

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED ORDER
Vocational Nurse License Number 216902 §
issued to MOSES ONCHONGA NYAKUNDI §
§

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MOSES ONCHONGA NYAKUNDI, Vocational Nurse License Number 216902, 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)(1),(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 10, 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 Platt College, Dallas, Texas, on October 1, 2007. Respondent was licensed to practice vocational nursing in the State of Texas on July 29, 2008.
5. Respondent's nursing employment history includes:

7/2008 - 10/2009 Staff LVN Hillcrest Nursing
Dallas, Texas

Respondent's nursing employment history continued:

4/2009 - 1/2010	Staff LVN	Meadows Nursing Dallas, Texas
2/2010 - 12/2012	Staff LVN	Founders Plaza Wylie, Texas
1/2013 - 2/2013	Unknown	
3/2013 - 10/2014	Staff LVN	Reliant Rehabilitation Hospital North Texas Richardson, Texas
12/2014-11/2017	Staff LVN	Golden Acres Living and Rehabilitation Center Dallas, Texas
11/2017-Present	Staff LVN	Willow Bend Nursing & Rehabilitation Mesquite, Texas

6. On or about June 10, 2008, Respondent was issued an Eligibility Agreed Order through an Order of the Board. On or about September 26, 2012, Respondent successfully completed the terms of the Order. A copy of the June 10, 2008, Order is attached and incorporated herein by reference as part of this Agreed Order.
7. On or about June 14, 2016, Respondent was issued the sanction of Warning with Stipulations through an Order of the Board. A copy of the June 14, 2016, Order is attached and incorporated herein by reference as part of this Agreed Order.
8. At the time of the initial incidents, Respondent was employed as a Staff Licensed Vocational Nurse (LVN) with Golden Acres Living and Rehabilitation Center, Dallas, Texas, and had been in that position for about one (1) year and five (5) months. Also, Respondent was employed as a Staff Licensed Vocational Nurse (LVN) with Willow Bend Nursing & Rehabilitation, Mesquite, Texas, and had been in that position for two (2) and five (5) months.
9. On or about June 19, 2016, through April 23, 2020, Respondent failed to comply with the Agreed Order issued to Respondent on June 14, 2016, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Section IV, "EMPLOYMENT REQUIREMENTS," Part A, of the Agreed Order which states, in pertinent part:

"...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. ...”

Respondent was employed at Golden Acres Living, Dallas, Texas. Although Respondent received the final Order on June 14, 2016, Respondent never provided his employer with a copy of the Order. On November 7, 2017, Respondent was transferred to Willow Bend Nursing & Rehabilitation, Mesquite, Texas. Also, Respondent never provided this employer with a copy of the Order.

10. On or about June 24, 2016, through April 23, 2020, Respondent failed to comply with the Agreed Order issued to Respondent on June 14, 2016, by the Texas Board of Nursing. Noncompliance is the result of Respondent’s failure to comply with Section IV, “EMPLOYMENT REQUIREMENTS,” Part B, of the Agreed Order which states, in pertinent part:

“...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. ...”

Respondent failed to ensure a Notification of Employment form for his employer, Golden Acres Living, Dallas, Texas, was completed and submitted to the Board, over one (1) year and five (5) months past the required submission of the document. Respondent was working for this company when he was issued the Order and transferred to the sister facility Willow Bend in November of 2017.

Also, Respondent failed to ensure a Notification of Employment form for his employer, Willow Bend Nursing & Rehabilitation, Mesquite, Texas, was completed and submitted to the Board, over two (2) years and one (1) month past the required submission of the document.

11. On or about June 14, 2016, through April 23, 2020, Respondent failed to comply with the Agreed Order issued to Respondent on June 14, 2016, by the Texas Board of Nursing. Noncompliance is the result of Respondent’s failure to comply with Section IV, “EMPLOYMENT REQUIREMENTS,” Part C, of the Agreed Order which states, in pertinent part:

... “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.”

