

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of
Advanced Practice Registered Nurse License
Number AP114037
& Registered Nurse License Number 545924
issued to CATHY WALDON BENAVIDES

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AGREED ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of CATHY WALDON BENAVIDES, Advanced Practice Registered Nurse License Number AP114037, and Registered Nurse License Number 545924, 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)(8), 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 July 23, 2021.

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 Diploma in Nursing from Northeast Mississippi Community College, Booneville, Mississippi, on May 1, 1977. Respondent received a Master of Science Degree in Nursing from the University of Texas Health Science Center, San Antonio, Texas, on May 20, 2005. Respondent was licensed to practice professional nursing in the State of Texas on June 15, 1988. Respondent was licensed to practice advanced practice registered nursing in the State of Texas with authorization as a Family

Nurse Practitioner on June 10, 2005, and with Prescription Authorization as a Family Nurse Practitioner in the State of Texas on March 20, 2006.

5. Respondent's nursing employment history includes:

6/1988 – 2/2006	Unknown	Unknown
3/2006 – 3/2007	FNP	Daniel Juarez, MD Internal San Antonio, Texas
3/2007 – 6/2011	FNP	Vail Health Care Services Albany, Mississippi
6/2011 – 11/2013	FNP	Region 3 Primary Care Tupelo, Mississippi
11/2013 – 7/2014	FNP	Wellmed at Northern Hills San Antonio, Texas
7/2014 – 10/2016	FNP	Daniel Juarez, MD Internal San Antonio, Texas
10/2016 – 12/2017	FNP Nurse Consultant	San Antonio, Texas
12/2017 – 11/2019	FNP	Fast Ppace Urgent Care Clinic Ripley, Mississippi
11/2019 – 10/2020	FNP	VA Marshall Co. Outpatient Holly Springs, Mississippi
11/2020 – Present	FNP	Covid 19 Pandemic Volunteer San Antonio, Texas

6. On or about February 9, 2021, Respondent was issued a Final Order by the Mississippi State Board of Nursing. A copy of the Final Order dated February 9, 2021, is attached and incorporated herein by reference as part of this Order.

7. In response to Finding of Fact Number Six (6), Respondent states the Mississippi Board received a complaint that the medication Metformin was used for weight loss for one patient. That was the only time a complaint had been made during her entire nursing career. She was employed at Fast Pace Urgent care when the complaint was made. Fast Pace rated her performance as above average/excellent and requested that she precept 5 new nurse practitioner students. The patient in question was seen for weight loss. The notes state the plan was for diet and exercise and the chart was closed with her signature. The new nurse practitioner documented that she (Respondent) had called in by phone Metformin for this

patient. She was not informed of this and did not know until she received a complaint by the board. According to Respondent, the complaint was filed by an unhappy employee (receptionist) that had been reprimanded by the company for calling in medications to the pharmacy.

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 cause pursuant to Section 301.452(b)(8), Texas Occupations Code, to take disciplinary action against Advanced Practice Registered Nurse License Number AP114037, and Registered Nurse License Number 545924, heretofore issued to CATHY WALDON BENAVIDES.
4. 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 **REMEDIAL EDUCATION** 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. Until successfully completed, RESPONDENT may not practice nursing in the State of Texas except in accordance with the terms of this Order.
- D. 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. **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. 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

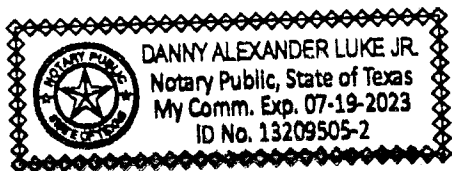
I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order 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 16th day of August, 2021.

Cathy Waldon Benavides
CATHY WALDON BENAVIDES, RESPONDENT

Sworn to and subscribed before me this 16th day of August, 2021.

SEAL



Danny Luke
Notary Public in and for the State of Texas

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 16th day of August, 2021, by CATHY WALDON BENAVIDES, Advanced Practice Registered Nurse License Number AP114037, and Registered Nurse License Number 545924, and said Agreed Order is final.

