

BEFORE THE TEXAS BOARD OF NURSING



In the Matter of Registered Nurse License Number 706760 § AGREED
and Vocational Nurse License Number 172991 §
issued to MIKEL KELLY WESEMANN § 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 MIKEL KELLY WESEMANN, Registered Nurse License Number 706760 and Vocational Nurse License Number 172991, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(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 19, 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. Respondent's license to practice vocational nursing in the State of Texas is currently in delinquent status.
4. Respondent received a Certificate in Vocational Nursing from St. Philips College, San Antonio, Texas on August 6, 1999. Respondent received a Baccalaureate Degree in Nursing from the University of Texas Health Science Center, San Antonio, Texas on December 11, 2002. Respondent was licensed to practice vocational nursing in the State of Texas on September 15, 1999. Respondent was licensed to practice professional nursing in the State of Texas on July 6, 2004.

5. Respondent's vocational and professional nursing employment history is unknown.
6. On March 11, 2002, Respondent's license to practice vocational nursing was suspended, with said suspension stayed and placed on probation for a period of six (6) months by the Board of Vocational Nurse Examiners for the State of Texas. A copy of the Complaint dated August 30, 2001, and a copy of the Agreed Board Order dated March 11, 2002, are attached and incorporated, by reference, as part of this Order.
7. On December 2, 2003, Respondent's license to practice vocational nursing was severely reprimanded by the Board of Vocational Nurse Examiners for the State of Texas. A copy of the Agreed Board Order dated December 2, 2003, is attached and incorporated, by reference, as part of this Order.
8. On April 14, 2004, Respondent was issued an Order of Conditional Eligibility by the Board of Nurse Examiners for the State of Texas which required him to participate in and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated April 14, 2004, is attached and incorporated, by reference, as part of this Order.
9. On or about February 22, 2010, Respondent plead Nolo Contendere to "Assault-Bodily Injury-Family Household," a Class A Misdemeanor (committed on April 7, 2008), in the 379th Judicial District Court of Bexar County, San Antonio, Texas, under Cause Number 2009CR2791. An adjudication of guilt was deferred, and Respondent was placed on community supervision for a period of two (2) years and ordered to pay fine in the amount of one thousand dollars (\$1000.00).
10. Regarding the conduct outlined in Finding of Fact Number Nine (9), Respondent states that he confronted his son about being reckless and careless in almost causing harm to another child. He states that he confronted his son at a later time and mentioned that there were adult witnesses and the other boy's story but that his son continued to deny the accusations. Respondent states that at that point he slapped his son. Respondent states that he called his son's mother and let her know what had occurred and why his son had a bruise on his face. Respondent states that on April 7, 2008, he dropped his son off at school where a formal complaint was filed with the police.

~~Respondent states that he was interviewed by Child Protective Services (CPS) which determined that no further investigation was required but that it could still become a case to the San Antonio Police Department. Respondent states that he was notified shortly after via warrant and he posted bond pending a criminal court outcome. Respondent states that he completed parenting classes of his own free will. He states that he is currently seeing his probation officer as directed.~~

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 violation of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(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 706760, and Vocational Nurse License Number 172991, heretofore issued to MIKEL KELLY WESEMANN, 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 Registered Nurse License Number 706760 and Vocational Nurse License Number 172991, previously issued to MIKEL KELLY WESEMANN, to practice nursing in Texas are hereby SUSPENDED for a period of two (2) years with the suspension STAYED and Respondent is hereby placed on PROBATION for two (2) years with the following agreed terms of probation:

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 licenses are encumbered by this order the 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.

(1) 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.

(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 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>.*

(3) 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>.*

(4) IT IS FURTHER AGREED, SHOULD RESPONDENT be convicted of the offense as outlined in Finding of Fact Number Nine (9), said judicial action will result in further disciplinary action including Revocation of Respondent's licenses to practice professional and vocational nursing in the State of Texas.

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 PROBATION CONDITIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the probation conditions 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 probation conditions 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.

(6) 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.

(7) 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.

(8) 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 two (2) years of employment as a nurse.

