



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  
Registered Nurse License Number 843740  
issued to DAVID OMAR PABON

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AGREED ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of DAVID OMAR PABON, Registered Nurse License Number 843740, 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 December 4, 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.
4. Respondent received a Baccalaureate Degree in Nursing from University of Texas at Arlington, Arlington, Texas, on May 1, 2013. Respondent was licensed to practice professional nursing in the State of Texas on August 29, 2013.
5. Respondent's nursing employment history includes:

10/2013 – 10/2014

Registered Nurse

Texas Health Resources  
Dallas, Texas

Respondent's nursing employment history continued:

10/2014 – Present	Registered Nurse	Texas Health Alliance Fort Worth, Texas
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6. At the time of the incident, Respondent was employed as a Registered Nurse with Texas Health Alliance, Fort Worth, Texas and had been in that position for five (5) years and six (6) months.
7. On or about April 11, 2020, through April 12, 2020, while employed as a Registered Nurse with Texas Health Alliance, Fort Worth, Texas, and caring for Patient L.D., Respondent failed to accurately and completely document the insertion of a nasogastric (NG) tube and subsequent advancement of the NG tube after radiology reported the NG tube terminated mid-esophagus. Throughout his shift, Respondent failed to accurately and completely document NG tube assessments, including insertion site appearance, interventions, placement verification, and tube clamp status. Respondent's conduct resulted in an incomplete medical record that was likely to injure the patient in that subsequent caregivers would not have complete information on which to base their decisions for further care.
8. On or about April 11, 2020, through April 12, 2020, while employed as a Registered Nurse with Texas Health Alliance, Fort Worth, Texas, and caring for Patient L.D., Respondent improperly commenced tube feeding for the patient prior to radiological confirmation that the NG tube was correctly placed. Chest x-rays performed at 19:50 and 04:50 noted that placement of the NG tube terminated in the mid-esophagus. Thereafter, the patient deteriorated and the nurse on the following shift discovered the NG tube terminated in the throat, instead of the stomach, and stopped the tube feedings. Subsequently, the patient was intubated, at which time medical staff identified the NG tube coiled in the patient's throat, the patient continued to deteriorate and, ultimately, expired that afternoon. Respondent's conduct may have contributed to the patient's demise.
9. On or about April 12, 2020, while employed as a Registered Nurse with Texas Health Alliance, Fort Worth, Texas, and caring for Patient L.D., Respondent failed to inform the physician at 01:09 regarding the NG tube placement issues and/or tube feeding resumption when Respondent contacted the physician regarding increased crackles auscultated in the patient's lungs. Respondent's conduct deprived the physician of pertinent information that could have led to earlier interventions to prevent the patient's decline in condition.
10. In response to the incident in Finding of Fact Number Seven (7), Respondent states that the initial tube placement was at 60 centimeters and he thereafter advanced the tube to 70 centimeters. Respondent states he documented the tube advancement, but failed to document the initial placement of the tube. In response to the incident in Finding of Fact Number Eight (8), Respondent states that he verified placement by auscultation and heard stomach gurgling. Respondent states that at that point there was no need for a second x-ray as one had been performed previously that showed the NG tube placement in the mid-

esophagus. Respondent states that after he advanced the tube, he verified observing gastric aspirant. Respondent states that he knew that the tube was in the gastrointestinal tract rather than the lungs. Respondent recognized that, ideally, he should have had a follow-up x-ray to confirm tube placement prior to commencing tube feeding. In response to the incident in Finding of Fact Number Nine (9), Respondent states that at the time the thinking of both the physician and Respondent was that the increased crackles in the patient's lungs was due to fluid overload.

11. On or about July 6, 2020, Respondent successfully completed a Board approved course in Sharpening Critical Thinking Skills, which would have been a requirement of this Order.
12. On or about July 29, 2020, Respondent successfully completed a Board approved course in Nursing Documentation, which would have been a requirement of this Order.

### 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),(1)(P)&(3)(A) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B)&(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 843740, heretofore issued to DAVID OMAR PABON.
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 Registered Nurse License Number 843740, previously issued to DAVID OMAR PABON, to practice nursing in the State of Texas is/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" 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 physical assessment** 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 physical assessment of all body systems. The clinical component SHALL include physical assessment of live patients in a clinical setting; 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.

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. **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. 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)**

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 28 day of January, 2024.


  
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DAVID OMAR PABON, 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.

 01/28/2021  
\_\_\_\_\_  
Yong J. An, Attorney for Respondent

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 28th day of January, 2021, by DAVID OMAR PABON, Registered Nurse License Number 843740, and said Agreed Order is final.

Effective this 23rd day of March, 2021.

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