IN THE MATTER OF	§	BEFORE THE ELIGIBILITY
	§	
PERMANENT CERTIFICATE	§	AND DISCIPLINARY
	§	
NUMBER 207637	§	COMMITTEE
	§	
ISSUED TO	§	OF THE TEXAS
	§	
THOMAS JAMES VALDESPINO	§	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

ORDER OF THE BOARD

TO: Thomas James Valdespino
c/o Cathie O'Brien
1819 Jerry Abbott St
El Paso, Texas 79936

During open meeting held in Austin, Texas, on November 9, 2010, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case. This case was heard, and 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 license to practice 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.

The Eligibility and Disciplinary Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing (22 TEX. ADMIN.CODE § 213.2(j)). All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 207637, previously issued to THOMAS JAMES VALDESPINO, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice vocational nursing in the State of Texas.

Entered this *9th* day of *November*, 2010.

TEXAS BOARD OF NURSING

BY: Katherine A. Thomas

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

Re: Permanent Certificate Number 207637
Issued to Thomas James Valdespino
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of November, 2010, 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):

Thomas James Valdespino
c/o Cathie O'Brien
1819 Jerry Abbott St
El Paso, Texas 79936

BY: Katherine A. Thomas

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

Texas Board of Nursing

333 Guadalupe Street, Ste. 3-460, Austin, Texas 78701
Phone: (512) 305-7400 Fax: (512) 305-7401 www.bon.state.tx.us

Katherine A. Thomas, MN, RN
Executive Director

August 31, 2010

Certified Mail No. 91 7108 2133 3938 2107 1100
Return Receipt Requested

Thomas James Valdespino
c/o Cathie O'Brien
1819 Jerry Abbott St
El Paso, Texas 79936

Dear Mr. Valdespino:

Enclosed are Formal Charges which have been filed against you alleging one or more violations of Section 301.452(b) of the Nursing Practice Act, Texas Occupations Code. Within three weeks of the date of this letter, you must file a written answer to each charge admitting or denying each allegation. If you intend to deny only part of an allegation, you must specify so much of it as is true and deny only the remainder. Your answer shall also include any other matter, whether of law or fact, upon which you intend to rely for your defense. Please send your written answer to the attention of Veronica Franco, Investigator. You may obtain legal counsel at your own expense.

FAILURE TO FILE A WRITTEN ANSWER TO THE FORMAL CHARGES, EITHER PERSONALLY OR BY LEGAL REPRESENTATIVE, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF WILL BE GRANTED BY DEFAULT.

Please be advised that should you fail to file a written answer, the case will proceed on a default basis and it will be staff's recommendation that a default order be entered revoking your license or multistate privilege to practice professional nursing in the State of Texas.

The results of any default order or formal disposition (Board Order) are public information. Results of informal and formal dispositions will appear in the Board's newsletter under the heading of "Disciplinary Action."

Should you desire to discuss this matter, you may contact Veronica Franco, Investigator, Enforcement Division, at the above address, or at (512) 305-7949.

Sincerely,

Katherine A. Thomas, MN, RN
Executive Director

KAT/vf

Enclosure: Formal Charges

09/99-DA

Members of the Board

Linda Rounds, PhD, FNP, RN
Galveston, *President*

Deborah Bell, CLU, ChFC Abilene
Kristin Benton, MSN, RN Austin
Patricia Clapp, BA Dallas
Tamara Cowen, MN, RN Harlingen
Sheri Crosby, JD, SPHR Dallas
Marilyn Davis, BSN, RN, MPA Sugar Land

In the Matter of Permanent License	§	**BEFORE THE TEXAS**
Number 207637, Issued to	§	
THOMAS JAMES VALDESPINO, Respondent	§	**BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, THOMAS JAMES VALDESPINO, is a Vocational Nurse holding license number 207637, 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 January 2008 through March 2008, while employed as a Licensed Vocational Nurse with El Paso LTACH, El Paso, Texas, Respondent misappropriated Demerol belonging to the facility and patients thereof, in that he admitted that he misappropriated the Demerol for his own personal use. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(1)(A),(B),(6)(G)&(8).

CHARGE II

On or about January 2008 through March 2008, while employed as a Licensed Vocational Nurse with El Paso LTACH, El Paso, Texas, Respondent engaged in the intemperate use of Demerol in that he admitted to using the Demerol he had misappropriated and to being addicted to Demerol. Possession of Demerol is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Demerol, without a valid prescription, by a Licensed Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(1)(B),(5)&(10)(A).

CHARGE III

On or about January 2008 through March 2008, while employed as a Licensed Vocational Nurse with El Paso LTACH, El Paso, Texas, Respondent engaged in the intemperate use of Marijuana in that he admitted to smoking Marijuana when he was asked to submit to a drug screen. Possession of Marijuana is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Marijuana, without a valid prescription, by a Licensed Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(1)(B),(5)&(10)(A).

CHARGE IV

On or about January 2008 through March 2008, while employed as a Licensed Vocational Nurse with El Paso LTACH, El Paso, Texas, Respondent lacked fitness to practice vocational nursing in that while on duty he had slurred speech, swollen eyelids, dilated pupils, and was unable to function appropriately with patients and staff. Respondent's conduct could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(12), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(1)(B),(E)&(5)

CHARGE V

On or about October 14, 2008, Respondent failed to repay his Texas Guaranteed Student Loan, as provided in Section 57.491 of the Texas Education Code. Respondent's failure to repay his Texas Guaranteed Student Loan may have deprived other applicants of funds for nursing school loans.

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

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to § 301.461, TEX. OCC. CODE ANN. 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.state.tx.us.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, and for Fraud, Theft & Deception, which can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.state.tx.us/disciplinaryaction/discp-matrix.html.

Filed this 30th day of August, 2010.

TEXAS BOARD OF NURSING

R. Kyle Hensley

James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
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Jena Renee Koslan Abel, Assistant General Counsel
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