(9) RESPONDENT SHALL CAUSE his probation officer to submit written reports on forms provided to the Respondent by the Board. The reports shall indicate the RESPONDENT'S compliance with the court ordered probation. The reports shall be furnished each and every three (3) month period until RESPONDENT is released from probation.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's licenses, the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S licenses 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 violation 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 licenses to practice nursing in the State of Texas, as a consequence of my noncompliance.

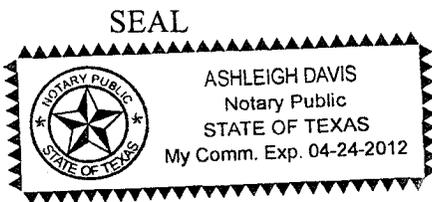
Signed this 17th day of Sept, 2010.

Mikel Kelly Wesemann
MIKEL KELLY WESEMANN, Respondent

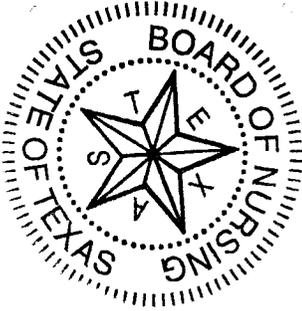
Sworn to and subscribed before me this 17th day of September, 2010.

Ashleigh Davis

Notary Public in and for the State of 424.2012



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 17th day of September, 2010, by MIKEL KELLY WESEMANN, Registered Nurse License Number 706760 and Vocational Nurse License Number 172991, and said Order is final.



Effective this 21st day of October, 2010 .

A handwritten signature in black ink, appearing to read 'Katherine A. Thomas', is written over a horizontal line.

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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of §
MIKEL KELLY WESEMANN § ORDER OF
PETITIONER for Eligibility for § CONDITIONAL ELIGIBILITY
Licensure §

On the date entered below, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the Application for Initial Licensure by Examination for Registered Nurses and supporting documents filed by MIKEL KELLY WESEMANN, hereinafter referred to as PETITIONER, together with any documents and information gathered by staff and PETITIONER's Certificate contained herein. Information received by the Board produced evidence that PETITIONER may have violated Section 301.452(b)(3)&(8), Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on February 29, 2004, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about December 18, 2002, Petitioner submitted an Application for Initial Licensure by Examination requesting a determination of eligibility for licensure in compliance with Section 301.257 *et seq.*, Texas Occupations Code.
2. Petitioner waived representation, notice, administrative hearing, and judicial review.
3. Petitioner graduated with a Baccalaureate Degree in Nursing from The University of Texas Health Science Center at San Antonio, San Antonio, Texas, on December 11, 2002.
4. Petitioner was not able to attest to the truth of all statements as listed in his Application for Licensure by Examination, Affidavit of Eligibility for Licensure/Certification, Part II.

5. Petitioner disclosed the following criminal history, to wit:
 - A. On April 20, 2000, Petitioner was charged with the misdemeanor offense of Driving While Intoxicated in the County Court at Law No. 12 of Bexar County, Texas. Petitioner entered a plea of nolo contendere and was placed on Community Supervision for six (6) months. On October 26, 2000, Petitioner was discharged from community supervision.
 - B. On August 26, 2002, Petitioner was charged with his 2nd offense of Driving While Intoxicated in the County Court at Law No. 6 of Bexar County, Texas. Petitioner entered a plea of nolo contendere and was sentenced to one (1) year community supervision. In August 2003, Petitioner was discharged from community supervision.
6. There is no evidence of any subsequent criminal conduct.
7. On January 7, 2002, Petitioner was issued an Agreed Board Order by the Board of Vocational Nurse Examiners, placing his vocational nursing license on probation for six (6) months, for his April 20, 2000, conviction of Driving While Intoxicated. A copy of the January 7, 2002, Agreed Board Order is attached and incorporated by reference as part of this Order.
8. On September 20, 2002, Petitioner satisfied all terms and conditions as set forth in the January 7, 2002, Order by the Vocational Nurse Examiners.
9. On December 2, 2003, Petitioner was issued an Agreed Board Order by the Board of Vocational Nurse Examiners, placing a Severe Reprimand on Petitioner's vocational nursing license for his August 26, 2002, conviction for Driving While Intoxicated. A copy of the December 2, 2003, Agreed Board Order is attached and incorporated by reference as part of this Order.
10. On February 18, 2004, Petitioner was seen by Matthew L. Ferrara, Ph.D., Clinical and Forensic Psychology, Austin, Texas, to undergo a forensic psychological evaluation to include a chemical dependency evaluation. The results of the evaluation indicate that there is some basis for concern regarding Petitioner's ability to perform as a nurse. Petitioner's profile suggests characteristics of his lifestyle that could lead to an alcohol or drug abuse problem. Dr. Ferrara recommends additional substance abuse counseling.
11. The Board received letters of support/recommendation for Petitioner from the following:
 - A letter of reference dated December 5, 2002, was submitted on behalf of Petitioner by Susan E. Reiff, RN, MSN, Community Health Nursing Faculty, The University of Texas Health Science Center at San Antonio, San Antonio, Texas.