Respondent was employed at Golden Acres Living, Dallas, Texas. Although Respondent received the final Order on June 14, 2016, Respondent never provided his employer with a copy of the Order and was not appropriately supervised while working. On November 7, 2017, Respondent was transferred to Willow Bend Nursing & Rehabilitation, Mesquite, Texas. Also, Respondent never provided this employer with a copy of the Order and was not appropriately supervised. Further, Respondent was working for multiple employers for Willow Bend Nursing and Rehabilitation from November 7, 2017 until April 23, 2020.

12. On or about September 14, 2016, through present, Respondent failed to comply with the Agreed Order issued to Respondent on June 14, 2016, by the Texas Board of Nursing. Noncompliance is the result of Respondent’s failure to comply with Section IV, “EMPLOYMENT REQUIREMENTS,” Part D, of the Agreed Order which states, in pertinent part:

... “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 nurse who supervises the RESPONDENT and these reports shall be submitted by the supervising nurse 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. ...”

Respondent has failed to ensure Nursing Performance Evaluation forms were completed and submitted by his employer, Golden Acres Living, Dallas, Texas, over one (1) year and two (2) months past the required submission of the document. Respondent was working for this company when he was issued the Order. He transferred to the sister facility Willow Bend Nursing and Rehabilitation in November of 2017.

Also, Respondent has failed to ensure Nursing Performance Evaluation forms were completed and submitted by his employer, Willow Bend Nursing and Rehabilitation, Dallas, Texas, one (1) years and ten (10) months past the required submission of the document.

13. On or about December 7, 2020, through December 11, 2020, while employed as a LVN with Willow Bend Nursing and Rehabilitation, Mesquite, Texas, Respondent failed to document vital signs of Patient Number 4745 in the medical record, even after having been directed to do so by end of day on December 14, 2020, as follows:

Date and Time	Vital Signs Not Documented
12/7/2020 0905	Respirations, Temperature, and Oxygen levels
12/7/2020 1614	Respirations, Temperature, and Oxygen levels
12/8/2020 09:18	Pulse, Respirations, Temperature, and Oxygen levels
12/8/2020 16:58	Respirations, Temperature, and Oxygen levels

12/9/2020 08:52	Respirations, Temperature, and Oxygen levels
12/10/2020 10:43	Respirations, Temperature, and Oxygen levels
12/11/2020 08:43	Respirations, Temperature, and Oxygen levels

14. Respondent's conduct resulted in an incomplete medical record and was likely to injure the patient from care decisions based on incomplete information.

15. In response to Findings of Fact Numbers Nine (9) through Twelve (12), Respondent states that at the time he received the Order he was working at Golden Acres Nursing and Rehab. He lost my dad around this time, which was his support and pillar. He lost my mom shortly after. It took him a while to get over the loss. Two years later, Respondent was promoted at Willow Bend Nursing and Rehab to be the Director for Staffing and Development. He directed the Department for over a year. When Golden Acres hired him, he was candid with them about the pending charges. When he was promoted, he states the receiving facility knew about the stipulations. His understanding was the stipulations were for one (1) year. His employer is willing to work with him to get this done.

16. Formal Charges were filed on June 18, 2020, and November 22, 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)(D) and 217.12(1)(B)&(1)(C).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1),(10)&(13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 216902, heretofore issued to MOSES ONCHONGA NYAKUNDI.

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 AND FINE** 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. 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 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.

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.*

III. 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.

IV. SUPERSEDING ORDER

IT IS FURTHER AGREED and ORDERED that the sanction and conditions of this Agreed Order SHALL supersede all previous stipulations required by any Order entered by the Texas Board of Nursing.

V. 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.

VI. MONETARY FINE

RESPONDENT SHALL **pay a monetary fine in the amount of one thousand dollars (\$1000.00) within ninety (90) days of the effective date of this Order.** Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

VII. 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 four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until four (4) 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. **Indirect Supervision:** 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.

D. **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 four (4) quarters [one (1) year] of employment as a nurse.

VIII. 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 6 day of 01, 2022.



MOSES ONCHONGA NYAKUNDI, RESPONDENT

Sworn to and subscribed before me this _____ day of _____, 20____.

SEAL

Notary Public in and for the State of _____

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 1st day of June, 2022, by MOSES ONCHONGA NYAKUNDI, Vocational Nurse License Number 216902, and said Agreed Order is final.

Effective this 21st day of July, 2022.