Effective this 23rd day of August, 2021.

A handwritten signature in cursive script, reading "Katherine A. Thomas".

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

713 S. Pear Orchard Rd.
Plaza II, Suite 300
Ridgeland, MS 39157
T: (601) 957-6300
F: (601) 957-6301

MISSISSIPPI



Board of Nursing



March 18, 2021

Certified by
MS Board of Nursing

Cathy Wacaser
305 West Jefferson Street
Ripley, MS 38663

Re: Mississippi License Number: R-545708, NP

Dear Ms. Wacaser:

This letter confirms that you have fulfilled the following requirements as outlined in your Final Order dated February 9, 2021:

- 1) *Legal Aspects of Nursing Course*
- 2) *NCSBN Professional Accountability & Legal Liability Course*
- 3) *Payment of \$500.00 Fine*

Further, per your Final Order, a Formal Reprimand was issued against your license/privilege to practice and will become a permanent part of your nursing record.

Should you have any questions or concerns, please do not hesitate to contact the Board of Nursing at 601-957-6300.

Sincerely,

Brett B. Thompson-May

Brett B. Thompson - May
Attorney

BBTM/ vr

STATE OF MISSISSIPPI
BOARD OF NURSING

Certified by
MS Board of Nursing

IN THE MATTER OF MISSISSIPPI
LICENSE NO. R-545708, NP Issued to:

CATHY WACASER

Respondent

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CASE NO. 2018-0501

FINAL ORDER

THIS MATTER came before the Hearing Panel of the Mississippi Board of Nursing, pursuant to Section 73-15-31 Miss Code Ann. (Rev. 2012), on February 9, 2021, for consideration of allegation(s) of violation(s) of the Mississippi Nursing Practice Law by Cathy Wacaser ("Respondent") in the above referenced case and the Agreed Settlement Proposal entered into by Westley Mutziger, Assoc. General Counsel, and Cathy Wacaser.

Upon consideration of the Agreed Settlement Proposal, and the presentation of the parties, and being otherwise fully advised of the premises, **IT IS HEREBY ORDERED:**

1. The Agreed Settlement Proposal is hereby approved and adopted. A copy of the Agreed Settlement Proposal is attached hereto as Exhibit "A" and incorporated herein.
2. The Respondent shall adhere to and abide by all the terms and conditions of the Agreed Settlement Proposal.
3. Failure to comply with any term of the Agreed Settlement Proposal shall cause the Respondent to be subject to further discipline.
4. The burden of proof shall be on the Respondent to demonstrate compliance with all of the terms and conditions of this Final Order.
5. That this document will be considered to be a public record entered as the final disposition of disciplinary proceedings presently pending against the **RESPONDENT** and that this action shall be considered to be and may be recorded as a **FINAL ORDER** of the Board. This discipline will be reported to all federally mandated data banks and in accordance with the provisions of the Health Insurance Portability and Accountability Act of 1996, as amended. This Final Order shall be placed in and become a part of the Respondent's official records and shall become effective on February 9, 2021.

This the 9th day of February 2021.

(BOARD SEAL)



MISSISSIPPI BOARD OF NURSING

BY:

Mary W. Stewart
Hearing Panel Chair

[Signature]
Hearing Panel Member

[Signature]
Hearing Panel Member

STATE OF MISSISSIPPI
BOARD OF NURSING

IN THE MATTER OF MISSISSIPPI
LICENSE NO. R-545708, NP, issued to:

CATHY WACASER
305 WEST JEFFERSON STREET
RIPLEY, MS 38663

RESPONDENT

FORMAL REPRIMAND/ FINE/
EDUCATIONAL COURSES

CASE NO. 2018-0501

AGREED SETTLEMENT PROPOSAL

WHEREAS, RESPONDENT, CATHY WACASER, has been vested with the right and privilege to practice nursing in the State of Mississippi by virtue of License No. R-545708, NP, issued by the Mississippi State Board of Nursing;