- A letter of reference dated December 11, 2002, was submitted on behalf of Petitioner by Carolyn Sue Kirsch, MSN, RNC, Assistant Professor, The University of Texas Health Science Center at San Antonio, San Antonio, Texas.
 - A letter of reference dated December 17, 2002, was submitted on behalf of Petitioner by Toni C. Saunders, University Hospital.
 - A letter of recommendation dated December 28, 2002, was submitted on behalf of Petitioner by Carrie Williams, University Hospital.
12. The safety of patients and the public requires that all persons licensed to practice nursing be fit, sober, and able to consistently practice nursing in autonomous roles under demanding and stressful conditions.
 13. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Petitioner.
 14. Petitioner has sworn that, with the exception of matters disclosed in connection with the Application for Initial Licensure by Examination, his past behavior conforms to the Board's professional character requirements. Petitioner presented no evidence of behavior which is inconsistent with the Board's character requirements in 22 Texas Administrative Code §213.27.
 15. On February 29, 2004, the Executive Director considered evidence of Petitioner's past behavior in light of the character factors set out in 22 Texas Administrative Code §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character.
 16. In consideration of Petitioner's past conduct and subsequent evidence of rehabilitation, the Executive Director finds that Petitioner should be declared conditionally eligible to take the National Council Licensure Examination for Registered Nurses.
 17. Petitioner's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

CONCLUSIONS OF LAW

1. The Board of Nurse Examiners has jurisdiction over this matter pursuant to Section 301.453, Texas Occupations Code.
2. Petitioner has submitted a petition in compliance with Section 301.257, Texas Occupations Code.

3. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452, Texas Occupations Code.
4. The Board of Nurse Examiners may license an individual who has a history of substance abuse, after consideration of the criteria set out in 22 Texas Administrative Code §213.29, the Board determines the Petitioner does not currently pose a direct threat to the health and safety of patients or the public.
5. The Board may, in its discretion, order a Petitioner, upon initial licensure as a registered nurse, to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of any required fees, MIKEL KELLY WESEMANN, PETITIONER, is CONDITIONALLY ELIGIBLE to sit for the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination). PETITIONER SHALL NOT be eligible for temporary authorization to practice as a Graduate Nurse in the State of Texas.

IT IS FURTHER ORDERED that PETITIONER SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.*, and this Order.

IT IS FURTHER ORDERED that PETITIONER, upon attaining a passing grade on the NCLEX-RN®, shall be issued a license to practice nursing in the State of Texas.

~~IN ADDITION, IT IS THEREFORE FURTHER AGREED and ORDERED that~~
PETITIONER, upon initial licensure, SHALL comply with the following conditions for such a time as is required for PETITIONER to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) PETITIONER SHALL, within forty-five (45) days of initial licensure, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, PETITIONER SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Board of Nurse Examiners.

(3) PETITIONER SHALL comply with all requirements of the TPAPN contract during its term.