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



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
MOSES ONCHONGA NYAKUNDI
PETITIONER for Eligibility for
Licensure

§
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§
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ORDER OF
CONDITIONAL ELIGIBILITY

On the date entered below, the Texas Board of Nursing, hereinafter referred to as the Board, considered the Petition for Declaratory Order and supporting documents filed by MOSES ONCHONGA NYAKUNDI, hereinafter referred to as PETITIONER, together with any documents and information gathered by staff and PETITIONER's Certificate contained herein. Information received by the Board produced evidence that PETITIONER may have violated Section 301.452 et seq., Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on March 18, 2008, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about October 2, 2007, Petitioner submitted a Petition for Declaratory Order requesting a determination of eligibility for licensure in compliance with Section 301.257 et seq., Texas Occupations Code.
2. Petitioner waived representation, notice, administrative hearing, and judicial review.
3. Petitioner received a Certificate in Vocational Nursing from Platt College, Dallas, Texas, in October 2007.
4. Petitioner completed the Petition for Declaratory Order and answered "yes" to the question which reads in part as follows: *"Have you ever been convicted, placed on community supervision whether or not adjudicated guilty, sentenced to serve jail or prison time or granted pre-trial diversion, or plead guilty, no contest, or nolo contendere to any crime in any state, territory or country, or received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests whether or not*

appeal? This includes expunged offenses and deferred adjudication with or without a finding of guilt."

5. Petitioner disclosed the following criminal history, to wit:
 - A. On September 8, 1995, Petitioner was charged with the misdemeanor offense of Assault Causing Bodily Injury in the County Court at Law of Dallas County, Texas. Petitioner entered a plea of guilty and was sentenced to twelve (12) months probation. On February 1, 1999, Petitioner completed probation.
 - B. On October 13, 1997, Petitioner was charged with the misdemeanor offense of Assault Causing Bodily Injury in the County Court at Law No. 4 of Collin County, Texas. Petitioner entered a plea of guilty and was sentenced to one (1) year probation. On September 12, 1999, Petitioner completed probation.
 - C. On April 13, 1999, Petitioner was convicted of the misdemeanor offense of Failure to Identify in the County Court at Law of Kaufman County, Texas. Petitioner was assessed a fine in the amount of one thousand dollars (\$1,000.00).
 - D. On March 10, 2008, Petitioner was charged with the misdemeanor offense of Theft of Property in the Criminal District Court No. 7 of Dallas County, Texas. Petitioner entered a plea of guilty and proceedings were deferred without adjudication of guilt and Petitioner was placed on six (6) months probation. Petitioner was required to pay a fine of one thousand five hundred dollars (\$1,500.00), court costs of three hundred eighty-one dollars (\$381.00), and restitution to the victim of five thousand four hundred ninety dollars (\$5,490.00).
6. There is no evidence of any subsequent criminal conduct.
7. Licensure of Petitioner poses no direct threat to the health and safety of patients or the public, provided Petitioner complies with the stipulations as outlined in this Order.
8. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Petitioner.
9. Petitioner has sworn that his past behavior conforms to the Board's professional character requirements. Petitioner presented no evidence of behavior which is inconsistent with good professional character.
10. Petitioner has been advised that any information found to be incomplete, incorrect, or misleading will be considered and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through misrepresentation.
11. On March 18, 2008, the Executive Director considered evidence of Petitioner's past behavior

in light of the character factors set out in 22 Texas Administrative Code §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character.

CONCLUSIONS OF LAW

1. The Texas Board of Nursing has jurisdiction over this matter pursuant to Section 301.453, Texas Occupations Code.
2. Petitioner has submitted a petition in compliance with Section 301.257 *et seq.*, Texas Occupations Code.
3. Petitioner's criminal history reflects criminal conduct which is grounds for denial of a license under Section 301.452 *et seq.*, Texas Occupations Code.
4. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452, Texas Occupations Code.
5. The Board may license an individual who has been previously convicted, adjudged guilty by a court, pled guilty or pled nolo contendere to any crime whether or not a sentence was imposed upon consideration of the factors set out in 22 Texas Administrative Code §213.28 and evaluating the direct relationship to nursing according to Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.
6. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 Texas Administrative Code §213.27, the Board is satisfied that the individual is able to consistently conform his conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

ORDER

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of any required fees, MOSES ONCHONGA NYAKUNDI, PETITIONER, is **CONDITIONALLY ELIGIBLE** to sit for the National Council Licensure Examination for Practical Nurses (NCLEX-PN® Examination). PETITIONER SHALL NOT be eligible for temporary authorization to practice as a Graduate Vocational Nurse in the State of Texas.

