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*Patricia A. Martinez*  
Executive Director of the Board

**DOCKET NUMBER 507-21-2284**

**IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 225560,  
ISSUED TO  
FERNANDO VALDEZ**

**§ BEFORE THE STATE OFFICE  
§  
§ OF  
§  
§ ADMINISTRATIVE HEARINGS**

**OPINION AND ORDER OF THE BOARD**

**TO: FERNANDO VALDEZ  
11026 WILSON OAKS  
SAN ANTONIO, TX 78249**

**MEAGHAN BAILEY  
ADMINISTRATIVE LAW JUDGE  
300 WEST 15TH STREET  
AUSTIN, TEXAS 78701**

At the regularly scheduled public meeting on October 21, 2021, the Texas Board of Nursing (Board) considered the following items: (1) Order No. 2, *Order of Default Dismissal*, issued by the ALJ in the above cited matter; (2) Staff's recommendation that the Board revoke the Respondent's vocational nursing license by default; and (3) Respondent's recommendation to the Board regarding the above cited matter, if any.

On July 29, 2021, the ALJ convened a hearing on the merits in this matter. Staff of the Board was present for the hearing. However, the Respondent was not present at the hearing, and no one appeared on his behalf. During the hearing on July 29, 2021, Staff introduced evidence into the record demonstrating that Respondent had been sent a Notice of Hearing by first class certified mail return receipt requested to his last known address of record maintained by the Board in accordance with 22 Tex. Admin. Code §213.10(a). The ALJ found that Staff's notice was adequate and issued Order No. 2, *Order of Default Dismissal*, granting Staff's Motion for Default and dismissing the case from the docket of SOAH and remanding it to the Board for informal disposition on a default basis in accordance with the Government Code §2001.056.

The Board, after review and due consideration of Order No. 2, issued by the ALJ in the above cited matter, finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with the Government Code §2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Occupations Code Chapter 301 (Nursing Practice Act) for retention of Respondent's license to practice vocational nursing in the State of Texas. The Board further finds that the Formal Charges were properly initiated and filed in accordance with the Occupations Code §301.458. The Board further finds that proper and timely notice regarding the violations alleged in the Formal Charges was given to Respondent in accordance with the requirements of the Government Code §2001.051 and §2001.052 and 1 Tex. Admin. Code §155.501. The Board further finds that the Respondent failed to appear in accordance with 22 Tex. Admin. Code Chapter 213 and 1 Tex. Admin. Code §155.501. As a result of the Respondent's failure to appear, the

Board has determined that the factual allegations listed in the Formal Charges are to be deemed admitted by default and the Board is authorized to enter a default order against the Respondent pursuant to the Government Code §2001.056 and 22 Tex. Admin. Code §213.22. Further, the Board has determined that it is entitled to revoke the Respondent's vocational nursing license pursuant to 22 Tex. Admin. Code §213.33(m).

Therefore, the Board hereby adopts the factual allegations and conclusions of law contained in the Formal Charges, which have been deemed admitted, and which are attached hereto and incorporated herein by reference for all purposes, and Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing in accordance with the Government Code Chapter 2001 and 22 Tex. Admin. Code §213.23(l), as applicable. All parties have a right to judicial review of this Order. All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

IT IS, THEREFORE, ORDERED THAT Permanent Certificate Number 225560, previously issued to FERNANDO VALDEZ, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privileges, if any, to practice nursing in the State of Texas.

FURTHER, pursuant to the Occupations Code §301.467, RESPONDENT is not eligible to petition for reinstatement of licensure until at least one (1) year has elapsed from the date of this Order. Further, upon petitioning for reinstatement, RESPONDENT must satisfy all then existing requirements for relicensure.

Entered this 21<sup>st</sup> day of October, 2021.

TEXAS BOARD OF NURSING



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KATHERINE A. THOMAS, MN, RN, FAAN  
EXECUTIVE DIRECTOR FOR THE BOARD

Attachment: Formal Charges

**In the Matter of  
Permanent Vocational Nurse  
License Number 225560  
Issued to FERNANDO VALDEZ,  
Respondent**

§  
§ **BEFORE THE TEXAS**  
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§ **BOARD OF NURSING**  
§

### **FORMAL CHARGES**

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, FERNANDO VALDEZ, is a Vocational Nurse holding license number 225560 which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

#### **CHARGE I.**

On or about February 6, 2018, while employed as a Private Duty Licensed Vocational Nurse by Epic Health Services, San Antonio, Respondent inappropriately left Patient WW unattended to go smoke, while the patient received a formula feeding via gastrostomy tube. The patient's plan of care indicated that that pediatric patient was not to be left unattended. Respondent's conduct exposed the patient unnecessarily to the risk for harm from complications of an unsupervised gastrostomy feeding, including aspiration.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B)&(1)(M), and 22 TEX. ADMIN. CODE §217.12(1)(A)(1)(B)(4)&(12).

#### **CHARGE II.**

On or about February 6, 2018, while employed as a Private Duty Licensed Vocational Nurse by Epic Health Services, Respondent was observed handling Patient WW in a jarring manner when picking him up and carrying him, as well as propping the patient on his hip with the patient's midsection draped over his forearm therefore compressing the child's abdomen, and was observed to be rough in attaching and/or detaching the patient's gastrostomy tube extension. Respondent's conduct exposed the patient to risk for harm from gastrointestinal complications and emotional harm.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B)&(1)(M), and 22 TEX. ADMIN. CODE §217.12(1)(A)(1)(B),(4)&(6)(C).

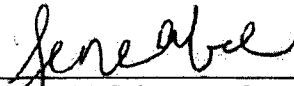
NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license(s) and/or privilege(s) to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33.

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, located at 22 TEX. ADMIN. CODE §213.33(b), which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

Filed this 3rd day of April, 2019.

TEXAS BOARD OF NURSING

  
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