(4) PETITIONER SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Petitioner's multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Petitioner's license is encumbered by this Order, Petitioner 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 Petitioner wishes to work.

IT IS FURTHER AGREED, SHOULD PETITIONER fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including revocation of a PETITIONER's license to practice professional nursing in the State of Texas.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all relevant information in conformity with Rule 213.29 at Texas Administrative Code. I certify that my past behavior, except as disclosed in my Application for Initial Licensure by Examination, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of conviction, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

In connection with my petition, I acknowledge that I have read and I understand Section 301.257, Texas Occupations Code, Section 301.452 (a), (b) and (c), Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and Board Rules 213.27, 213.28, and 213.29 at 22 Texas Administrative Code. I agree with all terms of this Order, including the Findings of Fact and Conclusions of Law and any stipulations set out in this Order. I acknowledge that this Order is stipulated and I understand that I am not eligible to receive a Graduate Nurse Permit to practice. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to registering for the NCLEX-RN® Examination or accepting any permit or license from the Board of Nurse Examiners.

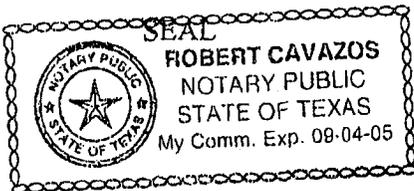
I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Executive Director of the Board of Nurse Examiners enter this Order.

Signed this 27 day of March, 2004.

[Signature]
MIKEL KELLY WESEMANN, PETITIONER

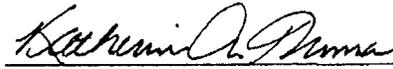
Sworn to and subscribed before me this 27 day of March, 2004.



[Signature]
Notary Public in and for the State of TX

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Order of Conditional Eligibility that was signed on the 27th day of March, 2004, by MIKEL KELLY WESEMANN, PETITIONER, for Application for Initial Licensure by Examination, and said Order is final.

Entered and effective this 14th day of April, 2004.



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

BOARD OF VOCATIONAL
NURSE EXAMINERS

VS.

MIKEL KELLY WESEMANN

*
*
*
*
*

STATE OF TEXAS

COUNTY OF TRAVIS

AGREED BOARD ORDER

On this day came to be considered by the Board of Vocational Nurse Examiners the matter of vocational nurse license number 172991 held by MIKEL KELLY WESEMANN, 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 been convicted of a crime of the grade of a misdemeanor that relates to the practice of vocational nursing and/or involves moral turpitude, in violation of the Texas Occupations Code, Chapter 302, Section 302.402 (a) (3) (B), Respondent has engaged in the intemperate use of alcohol or drugs, in violation of the Texas Occupations Code, Chapter 302, Section 302.402 (a) (9), in the following manner:

i.

a. On or about April 22, 2003, the Board of Vocational Nurse Examiners received a computerized criminal History report from the Texas Department of public Safety showing that Respondent had been convicted of a misdemeanor.

b. On or about August 26, 2002, Respondent was convicted of the Misdemeanor (A) offense of Driving While Intoxicated, in the County Court at Law number 6 of Bexar County, Texas under cause NO. 801221. As a result of said conviction, Respondent was sentenced to one (1) year probation.

AGREED BOARD ORDER
RE: MIKEL KELLY WESEMANN, LVN #172991
PAGE 2

c. Respondent has been convicted of crimes, which the Board considers to be directly related to the duties and responsibilities of a Licensed Vocational Nurse. Said convictions are inconsistent with the basic duties and responsibilities inherent in the occupation of vocational nursing in that said occupation requires knowledge and familiarity of drugs, and compliance with drug laws

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.

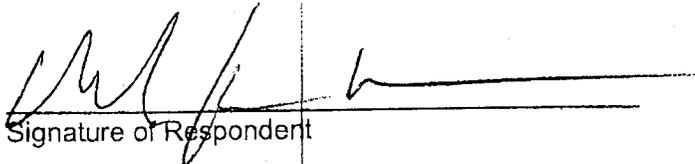
ORDER OF THE BOARD

NOW THEREFORE, IT IS ORDERED, subject to ratification by the Board of Vocational Nurse Examiners that license number 172991, heretofore issued to MIKEL KELLY WESEMANN to practice vocational nursing in the State of Texas be, and the same is hereby **SEVERELY REPRIMANDED**.

