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*Katherine A. Thomas*  
Executive Director of the Board

## BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED ORDER
Advanced Practice Registered Nurse License	§	
Number AP127998 with Prescription	§	
Authorization Number 17837	§	
& Registered Nurse License Number 825592	§	
issued to JESSICA LYNNE GERHART	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JESSICA LYNNE GERHART, Advanced Practice Registered Nurse License Number AP127998 with Prescription Authorization Number 17837, and Registered Nurse License Number 825592, 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 11, 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. 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 17837 in current status.
4. Respondent received a Baccalaureate Degree in Nursing from Patty Hanks Shelton-School of Nursing, Abilene, Texas, on March 12, 2012, and Master's Degree in Nursing from Walden University, Baltimore, Maryland, on November 1, 2014. Respondent was licensed to practice professional nursing in the State of Texas on August 30, 2012, and was licensed

to practice advanced practice registered nursing in the State of Texas in the role of Family Nurse Practitioner with prescriptive authorization on April 15, 2015.

5. Respondent's nursing employment history includes:

8/2012 – 3/2015	Unknown	
4/2015-6/2015	Family Nurse Practitioner & Doctor of Chiropractic	Functional Health & Wellness Unknown
6/2015-7/2018	Family Nurse Practitioner & Doctor of Chiropractic	Adjust Physical Medicine Dallas, Texas
11/2017- Present	Family Nurse Practitioner & Doctor of Chiropractic	First Choice Physical Medicine Plano, Texas
10/2018- Present	Chief Clinical Officer	The JOI Group Unknown

6. At the time of the initial incident, Respondent was employed as a Family Nurse Practitioner with Adjust Physical Medicine, Dallas, Texas, and had been in that position for two (2) years and two (2) months.
7. On or about August 8, 2017, while employed as a Family Nurse Practitioner with Adjust Physical Medicine, Dallas, Texas, Respondent exceeded her scope of nursing practice by performing an experimental procedure using stem cells, in that she ordered and injected amniotic fluid into the C3-C7 region of Patient RL's neck. Respondent's conduct exposed the patient to a risk of harm from unregulated stem cell treatments, including risk of tumor growth.
8. On or about February 13, 2018, and March 8, 2018, while employed as a Family Nurse Practitioner with Adjust Physical Medicine, Dallas, Texas, Respondent exceeded her scope of nursing practice and placed an implantable neurostimulator device on the aforementioned Patient RL, in order to treat cervical disc pain. The AnSiStim device is an electro-acupuncture device that is FDA approved for the practice of acupuncture by qualified practitioners of acupuncture; the electrical stimulation of auricular acupuncture points is considered investigational medicine. Respondent's conduct exposed the patient to a risk of harm from the use of an unregulated medical device.
9. In response to the incident in Finding of Fact Number Seven (7), Respondent states that the patient came to the office with complaints of degeneration in her neck and requested stem cell injections in conjunction with rehab and other treatments. Respondent states that they discussed a treatment plan together, including trigger point injections in the posterior

cervical musculature with ultrasound guidance at the levels of C3-C7. Respondent states that the patient gave verbal and written consent for the stem cell procedure. In response to the incident in Finding of Fact Number Eight (8), Respondent states that the patient returned and stated that her pain had improved and she had increased range of motion, but was still experiencing radiation symptoms. Respondent states that she placed a superficial peripheral nerve neurostimulator, an AnSiStim device on the patient's ear; in her experience, the devices have proven effective in treating radiation and painful conditions in a minimally invasive way. Respondent states that she received training from the manufacturer on how to place this device. Respondent adds that the patient continued to come to the office for rehab and adjustments and never had complaints with her treatment; additionally, Respondent is a licensed chiropractor and the patient would consistently request that respondent be the one to adjust her when she came in to the office.

10. Formal Charges were filed on February 8, 2021.

#### 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),(4)(A)&(4)(B), 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B)&(4) and 22 TEX. ADMIN. CODE §222.4(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 AP127998 with Prescription Authorization Number 17837, and Registered Nurse License Number 825592, heretofore issued to JESSICA LYNNE GERHART.
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 **WARNING 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. 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.
- C. **The course "Determining APRN Scope of Practice,"** a 1.4 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-aprnscope> 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. **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 four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until

four (4) 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 four (4) quarters [one (1) year] 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 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 12<sup>th</sup> day of August, 20 21.

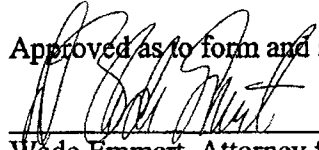
  
JESSICA LYNNE GERHART, RESPONDENT

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.

  
Wade Emmert, Attorney for Respondent

Signed this 12th day of August, 20 21.



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 12th day of August, 2021, by JESSICA LYNNE GERHART, Advanced Practice Registered Nurse License Number AP127998, and Registered Nurse License Number 825592, and said Agreed Order is final.

Effective this 14th day of September, 2021.

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

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