



**Respondent's vocational nursing employment history continued:**

1999 - 2003	Staff Hospice LVN	Community Hospice of Victor Valley Apple Valley, California
1/03 - 4/04	LVN Charge Nurse	Apple Valley Care Center Apple Valley, California
4/04 - 6/06	LVN Staff Nurse	Patton State Hospital Patton, California
7/06 - 5/07	LVN Staff Nurse	Cypress Gardens Riverside, California
5/07 - 7/07	LVN Staff Nurse	Lake Forest Good Samaritan Denton, Texas
8/07 - present	Unknown	

6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a LVN Staff Nurse with Lake Forest Good Samaritan, Denton, Texas, and had been in this position for two (2) months.
7. On or about July 19, 2007, while employed at Lake Forest Good Samaritan Denton, Texas, Respondent was physically abusive toward Patient Medical Record Number 251016259, in that he:
  1. Transported patient in a hurried manner to the nurse's station and hit patient's left knee against the nurse's station wall, resulting in the patient receiving a bruise on the left knee; and
  2. Improperly positioned patient in the wheel chair by placing his arms around patient's shoulder and chest area, lifted patient's feet off the ground and "slammed" her into the wheel chair.

Respondent's conduct caused physical and emotional harm to Patient Medical Record Number 251016259.

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8. In response to Finding of Fact Number Seven (7), Respondent denies that he injured, harmed or abused Patient Medical Record Number 251016259. Respondent states that he was hired as Charge Nurse for the 2-10p shift and was informed they needed someone to come in and make sure rules were followed and policies were enforced. Respondent states that because he made staff be accountable, a lot of staff were not happy with him. Respondent states that Patient Medical Record Number 251016259 was one of a few residents at the facility that had Alzheimer's with manifested behaviors. Respondent asserts numerous times during the night in question, he had to put Patient Medical Record Number 251016259 back in her chair for her safety and states that he always approached her, verbally directed her to sit in her chair and guided her a few steps back. Respondent denies that he ever picked her up off the ground and slammed her into the wheel chair as this would have been physically impossible because Patient Medical Record Number 251016259 was the same height as him. Furthermore, Respondent states since Patient Medical Record Number 251016259 was so frail, it would have left some sort of finger, hand or arms marks to show such force was rendered. Respondent denies that he hit Patient Medical Record Number 251016259's knee against the nurses station wall, bruising her left knee. Respondent does state that he did transport her in a fast manner and in hind sight perhaps could have done this slower. Respondent states that if Patient Medical Record Number 251016259 sustained a bruise to her left knee during his assigned shift, it would make more sense that it was attributed to her going on her knees (as he noted on the chart) and from the previous falls and times recently she went to her knees that other nurses had documented in her chart.
9. Charges were filed on April 28, 2009.
10. Charges were mailed to Respondent on April 28, 2009.
11. Respondent, by his signature to this Order, expresses his desire to voluntarily surrender his license to practice nursing in the State of Texas.

#### 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), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(C).
4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 202984, heretofore issued to MICHAEL JOSEPH GARCIA, including revocation of Respondent's license to practice nursing in the State of Texas.

5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Vocational Nurse License Number 202984, heretofore issued to MICHAEL JOSEPH GARCIA, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL immediately deliver the wallet-sized license, heretofore issued to MICHAEL JOSEPH GARCIA, to the office of the Texas Board of Nursing.
2. RESPONDENT SHALL NOT practice vocational nursing, use the title "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying himself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse during the period in which the license is surrendered.
3. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and,
4. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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.

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 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 becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 15 day of August, 2009.

Michael Joseph Garcia  
MICHAEL JOSEPH GARCIA, Respondent

Sworn to and subscribed before me this 15 day of August, 2009.

[Signature]  
Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Vocational Nurse License Number 202984, previously issued to MICHAEL JOSEPH GARCIA.



Effective this 18th day of August, 2009.

A handwritten signature in cursive script, appearing to read 'Katherine A. Thomas', is written over a horizontal line.

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