



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

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse License Number 567882 §
and Vocational Nurse License Number 130929 § AGREED
issued to DAVID EUGENE HILLIARD § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the E considered the matter of DAVID EUGENE HILLIARD, Registered Nurse License Number 567882, and Vocational Nurse License Number 130929, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Article 4525(a)(9), Revised Civil Statutes of Texas, as amended, and 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 29, 2008, 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 professional nursing in the State of Texas. Respondent maintains a license to practice vocational nursing in the State of Texas, which is currently in "delinquent" status.
4. Respondent received a Baccalaureate Degree in Nursing from the University of Texas, Tyler, Texas, on May 5, 1989. Respondent was licensed to practice vocational nursing in the State of Texas on November 28, 1990, and Respondent was licensed to practice professional nursing in the State of Texas on March 18, 1991.
5. Respondent's vocational and professional nursing employment histories are unknown.

6. On or about April 14, 1977, Respondent was convicted of DRIVING UNDER THE INFLUENCE OF LIQUOR, (a misdemeanor offense committed on March 19, 1977), in the County Court, Harrison County, Texas. As a result of the conviction, Respondent was placed on probation for a period of one (1) year. Additionally, Respondent was ordered to pay a fine and court costs.
7. On or about June 2, 1989, Respondent submitted a Registration by Examination to the Board of 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 crime other than minor traffic violations?"
 - A. On or about April 14, 1977, Respondent was convicted of DRIVING UNDER THE INFLUENCE OF LIQUOR in the County Court, Harrison County, Texas.
8. On or about August 15, 2007, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED (a Class B misdemeanor offense committed on December 27, 2006), in the County Court at Law #3 of Smith County, Texas, under Cause No. 003-82900-07. As a result of the conviction, Respondent was sentenced to confinement in the Smith 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 fifteen (15) months. Additionally, Respondent was ordered to pay a fine and court costs.
9. In response to Finding of Fact Number Eight (8), Respondent furnished the Board a letter, dated June 10, 2008, from Tamera McGaugh, LCDCI-III, Case Manger/Counselor, East Texas Medical Center Behavioral Health, Tyler, Texas. In her letter, Ms. McGaugh states: Respondent began treatment with this facility on January 11, 2007, for Alcohol Dependence after his arrest for DWI. Respondent was an exemplary patient, completing thirty-one (31) sessions of Intensive Outpatient Program for his dependency issues, completely and thoroughly completed all program assignments in a timely manner, had perfect attendance, and was an example to other patients. Respondent overcame his initial denial regarding his alcohol abuse, and developed healthier coping skills, while continuing to be accountable for the consequences of his behavior under the influence of alcohol. Respondent was discharged from the program on March 5, 2007, and maintains his sobriety through abstinence, contact with program staff, and AA meeting attendance.
10. The Respondent's conduct described in the preceding Findings of Fact were reportable under the provisions of Article 4525a, TEX. REV. STAT. ANN., Article 4528a, TEX. REV. STAT. ANN., and 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 Number Six (6) and Finding of Fact Number Eight (8) resulted from impairment by dependency 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 violation of Article 4525(a)(9), TEX. REV. CIV. STAT. ANN., (effective through September 1, 1989), 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 567882 and Vocational Nurse License Number 130929, heretofore issued to DAVID EUGENE HILLIARD, including revocation of Respondent's licenses 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):

RESPONDENT SHALL deliver the wallet-sized licenses issued to DAVID EUGENE HILLIARD, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order.

(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 five hundred dollars (\$500.00) 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 licenses are 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 revocation of Respondent's licenses 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 nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 31st day of March, 2009.

David Eugene Hilliard
DAVID EUGENE HILLIARD, Respondent

Sworn to and subscribed before me this 31st day of March, 2009.

SEAL

Lisa Loy
Notary Public in and for the State of Texas



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 31st day of March, 2009, by DAVID EUGENE HILLIARD, Registered Nurse License Number 567882 and Vocational Nurse License Number 130929, and said Order is final.



Entered and effective this 2nd day of April, 2009.

Katherine A. Thomas

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