

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 175311 §
issued to JOSE GONZALEZ § ORDER



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

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JOSE GONZALEZ, Vocational Nurse License Number 175311, 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 September 3, 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 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 San Jacinto College, Houston, Texas, on December 15, 1999 . Respondent was licensed to practice vocational nursing in the State of Texas on February 18, 2000.
5. On March 4, 2003, Respondent was issued an Agreed Board Order by the Board of Vocational Nurse Examiners for the State of Texas. Respondent's license to practice vocational nursing was Severely Reprimanded by the Board of Vocational Nurse Examiner's for the State of Texas. A copy of the Agreed Board Order dated March 4, 2003, is attached and incorporated by reference as part of this Order.

6. Respondent's vocational nursing employment history includes:

02/00 - 03/01	Unknown	
04/01 - 07/05	LVN Staff Nurse	Bayshore Medical Center Pasadena, Texas
08/05 - Present	Unknown	

7. On or about September 18, 1992, Respondent was convicted of the misdemeanor offense of "Driving Under the Influence of Liquor- DWI" in the County Court at Law, Jefferson County, Texas, cause number 164751.
8. On or about October 20, 1999, Respondent submitted an Application for Licensure by Examination to the office of the Vocational Nurse Examiners in which he answered "No" to the questions which reads as follows: "Have you ever been convicted of a misdemeanor other than a minor traffic violation?" Respondent failed to disclose that on September 18, 1992, he was convicted of the misdemeanor offense of "Driving Under the Influence of Liquor- DWI" in the County Court at Law, Jefferson County, Texas, cause number 164751.
9. At the time of the incident in Finding of Fact Number Ten (10), Respondent was employed as a LVN Staff Nurse with Bayshore Medical Center, Pasadena, Texas, and had been in this position for four (4) years and two (2) months.
10. On or about June 23, 2005 through June 25, 2005, while employed with Bayshore Medical Center, Pasadena, Texas, Respondent violated the confidentiality of Patient Medical Record Number V000480917 by accessing the patient's electronic medical records on five (5) occasions without written authorization. Respondent was not assigned to provide nursing care to the patient. Respondent's conduct exposed the patient unnecessarily to a risk of harm from disclosure of her confidential medical information without her written authorization.
11. In response to the allegation in Finding of Fact Number Eight (8), Respondent's Attorney states that the referenced patient is Mr. Gonzalez's wife. The confidential relationship is to protect the patient from unauthorized access to records. Mr. Gonzalez received authorization from the patient and the staff members to enter food preference items for meals for his wife in the computer.
12. Charges were filed on April 20, 2009.
13. Charges were mailed to Respondent on April 23, 2009.
14. First Amended Formal Charges were filed on March 29, 2010.
15. First Amended Formal Charges were mailed to Respondent on March 31, 2010.

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),(E),(J), 217.12 (1) (C) and 239.11(8).
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 175311, heretofore issued to JOSE GONZALEZ, 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 RESPONDENT SHALL receive the sanction of REMEDIAL EDUCATION AND A FINE, 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, 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>.*

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Patient Privacy," a 5.4 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/privacy/privabout.asp>.

(3) RESPONDENT SHALL pay a monetary fine in the amount of Two Hundred Fifty Dollars (\$250). 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.

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.

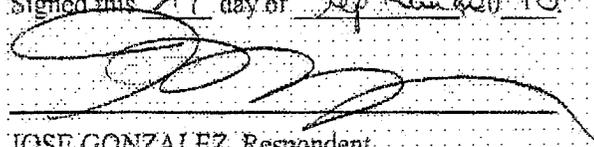
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RESPONDENT'S CERTIFICATION

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 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 27 day of September, 2010



JOSE GONZALEZ, Respondent

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

SEAL

Notary Public in and for the State of _____

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 27th day of September, 2010, by JOSE GONZALEZ, Vocational Nurse License Number 175311, and said Order is final.

Effective this 5th day of October, 2010.



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

BOARD OF VOCATIONAL
NURSE EXAMINERS

STATE OF TEXAS

VS.

JOSE GONZALEZ

COUNTY OF TRAVIS

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AGREED BOARD ORDER

On this day came to be considered by the Board of Vocational Nurse Examiners the matter of vocational nurse license number 175311 held by JOSE GONZALEZ, hereinafter called Respondent.

By letter, the Board of Vocational Nurse Examiners sent preliminary notice to Respondent of its intent to take disciplinary action with respect to said license held by Respondent, as a result of a complaint and subsequent investigation. Said investigation produced evidence indicating that Respondent has engaged in unprofessional or dishonorable conduct that, in the Board's opinion, is likely to deceive, defraud, or injure the public, in violation of Texas Occupations Code, Chapter 302, Section 302.402 (a) (10), in the following manner:

I.

a. On or about March 19, 2001, the Board of Vocational Nurse Examiners received a written referral from the Texas Peer Assistance Program for Nurses (TPAPN) alleging that Respondent was non-compliant in the areas of drug screening, meeting attendance, and treatment.

