



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.
Patricia P. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse License Number 632560 § AGREED
issued to JOSE MARTINEZ § ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the accepted the voluntary surrender of Registered Nurse License Number 632560, issued to MARTINEZ, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c) of the Texas Occupations Code.

Respondent waived representation by counsel, informal conference, hearing and agreed to the entry of this Order.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to 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, 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 Laredo Community College, Laredo, Texas, on May 1, 1996. Respondent was licensed to practice professional nursing in the State of Texas on July 23, 1996.
5. Respondent's complete professional nursing employment history is unknown.

6. At the time of the initial incident, Respondent was employed as a Registered Nurse in the Emergency Department with Doctors Hospital of Laredo, Laredo, Texas.
7. On or about May 17, 2008, while employed as a Registered Nurse at Doctor's Hospital of Laredo, Laredo, Texas, Respondent performed a digital rectal exam on Patient Medical Record # 265933, an eleven year-old female, without a doctor's order and without a witness present. Respondent's conduct was likely to cause physical and emotional harm to the patient and may have unnecessarily exposed the patient to risk of further abuse or injury. Patient Medical Record # 265933 complained of rectal pain later that day.
8. In response to Findings of Fact Number Seven (7), Respondent states: "I (Jose Martinez, RN, License # 632560) am accountable for my own actions. Yes, I made a mistake and, yes, I am guilty. After 4 years as a tech and 12 years as a nurse I slip and fall. That is the reason I have not been working since that day (the incident). I do not want to further embarrass myself or any other facility. What I mean by that is that I know I put myself in a bad situation which may cost me my license, career, and future. I do not want to be working one day and unable to work the next because of my license status being suspended or revoked. I guess I deserve what is coming to me. I am expecting the worst but unfortunately I have no control over the decision process. . . ."
9. 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)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(B),(G)&(P), 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 Registered Nurse License Number 632560, heretofore issued to JOSE MARTINEZ, 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 Registered Nurse License Number 632560, heretofore issued to JOSE MARTINEZ, 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 JOSE MARTINEZ, to the office of the Texas Board of Nursing.
2. RESPONDENT SHALL NOT practice professional nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying himself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered 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.
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.

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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 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.

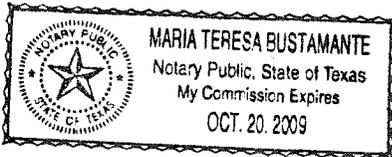
Signed this 15th day of July, 2008.

Jose G. Martinez
JOSE MARTINEZ, Respondent

Sworn to and subscribed before me this 15th day of July, 2008.

SEAL

Maria Teresa Bustamante
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 Registered Nurse License Number 632560, previously issued to JOSE MARTINEZ.

Effective this 18th day of July, 2008.

A handwritten signature in cursive script, appearing to read "Katherine A. Thomas".

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