BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§	AGREED
License Number 132674	§	
issued to GARY DON HAMILTON	§	ORDER

BOARD OF NURSING TEXAS
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 Bo considered the matter of GARY DON HAMILTON, Vocational Nurse License Number 132(hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(2),(3)&(10) Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on February 25, 2010, by Katherine A. Thomas, MN, RN, Executive Director.

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.

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 Vocational Nursing from Vernon Regional Junior College, Vernon, Texas, on September 4, 1990. Respondent was licensed to practice vocational nursing in the State of Texas on May 30, 1991.

5. Respondent's vocational nursing employment history includes:

Unknown	LVN	Elgin Golden Years Nursing Home Elgin, Texas
Unknown	LVN	Regency Village Nursing Center Austin, Texas

6. On or about September 20, 2007, Respondent submitted a License Renewal Form for Licensed Vocational Nurses to the Board of Nurse Examiners for the State of Texas, in which he answered "No" to the question: "Have you ever been convicted, placed on community supervision whether or not adjudicated guilty, sentenced to serve jail or prison time or granted pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country, or received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests . . . " Respondent failed to disclose that on April 22, 2007, he was arrested by the Hutto Police Department, Hutto, Texas, for ASSAULT CAUSES BODILY INJURY FAMILY MEMBER (a Class A misdemeanor). Respondent's conduct was likely to deceive the Board and could have affected the decision to issue a license.

7. On or about October 8, 2007, Respondent entered a plea of No Contest to ASSAULT CAUSING BODILY INJURY (a Class A misdemeanor offense committed on April 22, 2007) in the County Court of Law Number 1, Williamson County, Texas, under Cause No. 0742501. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and he was placed on probation for a period of eighteen (18) months. Additionally, he was ordered to pay a fine and court costs.

8. On or about September 24, 2008, Respondent entered a plea of Nolo Contendere to PUBLIC INTOXICATION (a Class C misdemeanor offense committed on September 9, 2008), in the Municipal Court of Williamson County, Hutto, Texas, under Cause No. CR000158-01. Respondent was ordered to pay a fee.

9. On January 12, 2009, Respondent was issued an Order of Commitment as a Condition of Community Supervision by the County Court at Law No. 1 of Williamson County, Texas, cause number 0742501. Respondent was ordered to serve six (6) days in the Williamson County Jail and attend the Cornerstone Outpatient Alcohol Rehabilitation, Austin, Texas, for six weeks and aftercare treatment for six months. He completed both programs.

10. The Respondent's conduct described in the preceding Finding of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.

11. 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.

12. Respondent's conduct described in Findings of Fact Numbers Seven (7) and Eight (8) resulted from Respondent's impairment on chemicals.

13. Respondent'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. 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 violations of Section 301.452(b)(2),(3)&(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 Vocational Nurse License Number 132674, heretofore issued to GARY DON HAMILTON, including revocation of Respondent's license to practice nursing in the State of Texas.

5. The Board may, in its discretion, order a 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

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, 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, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep his license to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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 multistate licensure privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure 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, SHOULD RESPONDENT 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 EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license and multistate licensure privileges, if any, to practice nursing in the State of Texas.

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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. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, 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 to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 23 day of March, 2010.

GARY DON HAMILTON, Respondent

Sworn to and subscribed before me this 23 day of March, 2010.

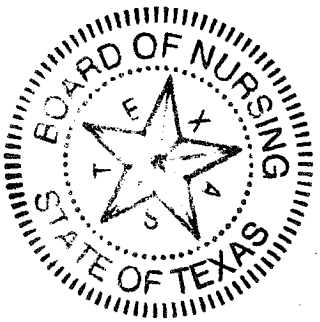
SEAL

Micah Mireles

Notary Public in and for the State of Texas

MICAH MIRELES
Notary Public
STATE OF TEXAS
Commission Exp. 04-02-2013
Notary without Bond

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Agreed Order that was signed on the 23rd day of March, 2010, by GARY DON HAMILTON, Vocational Nurse License Number 132674, and said Order is final.



Entered and effective this 24th day of March, 2010.

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