of September, 2020.




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 30th day of September, 2020, by REBECCA LEIGH GUTIERREZ, Vocational Nurse License Number 186437, and said Agreed Order is final.

Effective this 10th day of November, 2020.

A handwritten signature in cursive script, appearing to read "Katherine A. Thomas", is written over a horizontal line.

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