



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.
Patricia A. Plummer
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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

On this day came to be considered by the Texas Board of Nursing, hereinafter referred to as the Board, the Petition for Reinstatement of Vocational Nurse License Number 132674, held by GARY DON HAMILTON, hereinafter referred to as Petitioner.

An informal conference was held on October 8, 2013, at the office of the Texas Board of Nursing, in accordance with Section 301.464, Texas Occupations Code.

Petitioner appeared in person. Petitioner was notified of his right to be represented by legal counsel and elected to waive representation by counsel. In attendance were Kristin Benton, MSN, RN, Director of Nursing, Executive Director's Designee; James W. Johnston, General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; and Carolyn Hudson, Investigator.

FINDINGS OF FACT

1. Prior to institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Petitioner waived representation by counsel, notice and hearing, and consented to the entry of this Order.
3. Petitioner received a Certificate in Vocational Nursing from Vernon Regional Junior College, Vernon, Texas, on September 4, 1990. Petitioner was originally licensed to practice vocational nursing in the State of Texas on May 30, 1991.
4. Petitioner's vocational nursing employment history includes:

06/91 - 12/91

LVN

Abilene State School
Abilene, Texas

Petitioner's vocational nursing employment history continued:

12/91 - 05/92	LVN	Anson Place Nursing Center Abilene, Texas
05/92 - 11/92	LVN	Abilene Convalescent Center Abilene, Texas
12/92 - 06/93	LVN	Methodist Hospital Lubbock, Texas
06/93 - 10/93	LVN	Lubbock Healthcare Center Lubbock, Texas
01/94 - 09/94	LVN	Anson General Hospital Anson, Texas
01/95 - 08/95	LVN	Holiday Retirement Center Sweetwater, Texas
02/96 - 11/96	LVN	Knox County Hospital Knox City, Texas
12/96 - 06/97	LVN	Canterbury Villa Nursing Center Baird, Texas
06/97 - 03/98	LVN	Heritage Oaks Nursing Center Ballinger, Texas
03/98 - 12/98	LVN	Electra Memorial Hospital Electra, Texas
12/98 - 8/99	LVN	Monterey Care Center Wichita Falls, Texas
08/99 - 11/99	LVN	Iowa Park Nursing Center Iowa Park, Texas
11/99 - 01/00	LVN	Wichita Falls State Hospital Wichita Falls, Texas
02/00 - 11/00	LVN	Bowie Memorial Hospital Bowie, Texas

Petitioner's vocational nursing employment history continued:

11/00 - 05/01	LVN	Maxim Healthcare Fort Worth, Texas
05/01 - 10/01	LVN	Mesa Springs Healthcare Abilene, Texas
10/01 - 03/02	LVN	Coryell County Hospital Gatesville, Texas
03/02 - 08/02	LVN	Scott & White Memorial Hospital Temple, Texas
08/02 - 11/02	LVN	Carestaff Agency Austin, Texas
11/02 - 06/03	LVN	River Haven Nursing Center Georgetown, Texas
06/03 - 11/03	LVN	Indian Oaks Nursing Center Harker Heights, Texas
11/03 - 04/04	LVN	Rosewood Nursing and Rehabilitation Killeen, Texas
04/04 - 10/04	LVN	Sweetwater Nursing and Rehabilitation Sweetwater, Texas
10/04 - 04/05	LVN	Mitchell County Hospital Colorado City, Texas
04/05 - 06/05	LVN	Holiday Retirement Center Sweetwater, Texas
06/05 - 12/05	LVN	Heartland Nursing and Rehabilitation Austin, Texas
01/06 - 03/06	LVN	Walnut Hills Convalescent Center Austin, Texas

Petitioner's vocational nursing employment history continued:

03/06 - 06/06	LVN	Regency Village Care Center Austin, Texas
06/06 - 01/07	LVN	Pflugerville Care Center Pflugerville, Texas
01/07 - 03/07	LVN	Elgin Golden Years Nursing Center Elgin, Texas
03/07 - 04/07	LVN	Taylor Care Center Taylor, Texas
04/07 - 04/09	LVN	Georgetown Nursing and Rehabilitation Georgetown, Texas
05/09 - 11/09	LVN	Heritage Duval Gardens Austin, Texas
11/09 - 01/10	LVN	Pflugerville Nursing and Rehabilitation Pflugerville, Texas
02/10 - Present	Not employed in nursing	

5. On March 24, 2010, Petitioner was issued an Agreed Order by the Texas Board of Nursing which required him to participate and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the March 24, 2010, Order, Findings of Fact, and Conclusions of Law, is attached and incorporated, by reference, as a part of this Order.
6. On November 22, 2010, the Board accepted the Voluntary Surrender of Petitioner's license to practice vocational nursing in the State of Texas. A copy of the November 22, 2010, Order, Findings of Fact, and Conclusions of Law, is attached and incorporated, by reference, as a part of this Order.
7. On or about April 1, 2013, Petitioner submitted a Petition for Reinstatement of License to practice vocational nursing in the State of Texas.