WHEREAS, RESPONDENT, CATHY WACASER, has consented to enter into an AGREED SETTLEMENT PROPOSAL without the necessity of a disciplinary hearing before the Mississippi Board of Nursing;

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That RESPONDENT agrees to, offers no defense to, and that sufficient evidence exists to constitute a violation of Miss. Code Ann. Section 73-15-29 (1) (f) in that RESPONDENT negligently or willfully violated any order, rule, or regulation of the Board pertaining to nursing practice or licensure; namely, that RESPONDENT violated 30 Miss. Admin. Code Pt. 2840, R. 1.5 (E) Use of Diet Medication: (2) An APRN shall not utilize controlled substances or legend drugs for purposes of weight loss unless it has an FDA approved indication for this purpose and then only in accordance with all of the following enumerated conditions...
2. That on or about June 21st, 2018, while working as an NP at Fast Pace Urgent Care, RESPONDENT prescribed Patient 1 Metformin for weight loss. Patient 1 had no history of diabetes. In her statement to the Board dated October 02nd, 2019, RESPONDENT stated the facility maintained a list of medications to be utilized for weight loss, and the list included Metformin.

IT IS, THEREFORE, STIPULATED AS FOLLOWS:

1. That this **AGREED SETTLEMENT PROPOSAL** is entered into freely, willingly and voluntarily by all the parties without threats or promises, and further, such **AGREED SETTLEMENT PROPOSAL** is entered into in lieu of having a full administrative hearing before the Mississippi Board of Nursing.
2. That **RESPONDENT** hereby voluntarily, willingly and freely waives all **RESPONDENT'S** due process rights including, but not limited to, the right to a hearing whereby **RESPONDENT** could:
 - a. Appear either personally or by counsel or both,
 - b. Cross-examine any witnesses who may testify against **RESPONDENT**,
 - c. Present testimony, evidence, and witnesses on **RESPONDENT'S** behalf, and
 - d. Have subpoenas issued by the Board on **RESPONDENT'S** behalf.
3. The Mississippi Board of Nursing is established pursuant to the Mississippi Nursing Practice Law, Title 73, Chapter 15 of the Mississippi Code of 1972, as amended, and is charged with the duty of licensing and regulating the practice of nursing in the State of Mississippi. The Respondent is the holder/applicant of a license issued by the Board and is, therefore, subject to the Mississippi Nursing Practice Law.
4. The Mississippi Board of Nursing and the Board Hearing Panel have jurisdiction in this matter pursuant to Miss. Code Ann. Sections 73-15-17, 73-15-29, 73-15-31, and 30 Miss. Admin. Code Pt 2825 R. 1.5. Venue is likewise properly placed before the Board Hearing Panel to hear this matter in Madison County, Mississippi.
5. That it is understood and agreed that the purpose of this **AGREED SETTLEMENT PROPOSAL** is to avoid a hearing before the Board Hearing Panel. As such, **RESPONDENT** authorizes the Board Hearing Panel to review and examine any documentary evidence or information concerning **RESPONDENT** prior to or in conjunction with its consideration of the **AGREED SETTLEMENT PROPOSAL**.
6. That this **AGREED SETTLEMENT PROPOSAL** shall be subject to approval by the Board Hearing Panel. If the Board Hearing Panel fails to approve the **AGREED SETTLEMENT PROPOSAL**, it shall have no force or effect on the parties.
7. That should this **AGREED SETTLEMENT PROPOSAL** not be approved by the Board Hearing Panel, it is agreed that the following shall not unfairly or illegally prejudice the Board or any of its members from participation in hearings or other proceedings pertaining to these or other matters regarding **RESPONDENT**: presentation of this **AGREED SETTLEMENT PROPOSAL** to the Board; consideration of this **AGREED SETTLEMENT PROPOSAL** by the Board Hearing Panel; consideration of the documentary evidence and any other information by the Board.
8. **PENALTIES.** That upon acceptance, approval and execution of an Order by the Board's Hearing Panel incorporating the terms of this **AGREED SETTLEMENT PROPOSAL**, **RESPONDENT** agrees to the following penalties which are authorized by Miss Code

