BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Vocational Nurse	§	AGREED
License Number 151119	§	
issued to FABIAN LUIS RIOS	§	ORDER

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.
Executive Director of the Board

On this day, the Texas Board of Nursing, hereinafter referred to as the Bc accepted the voluntary surrender of Vocational Nurse License Number 151119, issued to FABIAN LUIS RIOS, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and 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(s).

2. Respondent waived representation by counsel, 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 Nursing from South Plains College, Lubbock, Texas, on August 20, 1994. Respondent was licensed to practice vocational nursing in the State of Texas on January 25, 1995.

5. Respondent's employment history is unknown.

6. On or about July 28, 1994, Respondent submitted a Application for Licensure by Examination to the Texas Board of Vocation Nurse Examiners for the State of Texas in which he provided false, deceptive, and/or misleading information, in that he answered "No" to the question: "Have you ever been convicted of a felony or misdemeanor other than a minor traffic violation?"

Respondent failed to disclose that on or about January 6, 1987, Respondent entered a plea of Guilty and was convicted of BURGLARY OF HABITATION (a felony offense committed on July 28, 1994), in the 106th Judicial District Court of Lynn County, Texas, under Cause No.1896. As a result of the conviction, Respondent was placed on probation for a period of ten (10) years. Additionally, Respondent was ordered to pay a fine and court costs. On or about November 18, 1981, Respondents probation granted under Cause No.1896 was revoked and Respondent was sentenced to confinement in the Texas Department Criminal Justice for a period of six (6) years.

Respondent failed to disclose that on or about November 22, 1991, Respondent entered a plea of Guilty and was convicted of BURGLARY OF HABITATION, and BURGLARY OF A BUILDING (a 2nd Degree felony offense committed on September 7, 1991), in the 72nd District Court of Lubbock County, Texas, under Cause No.91-413, 867. As a result of the conviction, Respondent was sentenced to confinement in the Texas Department Criminal Justice County Jail for a period of two (2) years. Additionally, Respondent was ordered to pay a restitution in the amount of three hundred dollars and ninety five dollars ($395.00); along with court costs.

7. On or about May 24, 1993, Respondent was arrested by the Lubbock County Sheriff's Office, Lubbock, Texas, for THEFT>=$200 BUT <$750.

On or about September 21, 1995, Respondent entered a plea of Guilty and was convicted of THEFT>=$200 BUT <$750 (a Class A misdemeanor offense committed on May 24, 1993), in the County Court at Law No. of Lubbock County, Texas, under Cause No.93-495484. As a result of the conviction, Respondent was ordered to pay a fine and court costs.

8. On or about February 10, 1998, Respondent was arrested by the Texas Highway Patrol of Potter County, Texas, for DRIVING WHILE INTOXICATED (a Class B Misdemeanor offense).

On or about February 24, 1998, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED (a Class B misdemeanor offense committed on February 10, 1998), in the County Court of Swisher County, Texas, under Cause No.14611. As a result of the conviction, Respondent was sentenced to confinement in th County Jail for a period of ninety (90) days; however, the imposition of the sentenced of confinement was suspended, and Respondent was placed on probation for a period of twelve (12) months. Additionally, Respondent was ordered to pay a fine and court costs.

9. On or about May 27, 2001, Respondent was arrested by the Texas Highway Patrol, Lubbock County, Texas, for DRIVING WHILE LICENSE SUSPENDED (a misdemeanor offense), and ASSAULT CAUSES BODILY INJ (a Class A misdemeanor offense).

On or about December 7, 2001, Respondent entered a plea of Guilty to ASSAULT (a Class A misdemeanor offense committed on February 12, 2001), in the County Court at Law No.1 of Lubbock County, Texas, under Cause No.2001-473482. As a result of the plea, the proceedings against the Respondent were deferred without adjudication of guilt and Respondent was placed on probation for a period of twelve (12) months. Additionally, Respondent was ordered top pay a fine and court costs. On or about December 12, 2002, Respondent was discharged from probation.

Respondent was subsequently charged under Cause No.2001-475284 for DRIVING WHILE LICENSE SUSPENDED. On or about December 7, 2001, Cause No.2001473482 was dismissed in the County Court at Law No.1 of Lubbock County, Texas, for the reason: Defendant has been convicted in another case, Cause No. 2001-473482.

10. On or about November 27, 2003, Respondent submitted an Texas Online Renewal Document Licensed Vocational Nurse to the Texas Board of Nursing in which he answered "No" to the question: "Were you convicted of a misdemeanor other than a minor traffic violation since your last renewal?"

On or about December 7, 2001, Respondent entered a plea of Guilty to ASSAULT (a Class A misdemeanor offense committed on February 12, 2001), in the County Court at Law No.1 of Lubbock County, Texas, under Cause No.2001-473482.

11. In response to Finding of Fact Numbers Six (6) through Ten (10), Respondent states: he regrets being secretive and deceptive about his past. In response to Finding of Fact Numbers Seven (7) through Nine (9), Respondent states: he had a very difficult young adulthood, which lead him to do several questionable and regrettable things. That took him some time to get over. He was not working and was drinking alcohol to escape from his responsibilities and every day life. He has met someone that has changed his life around and has helped him be a better person.

12. Respondent, by his signature to this Order, expresses his desire to voluntarily surrender his license(s) 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 violations of TEX. REV. CIV. STAT. ART. 4528c, sec. 10(a)(9), (effective September 1, 1993), TEX. REV. CIV. STAT. ART. 4528c, sec. 10(a)(3)&(9), (effective September 1, 1995), TEX. REV. CIV. STAT. ART. 4528c, sec. 10(a)(9), (effective September 1, 1997), Section 302.402(a)(2)&(10), Texas Occupations Code, (eff. September 1, 2001), and 22 TEX. ADMIN. CODE §239.11(8), (effective September 1, 1993), and 22 TEX. ADMIN. CODE 239.11(28)(A), (effective May 1, 1995), and 22 TEX. ADMIN. CODE 239.11(29)(A), (effective November 1, 1996), and 22 TEX. ADMIN. CODE 239.11(29)(A), (effective September 1, 2001), and 22 TEX. ADMIN. CODE 239.11(8),(effective November 1, 2003).

4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Vocational License Number 151119, heretofore issued to FABIAN LUIS RIOS, including revocation of Respondent's license(s) 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 License Number 151119, heretofore issued to FABIAN LUIS RIOS, 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 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.

2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order.

3. 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 nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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 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 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 20th day of April, 2011.

Fabian Luis Rios

FABIAN LUIS RIOS, Respondent

Sworn to and subscribed before me this 20th day of April, 2011.

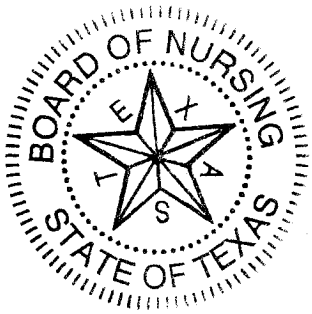
SEAL

Kerri M. McLaren

Notary Public in and for the State of Texas

KERRI LANAE MCLEAREN
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
12-03-2013

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 151119, previously issued to FABIAN LUIS RIOS.



Effective this 27th day of April, 2011.

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