BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse	§	AGREED
License Number 664636	§	
issued to ERIC NELSON LYNCH	§	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 Boa considered the matter of ERIC NELSON LYNCH, Registered Nurse License Number 66463 hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Sections 301.452(b)(2)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on August 11, 2010, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

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 representation by counsel, informal proceedings, 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 West Texas A&M University, Canyon, Texas, on August 1, 1999. Respondent was licensed to practice professional nursing in the State of Texas on October 19, 1999.

5. Respondent's nursing employment history is unknown.

6. On or about March 2, 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 December 18, 2007, Respondent was arrested by the Amarillo Police Department, Amarillo, Texas, for DRIVING WHILE INTOXICATED-COUNT 1 and for UNLAWFUL CARRYING WEAPON-COUNT 2.

Respondent failed to disclose that on or about December 31, 2007, Respondent was arrested by the Randall County Sheriff's Office, Canyon, Texas, for AGG ASSLT W/DEADLY WEAPON.

7. On or about July 29, 2009, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED 1ST-COUNT ONE(a Class B misdemeanor offense committed on December 18, 2007), in the County Court at Law No. 2 In and For Randall County, Texas, under Cause No. 2009-5531-2. As a result of the conviction, Respondent was sentenced to confinement in the Randall County Jail for a period of one hundred eighty (180) days; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay a fine and court costs.

8. On or about July 29, 2009, Respondent entered a plea of Guilty to UNLAWFULLY CARRYING A WEAPON-COUNT TWO (a Class A misdemeanor offense committed on December 18, 2007), in the County Court at Law No. 2 of Randall County, Texas, under Cause No. 2009-5531-2. 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 two (2) years. Additionally, Respondent was ordered to pay court costs.

9. On or about July 29, 2009, Respondent entered a plea of Guilty to ASSAULT (a Class A misdemeanor offense committed on December 18, 2007), in the 181st District Court, Randall County, Texas, under Cause No. 19573B. 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 two (2) years. Additionally, Respondent was ordered to pay a fine and court costs.

10. In response to Findings of Fact Numbers Seven (7) through Nine (9), Respondent states that on December 18th, he picked his son up from school. His 18-month old daughter was secured in the backseat. They were driving to his sister's house, when he and his son got into an argument about the son's upcoming Christmas concert. Respondent pulled over into a park to speak to his son further. At this point his son became very noncompliant. Respondent proceeded to step out of his vehicle and spank his son (age 10), with his hand, while his son was sitting in the passenger's seat. Respondent states he was in no way excessive during the incident. After this, he proceeded to leave the park. He re-entered the truck and proceeded to back out of the parking lot. At this point a man, completely unknown to the Respondent, appeared in his open car window saying Respondent was under arrest. The man had no ID, so Respondent told him to leave him alone and mind his own business. Respondent proceeded to back out of the parking lot and the man reached into the window grabbing at his steering wheel, telling Respondent to stop. Respondent then asked the man to go away as he put the car in drive, and the man climbed onto the hood of his truck as Respondent started to drive forward. During this, the man continued to grab around the driver's side window pulling at the steering wheel. Respondent was now scared and told the man to get off of the truck, or he would get hurt. The man finally jumped down off of the vehicle. Respondent drove away, and went on to his sister's house. Respondent was very shaken by the event and his children were scared. He explained to his sister what had happened, and at her suggestion, had a drink to help him calm down. His wife then came to get the children, since he had consumed alcohol and didn't want to drive with them in the vehicle. He left his sister's shortly after his wife. He was pulled over on the way home. The officer told him she had heard about his vehicle being involved in the earlier incident in the park. The officer then arrested the Respondent. After giving a blood sample, Respondent was found to be over the legal limit. During the officer's search of his vehicle, she found an old firearm that belonged to his grandfather. It was not loaded, and he had neglected to take it out after helping his parents move some of his grandfather's belongings earlier that week. He was charged with Assault and the DWI. The weapons charge was deferred. When Respondent found out he was wanted for assault, he turned himself in to be processed through their system again.

11. On or about February 28, 2010, 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 July 29, 2009, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED 1ST-COUNT ONE in Randall County, Texas, under Cause No. 2009-5531-2.

Respondent failed to disclose that on or about July 29, 2009, Respondent entered a plea of Guilty to UNLAWFULLY CARRYING A WEAPON-COUNT TWO in Randall County, Texas, under Cause No. 2009-5531-2.

Respondent failed to disclose that on or about July 29, 2009, Respondent entered a plea of Guilty to ASSAULT in Randall County, Texas, under Cause No. 19573B.

12. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

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)(2)&(10), Texas Occupations Code, 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 664636, heretofore issued to ERIC NELSON LYNCH, including revocation of Respondent's license(s) 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 sanction of a WARNING WITH

STIPULATIONS 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 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 pay a monetary fine in the amount of five hundred dollars ($500). 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.

(2) 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 <u>not</u> 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.*

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 AND RESPONDENT MUST WORK IN SUCH 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 THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(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) 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.

(6) 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.

BALANCE OF THIS 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 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 29th day of October, 2010.

Eric Lynch

ERIC NELSON LYNCH, Respondent

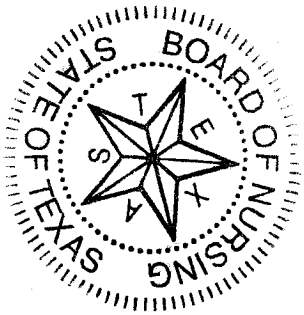
Sworn to and subscribed before me this 29th day of October, 2010.

SEAL

Darlene Wilks

Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 29th day of October, 2010, by ERIC NELSON LYNCH, Registered Nurse License Number 664636, and said Order is final.

Effective this 14th day of December, 2010.

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