

BEFORE THE TEXAS BOARD OF NURSING



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

In the Matter of Registered Nurse § AGREED
License Number 698512 §
issued to JANET GARAY § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Bo considered the matter of JANET GARAY, Registered Nurse License Number 698512, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on July 24, 2009, by Katherine A. Thomas, MN, RN, Executive Director.

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.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received a Baccalaureate Degree in Nursing from Hunter College, New York City, New York, on May 25, 1988. Respondent was licensed to practice professional nursing in the State of Texas on July 15, 2003.
5. Respondent's professional nursing employment history includes:

5/88 - 7/88 Unknown

Respondent's professional nursing employment history continued:

8/88 - 8/97	Staff Nurse	Jacobi Medical Center The Bronx, New York
9/97 - 8/99	Staff Nurse Emergency Room	Veterans Administration Medical Center San Juan, Puerto Rico
9/99 - 8/03	Staff Nurse	Kelly Clinic at Lackland Air Force Base San Antonio, Texas
9/03 - 3/04	Agency Nurse	Vitas Hospice San Antonio, Texas
9/03 - 2005	Agency Nurse	Maxim Healthcare San Antonio, Texas
9/03 - 2005	Agency Nurse	Favorite Nurses San Antonio, Texas
11/04 - 8/05	Agency Nurse	The Medical Team San Antonio, Texas
11/04 - 8/06	Agency Nurse	Heartland Home Health Agency San Antonio, Texas
9/06 - 7/07	Agency Nurse	VistaCare San Antonio, Texas
8/07 - Present	Unknown	

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as a Staff Nurse with VistaCare, San Antonio, Texas, and had been in this position for nine (9) months.
7. On or about June 22, 2007, while employed as Staff Nurse with VistaCare, San Antonio, Texas, Respondent failed to provide adequate care for Patient Medical Record Number 050013556 in that she failed to draw a Protime (PT)/ International Normalized Ratio (INR), as requested; and failed to notify the physician that the blood work was not drawn. Respondent was asked to see this patient because the patient's Case Manager was on vacation and the patient required a Spanish-speaking nurse to make the visit. Respondent made the visit and, at that time, was informed by the patient's daughter that she refused to have another attempt at a blood draw because there had been two (2) unsuccessful attempts prior to Respondent's visit. Although not documented, Respondent states that she left a message for

her supervisor as well as the physician regarding the daughter's request to have the blood work drawn at a later date. The patient remained on Coumadin, a blood thinner, without being monitored with the PT/INR and was subsequently hospitalized on June 27, 2007, because of gastrointestinal hemorrhage. The patient remained in the hospital for two (2) days and returned home under the care of VistaCare. Respondent's conduct resulted in an inaccurate, incomplete medical record, and was likely to injure the patient in that subsequent care givers would rely on her documentation in order to provide further patient care.

8. In response to the incident in Finding of Fact Number Seven (7), Respondent states that she was asked to see this patient because the case manager was on vacation and they needed a Spanish-speaking nurse to make a visit. Respondent asserts that she was not informed that the patient needed blood drawn. Respondent explains that when she was visiting the patient, the patient's daughter asked that the lab be done on a later day. "I informed Lisa Chaburkin, Christina Palafox and Dr, Ken Smith of the plan."

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 violations of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(A),(1)(B),(1)(C),(1)(D)&(1)(P) and 217.12(1)(A),(1)(B)&(4).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 698512, heretofore issued to JANET GARAY, including revocation of Respondent's license to practice professional nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of REMEDIAL EDUCATION, and RESPONDENT SHALL 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.

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

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent 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 Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to JANET GARAY to the office of the Texas Board of Nursing within ten (10) days of the date of ratification of this Order.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT 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) 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. RESPONDENT 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 RESPONDENT'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.bon.state.tx.us/disciplinaryaction/stipscourses.html>

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. RESPONDENT 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. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: 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. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office to verify RESPONDENT'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.bon.state.tx.us/disciplinaryaction/stipscourses.html>

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete 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 program, RESPONDENT SHALL SUBMIT the continuing

education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address: <http://www.learningext.com/products/generalce/critical/ctabout.asp>.*

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT's license and RESPONDENT shall be eligible for multistate licensure privileges, if any, to practice nursing in the State of Texas.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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 violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, 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 revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

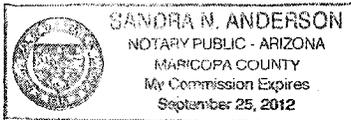
Signed this 20 day of April, 2010.

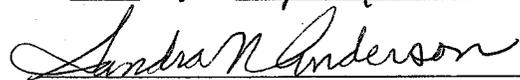


JANET GARAY, Respondent

Sworn to and subscribed before me this 20th day of April, 2010.

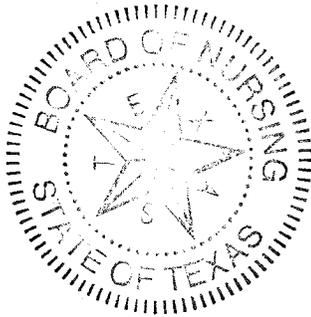
SEAL





Notary Public in and for the State of ARIZONA

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 20th day of April, 2010, by JANET GARAY, Registered Nurse License Number 698512, and said Order is final.



Effective this 30th day of April, 2010.


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