AGREED BOARD ORDER
RE: MIKEL KELLY WESEMANN, LVN #172991
PAGE 3

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 21 day of October, 2003.


Signature of Respondent

7626 Callaghan Rd Apt 2501
Current Address

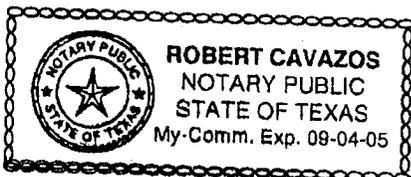
51A, TX 78229
City, State and Zip

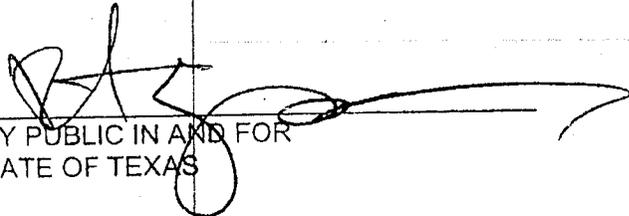
210, 601-9702
Area Code and Telephone Number

The State of Texas
County of BEXAR

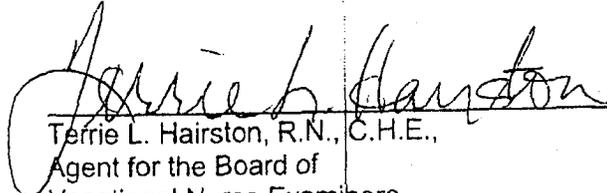
Before me, the undersigned authority, on this day personally appeared MIKEL KELLY WESEMANN, who being duly sworn by me stated that he or she executed the above for the purpose therein contained, and that he or she understood same.

SWORN TO AND SUBSCRIBED before me on this the 21 day of October, 2003



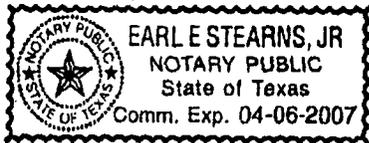

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

AGREED BOARD ORDER
RE: MIKEL KELLY WESEMANN, LVN #172991
PAGE 4



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
2nd day of DECEMBER, 2003.



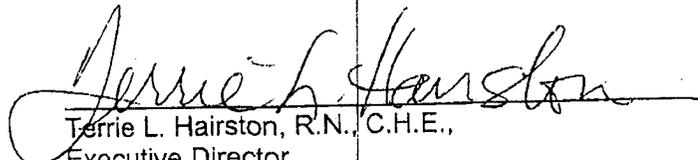


NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

BOARD ORDER
RE: MIKEL KELLY WESEMANN, LVN #172991
PAGE 5

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 21st day of October 2003 by MIKEL KELLY WESEMANN, license number 172991 and that Said Order is Final.

Effective this 2nd day of December, 2003.


Terrie L. Hairston, R.N., C.H.E.,
Executive Director
On Behalf of Said Board

BOARD OF VOCATIONAL
NURSE EXAMINERS

VS

MIKEL KELLY WESEMANN

§
§
§
§
§
§

STATE OF TEXAS

COUNTY OF TRAVIS

AGREED BOARD ORDER

On this day came to be considered by the Board of Vocational Nurse Examiners for the State of Texas, hereinafter referred to as the Board, the matter of vocational nurse license number 172991, held by MIKEL KELLY WESEMANN hereinafter called Respondent.

A sworn Complaint has been filed and served on the Respondent, which alleges violations of the Texas Occupations Code, Chapter 302, and grounds to take disciplinary action against Respondent.

An informal conference was held on January 7, 2002, at the office of the Board of Vocational Nurse Examiners. The conference was conducted by Betty E. Sims, RN, MSN, Hearing Officer, assisted by Melody Hart, member of the Board of Vocational Nurse Examiners. Respondent was present and was not represented by counsel.