IT IS FURTHER ORDERED that PETITIONER SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Vocational Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.*, and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to PETITIONER's multistate licensure privilege, if any, to practice vocational nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while PETITIONER's license is encumbered by this Order the PETITIONER may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas and the Board of Nursing in the party state where PETITIONER wishes to work.

IT IS FURTHER ORDERED that PETITIONER, upon attaining a passing grade on the NCLEX-PN®, shall be issued a license to practice vocational nursing in the State of Texas which shall bear the appropriate notation and PETITIONER SHALL be subject to the following stipulations.

(1) PETITIONER SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in Texas nursing jurisprudence and ethics. PETITIONER SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) contact 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 Chemical Dependency, and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. PETITIONER SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify PETITIONER's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address:*
<http://www.bne.state.tx.us/about/stipscourses.html>

(2) IT IS FURTHER AGREED, SHOULD PETITIONER be convicted for the offense as outlined in Finding of Fact Number Five-D (5.D.), said judicial action will result in further disciplinary action including Revocation of Petitioner's license to practice vocational nursing in the State of Texas.

IT IS FURTHER AGREED, SHOULD PETITIONER PRACTICE AS A VOCATIONAL NURSE IN THE STATE OF TEXAS, PETITIONER WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND PETITIONER MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS

STIPULATION PERIOD:

(3) PETITIONER SHALL notify all employers in nursing of this Order of the Board and the stipulations on PETITIONER's license. PETITIONER SHALL present a complete copy of this Order to each employer prior to accepting an offer of employment.

(4) PETITIONER SHALL CAUSE employer to submit the Notification of Employment form, which is provided to the Petitioner by the Board, to the Board's office within five (5) days of employment as a nurse.

(5) PETITIONER SHALL be supervised by a Registered Nurse or Licensed Vocational Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as PETITIONER, 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 experience in the same or similar practice setting to which the Petitioner is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(6) PETITIONER SHALL CAUSE each employer to submit, on forms provided to the Petitioner by the Board, periodic reports as to PETITIONER's capability to practice nursing. These reports shall be completed by the Registered Nurse or Vocational Nurse who supervises the PETITIONER. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) months for one (1) year of employment as a nurse.

(7) PETITIONER SHALL CAUSE his probation officer to submit written reports on

forms provided to the Petitioner by the Board. The reports shall indicate the PETITIONER's compliance with the court ordered probation. The reports shall be furnished each and every three (3) month period until PETITIONER is released from probation.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, PETITIONER SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice vocational nursing in the State of Texas.

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PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past criminal conduct, and I have caused a complete and accurate criminal history to be submitted to the Texas Board of Nursing from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. I certify that my past behavior, except as disclosed in my Petition for Declaratory Order, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of conviction, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

In connection with my petition, I acknowledge that I have read and I understand Section 301.257, Texas Occupations Code, Section 301.452(a), (b) and (c), Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and Board Rules 213.27, 213.28, and 213.29 at 22 Texas Administrative Code. I agree with all terms of this Order, including the Findings of Fact and Conclusions of Law and any stipulations as set out in this Order. I acknowledge that this Order is stipulated and I understand that I am not eligible to receive a Graduate Vocational Nurse Permit to practice. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to registering for the NCLEX-PN® Examination or accepting any permit or license from the Texas Board of Nursing.

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 revocation of my license to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Executive Director of the Texas Board of Nursing enter this Order.

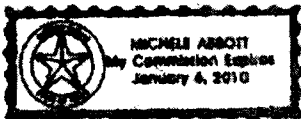
Signed this 26 day of April, 2008

Moses Nyakundi
MOSES ONCHONGA NYAKUNDI, PETITIONER

Sworn to and subscribed before me this 26 day of April, 2008

Michelle Abbott
Notary Public in and for the State of TEXAS


SEAL



WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby ratify and adopt the Order of Conditional Eligibility that was signed on the 26th day of April, 2008, by MOSES ONCHONGA NYAKUNDI, PETITIONER, for Petition for Declaratory Order, and said Order is final.

