

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBERS 671174 & 130581  
ISSUED TO  
JAMES DANIEL BAKER

§  
§  
§  
§  
§  
§  
§

BEFORE THE ELIGIBILITY  
AND DISCIPLINARY  
COMMITTEE  
OF 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.  
*Patricia R. Plummer*  
Executive Director of the Board

**ORDER OF THE BOARD**

TO: James Daniel Baker  
104 W. Jeter St.  
Mabank, TX 75147

During open meeting held in Austin, Texas, on June 12, 2012, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee of the Texas Board of Nursing finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's licenses to practice professional and vocational nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.



Re: Permanent Certificate Numbers 671174 & 130581  
Issued to JAMES DANIEL BAKER  
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 14<sup>th</sup> day of June, 2012, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

James Daniel Baker  
104 W. Jeter St.  
Mabank, TX 75147



BY:

\_\_\_\_\_  
KATHERINE A. THOMAS, MN, RN, FAAN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of Permanent License                   §       BEFORE THE TEXAS  
Numbers 671174 & 130581, Issued to                   §  
JAMES DANIEL BAKER, Respondent                   §       BOARD OF NURSING

**FORMAL CHARGES**

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, JAMES DANIEL BAKER, is a Registered Nurse holding license number 671174, which is in delinquent status at the time of this pleading, and a Vocational Nurse holding license number 130581, which is in delinquent status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

**CHARGE I.**

On or about September 29, 2011, Respondent was indicted for "Indecency with a Child Sexual Contact," and "Sexual Assault," both 2nd Degree Felony offenses (committed on or about August 18, 2011), by the Grand Jury for Kaufman County, Texas, under Cause Number 30142-422. On or about April 23, 2012, Respondent entered a plea of No Contest and was convicted of "Injury to a Child," a 2nd Degree Felony in the 422nd Judicial District Court of Kaufman County, Texas, under Cause Number 30142-422. Respondent was sentenced to confinement for a period of ten (10) years in the Institutional Division of the Texas Department of Criminal Justice. The imposition of the confinement was suspended, and Respondent was placed on community supervision for a period of ten (10) years.

The above action constitutes grounds for disciplinary action in accordance with Sections 301.452(b)(3)&(10) and 301.4535(a)(7), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. and TEX. OCC. CODE Ch. 53. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

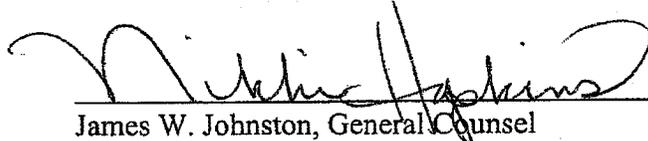
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Guidelines for Criminal Conduct and on Adopted Disciplinary Sanction Policies for Sexual Misconduct, which can be found at the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at [www.bon.texas.gov/disciplinaryaction/discp-matrix.html](http://www.bon.texas.gov/disciplinaryaction/discp-matrix.html).

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order dated April 28, 2011.

Filed this 21<sup>st</sup> day of April, 2012.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel  
Board Certified - Administrative Law  
Texas Board of Legal Specialization  
State Bar No. 10838300

Jena Abel, Assistant General Counsel  
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel  
State Bar No. 24066924

John R. Griffith, Assistant General Counsel  
State Bar No. 24079751

Robert Kyle Hensley, Assistant General Counsel  
State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel  
State Bar No. 24052269

John F. Legris, Assistant General Counsel  
State Bar No. 00785533

TEXAS BOARD OF NURSING

333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701  
P: (512) 305-6824  
F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Board dated April 28, 2011.

D/2012.03.07

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse License Number 671174 §       AGREED  
and Vocational Nurse License Number 130581           §  
issued to JAMES DANIEL BAKER                           §       ORDER

An investigation by the Texas Board of Nursing, hereinafter referred to as the Board, produced evidence indicating that JAMES DANIEL BAKER, hereinafter referred to as Respondent, Registered Nurse License Number 671174 and Vocational Nurse License Number 130581, may have violated Section 302.402(a)(10), Texas Occupations Code (eff. 09/01/2001), and Section 301.452(b)(10), Texas Occupations Code (eff. date 09/01/2001), and Section 301.452(b)(2)&(10), Texas Occupations Code (eff. date 09/01/2007).

An informal conference was held on November 2, 2010, at the office of the Texas Board of Nursing, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared telephonically. Respondent was represented by Elizabeth Higginbotham, Attorney at Law. In attendance were Marybeth Thomas, Executive Director's Designee; Lance Brenton, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; and Bonnie Krznarich, Investigator.

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(s).
2. Respondent waived notice and hearing, and consented to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas. Respondent holds a license to practice vocational nursing in the State of Texas, which is currently in delinquent status.

4. Respondent received a Certificate in Vocational Nursing from Western Texas College, Snyder, Texas, on August 23, 1990, and a Diploma in Nursing from Methodist Hospital, Lubbock, Texas, on July 15, 2000. Respondent was licensed to practice vocational nursing in the State of Texas on November 28, 1990, and Respondent was licensed to practice professional nursing in the State of Texas on July 25, 2000.