The conference was attended by Lynda G. Pringle, Investigator for the Board, and John Gray, Assistant Attorney General. By their notarized signature on this Order, Respondent does hereby waive the right to Notice of Formal Hearing and a Formal Hearing of the Complaint before the Board, and to judicial review of this disciplinary action after this Order is endorsed by the Board.

AGREED BOARD ORDER
RE: MIKEL KELLY WESEMANN, LVN #172991
PAGE 2

After reviewing the Complaint and information provided at the informal conference, Respondent agrees to the entry of an Order dispensing with the need for further proceedings on the Complaint. By Respondent's signature on this Order, Respondent neither admits nor denies the truth of the allegations stated in the Complaint. 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. 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 172991, heretofore issued to MIKEL KELLY WESEMANN to practice vocational nursing in the State of Texas be, and the same is hereby Suspended, with said suspension stayed and placed on probation for a period of six (6) months.

The probation of said license is subject to the following stipulations, to wit:

1. That if Respondent's place of employment, name, address or telephone number changes, Respondent is to notify the Board office immediately, or no later than ten (10) days after said change has occurred. Said notification shall be in the form of a written letter or report.
2. That Respondent shall comply with Federal, State, and local laws, and all the provisions of the Texas Occupations Code and Rules and Regulations of the Board.
3. That Respondent shall not practice nursing in a Nurse Licensure Compact remote state without obtaining prior written authority of both the BVNE and the Board of Nursing of the remote state.

4. That by copy of this Board Order, Respondent shall provide notice of Board disciplinary action to his/her immediate nursing supervisor(s) and Director(s) of Nursing, throughout the term of probation.

5. That Respondent shall be responsible for causing his/her immediate nursing supervisor(s) to submit satisfactory reports directly to the Board office on a quarterly basis, throughout the term of probation. The receipt of an unfavorable and/or untimely report shall be considered a violation of probation.

6. That any period(s) of nursing unemployment must be documented in writing by Respondent and submitted to the Board office, as provided in Stipulation No. five.

7. That Respondent shall work only under the supervision of a licensed medical professional (M.D., R.N., L.V.N.) who is physically present on the work premises during Respondent's shift assignment (s), throughout the term of probation.

8. That Respondent shall not be employed by a nurse registry, temporary nurse employment agency, home health agency, or as a private duty nurse throughout the term of probation.

9. That Respondent shall and hereby agrees to abstain from the consumption of Alcohol, Nubain, Stadol, Dalgan or other synthetic opiates, and/or use of unprescribed controlled substances. Any controlled or legend medication must be prescribed by a physician knowledgeable about the disease of addiction, as well as Respondent's history, and it is incumbent upon Respondent to ensure such physician knowledge. If prescribed medication, RESPONDENT SHALL CAUSE the attending physician to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the Board office by the prescribing physician, within ten (10) days of the date of the prescription.

10. That Respondent shall through the Board's agent (DISA), submit to random blood alcohol and urine drug screens.

11. That Respondent shall be responsible daily for telephoning DISA's Voice Response (DVR) at 1-800-580-1099. That said drug screen shall be administered through the policies and procedures of the Drug Intervention Services of America, Inc. (DISA), utilizing LabCorp facilities. That said drug-screening panel shall consist of the following:

| | | |
|-------------------|--------------|---------------|
| Alcohol (Ethanol) | Cannabinoids | Methaqualone |
| Amphetamines | Cocaine | Opiates |
| Barbiturates | Meperidine | Phencyclidine |
| Benzodiazepines | Methadone | Propoxyphene |

AGREED BOARD ORDER
RE: MIKEL KELLY WESEMANN, LVN #172991
PAGE 4

Said screen(s) shall be properly monitored with adherence to chain of custody procedures. A positive result shall be legally confirmed by Gas Liquid Chromatography/Mass Spectrometry (GCMS). The results of said screen(s) shall be submitted directly to the Board office by the laboratory. The expense of said screen(s) shall be borne by Respondent. Any report of failure to contact DISA and/or a positive drug screen for which the Respondent does not have a valid prescription, will be regarded as non-compliance with the terms of this order and may subject the Respondent to further disciplinary action by the Board.