Entered this 10th day of June, 2008.

TEXAS BOARD OF NURSING

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



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
Vocational Nurse License Number 216902 §
issued to MOSES ONCHONGA NYAKUNDI § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MOSES ONCHONGA NYAKUNDI, Vocational Nurse License Number 216902, 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 Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on January 22, 2015.

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 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 Platt College, Dallas, Texas, on October 1, 2007. Respondent was licensed to practice vocational nursing in the State of Texas on July 29, 2008.
5. Respondent's nursing employment history includes:

7/2008 - 10/2009	Staff LVN	Hillcrest Nursing Dallas, Texas
4/2009 - 1/2010	Staff LVN	Meadows Nursing Dallas, Texas

Respondent's nursing employment history continued:

2/2010 - 12/2012	Staff LVN	Founders Plaza Wylie, Texas
1/2013 - 2/2013	Unknown	
3/2013 - 10/2014	Staff LVN	Reliant Rehabilitation Hospital North Texas Richardson, Texas
11/2014 - Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Staff Licensed Vocational Nurse (LVN) with Reliant Rehabilitation Hospital North Texas, Richardson, Texas, and had been in that position for one (1) year and seven (7) months.
7. On or about October 15, 2014, while employed as a Staff Licensed Vocational Nurse (LVN) with Reliant Rehabilitation Hospital North Texas, Richardson, Texas, Respondent failed to document in the medical record of Patient Medical Record 30504, that he administered Percocet, 10/325 mg, one tab, by mouth, to the patient. Respondent's conduct was likely to injure the patient when he failed to provide accurate information to subsequent medical caregivers about the pain medication he had administered to the patient.
8. On or about May 15, 2014, while employed as a Staff Licensed Vocational Nurse (LVN) with Reliant Rehabilitation Hospital North Texas, Richardson, Texas, Respondent inappropriately administered Nuvigil, 500 mg (250 mg x two tablets), by mouth, to Patient M. O., not Nuvigil, 50 mg, by mouth, daily, as ordered by the patient's physician. Respondent's conduct placed the patient at a significantly increased risk of suffering with the adverse side effects of Nuvigil to include difficult or labored breathing, fast irregular heartbeat, headache, and trembling or shaking of the hands and feet.

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)&(2)(A) and 217.12(1)(A),(1)(B),(1)(C)&(4).
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 216902, heretofore issued to MOSES ONCHONGA NYAKUNDI.

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. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

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 Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Order.

III. 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 courses and video programs will not be approved.

- B. **A Board-approved course in medication administration** 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 be provided by the same Registered Nurse. The course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the six (6) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The clinical component SHALL focus on tasks of medication administration only. 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.
- C. **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.
- D. **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.*

IV. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse, providing direct patient care in a licensed 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 a nurse have elapsed. Any quarterly period without continuous employment with the same employer for all three (3) months will not count towards completion of this requirement. 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. **Indirect Supervision:** 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 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.
- D. **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 nurse who supervises the RESPONDENT

and these reports shall be submitted by the supervising nurse 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.

V. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and 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 Agreed 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 when this Order becomes final and the terms of this Order become effective, 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) to practice nursing in the State of Texas, as a consequence of my noncompliance.

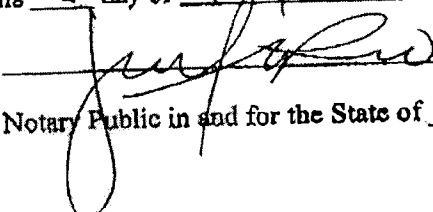
Signed this 5 day of MAY, 2016.



MOSES ONCHONGA NYAKUNDI, Respondent

Sworn to and subscribed before me this 6 day of May, 2016.

SEAL



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 6th day of May, 2016, by MOSES ONCHONGA NYAKUNDI, Vocational Nurse License Number 216902, and said Order is final.

Effective this 14th day of June, 2016.



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