5. Respondent's nursing employment history includes:

2000 - 2004	ICU RN Covenant Healthcare Systems Lubbock, Texas
2004 - 2005	ICU /Staff RN Medical City Hospital Dallas, Texas
08/2005 - 01/2007	ICU Staff Nurse Medical Center of Mesquite Mesquite, Texas
02/2007 - 04/2009	ICU Staff Nurse Continuum Medical Staffing Dallas, Texas
05/2009 - 04/2010	Pediatric Private Duty Staff Nurse At Home Healthcare Dallas, Texas
05/2010 - Present	Private Duty Care - Staff Nurse Cuddle Me Home Care Garland, Texas

6. On or about July 8, 2003, Respondent entered a plea of Guilty to AGGRAVATED ASSAULT WITH A DEADLY WEAPON (a 2nd Degree felony offense committed on November 15, 2002), in the 364th District Court of Lubbock County, Texas, under Cause No. 2002-401460. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on probation for a period of seven (7) years. Additionally, Respondent was ordered to pay a fine and court costs.

7. Respondent was discharged from community supervision and the charges were dismissed on July 14, 2010. The precipitating event was an altercation at a bar where Respondent and four other men were involved. The police were notified and arrived on the scene; at that time a firearm was found under the seat of Respondent's vehicle.

8. On or about February 14, 2008, Respondent entered a plea of Guilty and was convicted of ASSAULT PUBLIC SERVANT (a 3rd Degree felony offense committed on September 10, 2006, reduced to the lesser offense of INTERFERING WITH PUBLIC SERVANT, a Class B misdemeanor), in the Criminal District Court 6, Dallas County, Texas, under Cause No. F-0645117. As a result of the conviction, Respondent was sentenced to confinement in the Dallas County Jail for a period of fifteen (15) days. Additionally, Respondent was ordered to pay a fine and court costs.
9. On or about February 24, 2008, Respondent submitted an Online Renewal Document Registered Nurse to the Texas Board of Nursing in which he provided false, deceptive, and/or misleading information, in that he answered "No" to the question: "Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:
- A. been convicted of a misdemeanor?
  - B. been convicted of a felony?
  - C. pled nolo contendere, no contest, or guilty?
  - D. received deferred adjudication?
  - E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
  - F. been sentenced to serve jail or prison time? court-ordered confinement?
  - G. been granted pre-trial diversion?
  - H. been arrested or have any pending criminal charges?
  - I. been cited or charged with any violation of the law?
  - J. been subject of a court-martial; Article 15 violation; or received any form of military judgement/punishment/action?"

Respondent failed to disclose that on or about February 14, 2008, Respondent entered a plea of Guilty and was convicted of ASSAULT PUBLIC SERVANT (a 3rd Degree felony offense committed on September 10, 2006, reduced to the lesser offense of INTERFERING WITH PUBLIC SERVANT, a Class B misdemeanor), in the Criminal District Court 6, Dallas County, Texas, under Cause No. F-0645117.

#### CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, 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 302.402(a)(10), Texas Occupations Code (eff. 09/01/2001), and Section 301.452(b)(10), Texas Occupations Code (eff. date 09/01/2001), and Section 301.452(b)(2)&(10), Texas Occupations Code (eff. date 09/01/2007), and 22 TEX. ADMIN. CODE §239.11(29)(A) (eff. through 01/21/2004), and 22 TEX. ADMIN. CODE §217.12(6)(I)&(13).

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 671174 and Vocational Nurse License Number 130581, heretofore issued to JAMES DANIEL BAKER, including revocation of Respondent's licenses to practice 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 sanctions of a REPRIMAND WITH STIPULATIONS, 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 nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse licensure compact 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.

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) contact 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 "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://ncsbn.hivelive.com/hives/a0f6f3e8a0/summary>.*

**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 A**

MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE A REGISTERED NURSE (RN) OR VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD. TO THE EXTENT THAT RESPONDENT REMAINS EMPLOYED IN HIS CURRENT POSITION AS A PRIVATE DUTY PEDIATRIC NURSE WITH CUDDLE ME HOME HEALTH, IN GARLAND, TEXAS, THE REQUIREMENT THAT HE WORKS IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING IS WAIVED.

(3) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations 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 stipulations 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.

(4) 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.

(5) As long as Respondent remains employed in his current position as a Private Duty Pediatric Nurse with Cuddle Me Home Health, Garland, Texas, RESPONDENT SHALL CAUSE his employer to conduct bi-weekly monitoring visits. Additionally, his supervisor shall submit quarterly evaluation reports to the Board on Respondent's performance.

(6) Should Respondent's employment as a Private Duty Pediatric Nurse with Cuddle Me Home Health, Garland, Texas, cease or change, RESPONDENT SHALL be supervised by a Registered 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.

(7) 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 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 one (1) year of employment as a nurse.

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

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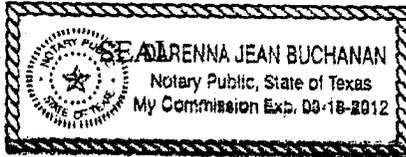
RESPONDENT'S CERTIFICATION

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 settle this matter in accordance with Texas Occupations Code 301.463. 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 23 day of February, 2011.

James Daniel Baker  
JAMES DANIEL BAKER, Respondent

Sworn to and subscribed before me this 23 day of February, 2011.



Arenna Buchanan  
Notary Public in and for the State of Texas

Approved as to form and substance.

Elizabeth Higginbotham  
Elizabeth Higginbotham, Attorney for Respondent

Signed this 25<sup>th</sup> day of February, 2011.



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 23<sup>rd</sup> day of February, 2011 by JAMES DANIEL BAKER, Registered Nurse License Number 671174 and Vocational Nurse License Number 130581, and said Order is final.

Effective this 28<sup>th</sup> day of April, 2011.



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