12. That Respondent pay a Probation Monitoring fee in the amount of thirty (\$30.00) dollars in the form of a cashier's check or money order, payable to the Board of Vocational Nurse Examiners. Said fee shall be paid quarterly, due on the 15th of each quarter commencing the quarter following the date of the Board's endorsement of the Order, and continuing thereafter until the successful completion of Respondent's probation. Said fee shall be sent to the Board office, addressed to the "Board of Vocational Nurse Examiners", 333 Guadalupe, Suite 3-400, Austin, TX 78701. Failure by Respondent to make any quarterly payment on time shall constitute a violation of probation.

13. That Respondent shall return their license to the Board office for a replacement license marked "**PROBATION**" and pay a license re-issue fee in the amount of twenty (\$20.00) dollars in the form of a cashier's check or money order, payable to the Board of Vocational Nurse Examiners. Said return of license and fee shall be made not later than thirty (30) days following the date of the Board's endorsement of the Agreed Board Order. Said license and fee shall be sent to the Board office, addressed to the "Board of Vocational Nurse Examiners", 333 Guadalupe, Suite 3-400, Austin, TX 78701. Failure by Respondent to return said license or pay said fee shall constitute a violation of probation.

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 7th day of January, 2002.



Signature of Respondent

AGREED BOARD ORDER
RE: MIKEL KELLY WESEMANN, LVN #172991
PAGE 5

7626 Callaghan Rd Apt 3310
Current Address

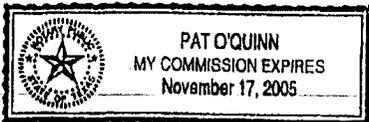
S.A., TX 78229
City, State and Zip

(210) 1344-6872
Area Code and Telephone Number

The State of Texas
County of Dallas

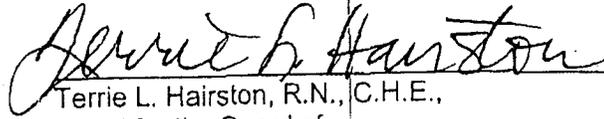
Before me, the undersigned authority, on this day personally appeared MIKEL KELLY WESEMANN who being duly sworn by me stated that he or she executed the above for the purpose therein contained, and that he or she understood same.

SWORN TO AND SUBSCRIBED before me this the 7th day of January, 2002.



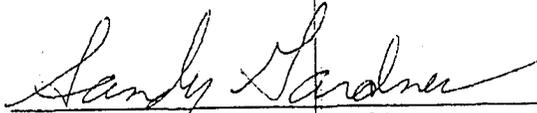
Pat O'Quinn
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My Commission Expires 11-17-05

AGREED BOARD ORDER
RE: MIKEL KELLY WESEMANN, LVN #172991
PAGE 6



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 7th
day of January, 2002.

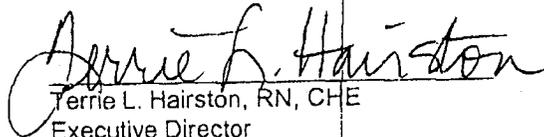


NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

BOARD ORDER
RE: MIKEL KELLY WESEMANN, LVN #172991
PAGE: 7

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 7th day of January, 2002 by Respondent, license number 172991 and that
Said Order is Final.

Effective this 11th day of March, 2002

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 OF VOCATIONAL NURSE
EXAMINERS

VS.

MIKEL KELLY WESEMANN

*
*
*
*
*
*
*

STATE OF TEXAS

COUNTY OF TRAVIS

COMPLAINT

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Lynda G. Pringle, who after being by me duly sworn, did depose and say:

As an Investigator for the Board of Vocational Nurse Examiners, I, Lynda G. Pringle, do hereby present to the Executive Director of the Board of Vocational Nurse Examiners, the following complaint against MIKEL KELLY WESEMANN, a practitioner of vocational nursing in Texas licensed by the Board of Vocational Nurse Examiners with license number 172991, hereinafter called Respondent.