II.

a. Respondent was employed as a licensed vocational nurse at Memorial Hermann Memorial City Hospital in Houston, Texas from about February 9, 2000 through about February 21, 2000.

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b. While so employed at said facility, on or about February 16, 2000, Respondent was requested to submit to a drug screen as a condition of his employment. Said screen was positive for Marijuana Metabolites.

By Respondent's signature on this Order, Respondent neither admits nor denies the truth of the matters previously set out in this Order with respect to the above-mentioned investigation. By Respondent's signature on this Order, Respondent acknowledges that they have read and understood this Order and have approved it for consideration by the Board.

By their notarized signature on this Order, Respondent does hereby waive the right to a formal Complaint, Notice of Hearing and a Public Hearing held before an Administrative Law Judge with the State Office of Administrative Hearings, and to judicial review of this disciplinary action. Notice of this disciplinary action will appear in the Board's newsletter sent to Texas employers.

ORDER OF THE BOARD

NOW THEREFORE, IT IS ORDERED that license number 175311, heretofore issued to JOSE GONZALEZ to practice vocational nursing in the State of Texas be, and the same is hereby **SEVERELY REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent shall successfully complete nursing program course(s) encompassing the following areas of study: **Substance Abuse --**

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Fact or Fiction? (Council on Alcohol and Drugs Houston), and submit documentation of successful course completion to the Board office within the first six (6) months of the Board's ratification of this Order. Respondent shall be responsible for locating said course(s) and obtaining prior written approval of Board staff prior to committing to said course(s). Said course(s) shall be through correspondence (through a recognized provider), in-house at a community college, university or nursing program, and/or tutored by a state approved, licensed nursing program faculty member. The expense of said course(s) shall be borne by Respondent. Failure to successfully complete said course(s) within the time frame stipulated, shall be considered a violation of this Order.

This Agreed Order shall not be effective or take effect and become enforceable in accordance with its terms until ratified by a majority of the Board present and voting, at its next regularly called session.

Dated this the 27TH day of JANUARY, 2003.



Signature of Respondent

1522 Lawson

Current Address

Houston, TX 77023

City, State and Zip

713 923 8518

Area Code and Telephone Number

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The State of Texas
County of HARRIS

Before me, the undersigned authority, on this day personally appeared JOSE GONZALEZ, who being duly sworn by me stated that he or she executed the above for the purpose therein contained, and that he or she understood same.

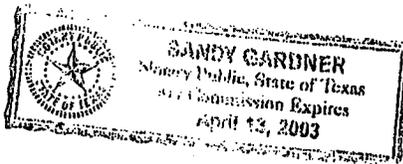
SWORN TO AND SUBSCRIBED before me on this the 27th day of JANUARY, 2003.



Meagan E. Laux
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Terrie L. Hairston
Terrie L. Hairston, R.N., C.H.E.,
Agent for the Board of
Vocational Nurse Examiners

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the 27th day of February, 2003.

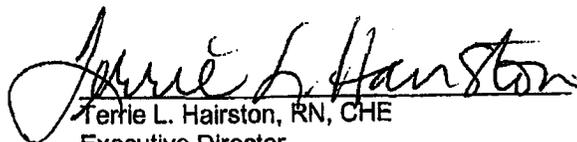


Sandy Gardner
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

BOARD ORDER
RE: JOSE GONZALEZ, LVN #175311
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WHEREFORE, PREMISES CONSIDERED, the Board of Vocational Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Board Order, notarized on the 27th day of January, 2003 by Respondent, license number 175311 and that Said Order is Final.

Effective this 4th day of March, 2003

A handwritten signature in cursive script that reads "Terrie L. Hairston". The signature is written in black ink and is positioned above the printed name and title.

Terrie L. Hairston, RN, CHE
Executive Director
On Behalf of Said Board

BOARD ORDER

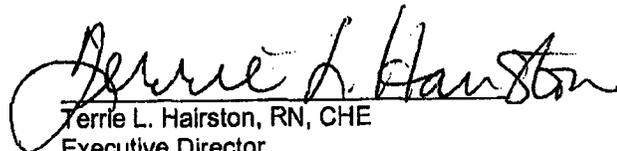
RE: JOSE GONZALEZ, LVN #175311

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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of March, 2003, a true and correct copy of the foregoing **BOARD ORDER** was served by placement in the U.S. Mail, first class, and addressed to the following person(s):

JOSE GONZALEZ
1522 LAWSON
HOUSTON TX 77023



Terrie L. Hairston, RN, CHE
Executive Director
Agent for the Board of Vocational Nurse Examiners