



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 Vocational Nurse § AGREED
License Number 168343 §
issued to ESTHER GALINDO GUZMAN § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of ESTHER GALINDO GUZMAN, Vocational Nurse License Number 168343, 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 informal proceedings, notice and hearing, and agreed to the entry of this Order offered on January 22, 2010, 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 informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Texas State Tech College, Sweetwater, Texas on February 20, 1998. Respondent was licensed to practice vocational nursing in the State of Texas on September 2, 1998.
5. Respondent's vocational nursing employment history is unknown.
6. At the time of the initial incident, Respondent was employed as a CCP Nurse with Nurses Unlimited, Odessa, Texas and assigned to pediatric patient Medical Record Number 21041, and had been in this position for three (3) years and six (6) months.

7. On or about August 8, 2008 through October 29, 2008 while employed by Nurses Unlimited, Odessa, Texas, Respondent was assigned to provide services to pediatric Patient Medical Record Number 21041. Respondent's pediatric Patient Medical Record Number 21041 was a six-year-old male child, who was totally dependent for all activities of daily living, and who had diagnoses which included Seizure Disorder, Static Encephalopathy, Microcephaly, G-Tube, FTT, Congenital Hydrancephalus, and was Legally Blind. Respondent was assigned to remain with Patient Medical Record 21041 while he attended school at Sam Houston Elementary School in order to provide skilled nursing care including assistance with activities of daily living, feeding, and medication administration as ordered. Instead of remaining with the patient throughout the school day, Respondent dropped Patient Medical Record Number 21041 off at school on or about 0900 hours and picked the patient up at school on or about 1430 hours each school day. Respondent's failure to remain with the patient created an unsafe environment and deprived the patient of assigned nursing care including ordered treatments and medications, as well as timely detection and intervention in the event of a significant change in the patient's condition.
8. On or about August 8, 2008 through October 29, 2008 while employed by Nurses Unlimited, Odessa, Texas and assigned to provide services to pediatric patient Medical Record Number 21041, a six-year-old male child, that was totally dependent and unable to perform any activities of daily living, Respondent falsely documented nursing notes indicating that she had been present at Sam Houston Elementary School and performed nursing duties as assigned, including the administration medications and treatments, when in fact, Respondent was not present and had not cared for said pediatric patient during this time period. Respondent's conduct was deceptive and created an inaccurate record on which subsequent care givers would rely on to provide ongoing medical care.
9. On or about August 8, 2008 through October 29, 2008 while employed by Nurses Unlimited, Odessa, Texas, Respondent failed to administer Reglan 5mg/tab, ½ tab TID per PEG, Baclofen 10 mg/tab TID per PEG, Albuterol 0.83 mg/ml 1 vial TID & q 4 hr PRN via nebulizer and Nasal Crom 2 squirts each nare TID, at 1300 hours to pediatric Patient Medical Record Number 21041. Additionally, Respondent failed to administer continuous feedings, as ordered by the physician. Respondent's conduct was likely to injure the patient in that failure to administer medications and treatments as ordered by the physician could have resulted in nonefficacious treatment.
10. On or about August 8, 2008 through October 29, 2008 while employed by Nurses Unlimited, Odessa, Texas, Respondent submitted fraudulent time records which claimed working on site at Sam Houston Elementary School, Odessa, Texas while assigned to provide nursing care to pediatric patient Medical Record Number 21041, when in fact Respondent was not present. Respondent's conduct was likely to defraud the facility, MEDICARE/MEDICAID and the patient for the cost of continuous nursing care.

11. In response to Findings of Fact Numbers Seven (7), Eight (8), Nine (9) and Ten (10), Respondent denies falsifying her nursing notes for the pediatric patient. Respondent indicates this was an oversight on her part in marking her nursing notes to indicate when she went to lunch and was therefore briefly away from the patient. Respondent affirms this had been cleared with the patient's mother who agreed, given the patient's excellent condition, it would be fine for Respondent to go eat when the patient had his own lunch period at school.

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 of Section 301.452(b)(10)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(B),(C),(D),(I)&(L) and 22 TEX. ADMIN. CODE §217.12(1)(C),(4),(6)(A)&(12).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 168343, heretofore issued to ESTHER GALINDO GUZMAN, including revocation of Respondent's license to practice vocational nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Vocational Nurse License Number 168343, previously issued to ESTHER GALINDO GUZMAN, to practice vocational nursing in Texas is hereby SUSPENDED for a period of two (2) years with the suspension STAYED and Respondent is hereby placed on PROBATION for two (2) years with the following agreed terms of probation:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate 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 the Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

(1) 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, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR TWO (2) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) 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 PROBATIONARY PERIOD:

(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>

(5) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500.00). RESPONDENT SHALL pay this fine within forty-five (45) days of entry 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.

(6) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the probation conditions on RESPONDENT's license. 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 within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the probation conditions on RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each

future employer prior to accepting an offer of employment.

(7) RESPONDENT SHALL CAUSE each present employer in nursing to submit the 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 to submit the 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.

(8) For the first year of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse or Licensed Vocational Nurse. Direct supervision requires a professional nurse to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). The 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.

(9) For the remainder of the stipulation/probation period, RESPONDENT 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 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.

(10) 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 Registered Nurse or Licensed Vocational Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for two (2) year(s) of employment as a nurse.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license, the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

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.

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RESPONDENT'S CERTIFICATION

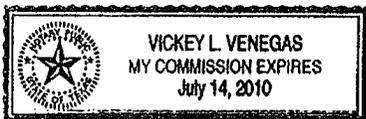
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, 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 revocation of my license to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 11th day of February, 2010.

Esther Galindo Guzman
ESTHER GALINDO GUZMAN, Respondent

Sworn to and subscribed before me this 11th day of February, 2010.

SEAL



Vickey L Venegas
Notary Public in and for the State of Texas

Approved as to form and substance.

Dan Lype
Dan Lype, Attorney for Respondent

Signed this 23 day of February, 2010.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 16th day of February, 2010, by ESTHER GALINDO GUZMAN, Vocational Nurse License Number 168343, and said Order is final.

Effective this 23rd day of March, 2010.


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