I.

a. On or about September 18, 2000, Respondent submitted his Licensure Renewal Application to the Board of Vocational Nurse Examiners. On said Application, Respondent answered "yes" to the question asking "Were you convicted of a misdemeanor other than a minor traffic violation since your last renewal?"

b. ~~On or about April 20, 2000, Respondent was convicted of the Misdemeanor Offense of: DRIVING WHILE INTOXICATED, in the County Court of Law No. 12 of Bexar County, Texas, under Cause Number 745796. As a result of said conviction, Respondent was placed on probation for a period of six (6) months.~~

c. Respondent has been convicted of a crime, which the Board considers to be directly related to the duties and responsibilities of a Licensed Vocational Nurse. Said conviction is inconsistent with the basic duties and responsibilities inherent in the occupation of vocational nursing in that said occupation requires knowledge and familiarity of drugs, and compliance with drug laws.

COMPLAINT
RE: MIKEL KELLY WESEMANN, LVN #172991
PAGE 2

II.

The foregoing acts constitute unprofessional or dishonorable conduct that, in the opinion of the Board, is likely to deceive, defraud, or injure the public, in violation of the Texas Occupations Code, Chapter 302, Section 302.402 (a) (10) and Rule 239.11 of the Rules and Regulations of the Board of Vocational Nurse Examiners, Title 22, Texas Administrative Code. Rule 239.11, provides in pertinent part: that "Unprofessional Conduct" shall include, but not be limited to:

- (27) failing to conform to the minimal standards of acceptable prevailing practice, regardless of whether or not actual injury to any person was sustained;
- (29) being convicted of a crime that relates to the practice of vocational nursing;
 - (A) Those crimes which the Board considers to be directly related to the duties and responsibilities of a licensed vocational nurse shall include, but are not limited to:
 - (iv) offenses related to drugs/alcohol.

III.

Respondent has been convicted of a misdemeanor that relates to the practice of vocational nursing, in violation of the Texas Occupations Code Chapter 302, contrary to Section 302.402 (a) (3) (B).

COMPLAINT
RE: MIKEL KELLY WESEMANN, LVN #172991
PAGE 3

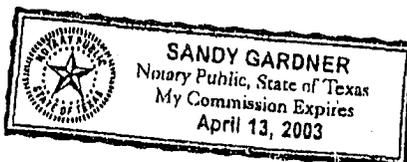
IV.

The foregoing acts constitute grounds for the Board of Vocational Nurse Examiners to take disciplinary action as provided under the Texas Occupations Code, Chapter 302, Licensed Vocational Nurse, Section 302.403 and Section 302.451, relief such as revocation, suspension, suspension with probation, reprimand, warning, denial of licensure and/or imposition of administrative penalties (fines), may be recommended by the Board. Pursuant to Board Rule 239.19 the Board may assess penalties (fines), in the minimum amount of two hundred fifty dollars (\$250.00), not to exceed two thousand dollars (\$2,000.00).

WHEREFORE, PREMISES CONSIDERED, I, Lynda G. Pringle, do hereby suggest and request the Board of Vocational Nurse Examiners take disciplinary action against MIKEL KELLY WESEMANN, LVN #172991, in accordance with the provisions of the laws of the State of Texas.

Lynda G. Pringle
AFFILANT

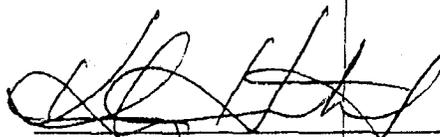
SUBSCRIBED AND SWORN TO BEFORE ME by the said Lynda G. Pringle, on this the 30th day of August 2001.



Sandy Gardner
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My Commission Expires 4/13/03

COMPLAINT
RE: MIKEL KELLY WESEMANN, LVN #172991
PAGE 4

Filed with the Board of Vocational Nurse Examiners on the 30th day of August 2001.



Kirby W. Hattox, Supervisor
Enforcement Division
Board of Vocational Nurse Examiners