Ann. Section 73-15-29 (2) as a condition to being licensed/privileged as a nurse in the State of Mississippi:

- a. **FORMAL REPRIMAND. RESPONDENT** agrees to accept a **FORMAL REPRIMAND** which will become a permanent part of **RESPONDENT'S** nursing record.
 - b. **FINE. RESPONDENT** agrees to pay a fine of \$500.00, which must be received in the Board's office within thirty (30) calendar days from the date the Board's Hearing Panel executes an Order incorporating this **AGREED SETTLEMENT PROPOSAL**. Failure to pay the fine according to the terms of this **AGREED SETTLEMENT PROPOSAL** may result in further disciplinary action.
 - c. **LEGAL ASPECTS OF NURSING COURSE.** That within ninety (90) calendar days from the date the Board's Hearing Panel executes an Order incorporating this **AGREED SETTLEMENT PROPOSAL**, **RESPONDENT** shall have written verification received in the Board's office indicating **RESPONDENT** has successfully completed a Board-approved course/workshop on Legal Aspects of Nursing.
 - d. **NCSBN PROFESSIONAL ACCOUNTABILITY AND LEGAL LIABILITY FOR NURSES COURSE.** That within thirty (30) calendar days from the date the Board's Hearing Panel executes an Order incorporating this **AGREED SETTLEMENT PROPOSAL**, **RESPONDENT** shall have written verification received in the Board's office indicating **RESPONDENT** has successfully completed the National Council of State Boards of Nursing Course, "Professional Accountability and Legal Liability for Nurses."
9. That **RESPONDENT** accepts the above penalties and acknowledges that **RESPONDENT'S** license/privilege is being granted on condition of full compliance with these terms. Failure to adhere to any of the terms of this **AGREED SETTLEMENT PROPOSAL** may result in further disciplinary action against **RESPONDENT'S** nursing license/privilege.
10. That **NON-COMPLIANCE** shall include, but is not limited to:
- a. Non-Receipt of verification as having successfully completed all required educational courses and/or workshops on or before the due date;
 - b. Failure to adhere to any of the terms of this **AGREED SETTLEMENT PROPOSAL**;
 - c. Any violation of the Nursing Practice Law (Miss. Code Ann. Section 73-15-1, et seq.); and
 - d. Any violation of the Miss. Admin. Code, Pt. 2820.
11. That the **RESPONDENT** does hereby fully, completely and finally release the Board of Nursing and its agents, servants or employees from any and all claims, charges, demands,

damages, costs, expenses, actions and causes of action of every kind and nature which the **RESPONDENT** may now or hereafter have related to this **AGREED SETTLEMENT PROPOSAL** between the **RESPONDENT** and the Board of Nursing. The Mississippi Board of Nursing admits no liability in any way related to this **AGREED SETTLEMENT PROPOSAL**.

12. That this document is a public record and will be entered as a **FINAL ORDER** of the Board. This discipline will be reported to all federally mandated data banks and in accordance with the provisions of the Health Insurance Portability and Accountability Act of 1996, as amended.

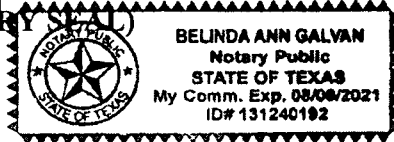
EXECUTED this the 3rd day of February, 2021.

Cathy Wacaser
CATHY WACASER

Subscribed and sworn to before me, in my presence, this the 3 day of

February, 2021.

(NOTARY SEAL)



Belinda Galvan
Notary Public

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Approved as to Form and Substance:

W. Westley Mutziger

W. Westley Mutziger
Associate General Counsel
MS Board of Nursing