8. Petitioner presented the following in support of his petition:
 - 8.1. Letter of support, dated March 14, 2013, from Melissa Taft, states that she worked with Petitioner at Georgetown Nursing and Rehabilitation, Georgetown, Texas, from 2008 through 2009. Petitioner had great time management skills, and was able to perform his nursing duties under stress and maintain professional composure. Ms. Taft recommends reinstatement of Petitioner's nursing license.
 - 8.2. Letter of support, dated March 22, 2013, from Nora Garcia, states that she has worked with Petitioner at Pflugerville Nursing and Rehabilitation Center, Pflugerville, Texas, and Georgetown Nursing and Rehabilitation, Georgetown, Texas. Ms. Garcia states that Petitioner was a great nurse, with good nursing skills.
 - 8.3. Letter of support, dated March 3, 2013, from Lakeshia Bryson, states that she was previously employed with Petitioner and he was a sufficient and pleasant nurse. Ms. Bryson recommends reinstatement of Petitioner's nursing license.
 - 8.4. Petitioner submitted negative drug screens for the dates of: November 28, 2012, December 2, 2012, December 20, 2012, December 25, 2012, January 15, 2013, January 18, 2013, March 5, 2013, and March 8, 2013, May 16, 2013, June 11, 2013, July 1, 2013, and August 28, 2013.
 - 8.5. Petitioner submitted attendance at support group meetings from February 1, 2012, through February 10, 2013.
 - 8.6. Verification of successful completion of twenty (20) Type I Continuing Education Contact Hours.
9. Petitioner gives January 5, 2012, as his date of sobriety.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. 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.
3. Pursuant to Section 301.467, Texas Occupations Code, the Board may refuse to issue or renew a license, and may set a reasonable period that must lapse before reapplication. Pursuant to 22 TEX. ADMIN. CODE §213.26, the Board may impose reasonable conditions that a Petitioner must satisfy before reissuance of an unrestricted license.

ORDER

IT IS THEREFORE AGREED, subject to ratification by the Texas Board of Nursing, that the petition of GARY DON HAMILTON, Vocational Nurse License Number 132674, to practice nursing in the state of Texas, be and the same is hereby GRANTED, AND SUBJECT TO THE FOLLOWING STIPULATIONS SO LONG AS THE PETITIONER complies 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 the stipulations contained in this Order:

IT IS FURTHER AGREED and ORDERED that, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Petitioner to practice nursing in the State of Texas.

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

IT IS FURTHER AGREED and ORDERED that while Petitioner's license(s) is/are encumbered by this Order, Petitioner may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the State of Texas and the Board of Nursing in the party state where Petitioner wishes to work.

(1) PETITIONER SHALL NOT seek employment or practice nursing for compensation until he has completed the following pre-licensure conditions and obtained a license to practice vocational nursing from the Board.

(2) PETITIONER SHALL pay all re-registration fees and be issued a license to practice vocational nursing in the State of Texas, which shall bear the appropriate notation. Said license issued to GARY DON HAMILTON, shall be subject to the following agreed post-licensure probation conditions:

(3) PETITIONER SHALL pay a monetary fine in the amount of five hundred (\$350.00) dollars. PETITIONER SHALL pay this fine within forty-five (45) days of relicensure. 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.

(4) PETITIONER SHALL, within one (1) year of relicensure, successfully complete a course in Texas nursing jurisprudence and ethics. PETITIONER 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. PETITIONER 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 PETITIONER'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.texas.gov/disciplinaryaction/stipscourses.html>

IT IS FURTHER AGREED, SHOULD PETITIONER CHOOSE TO WORK AS A NURSE IN TEXAS, PETITIONER WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATION PERIOD WILL

BE EXTENDED UNTIL SUCH THIRTY-SIX (36) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:

(5) PETITIONER SHALL notify all future employers in vocational nursing of this Order of the Board and the stipulations on PETITIONER's license. PETITIONER 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) PETITIONER SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Petitioner by the Board, to the Board's office within five (5) days of employment as a vocational nurse.

(7) For the first year of employment as a vocational nurse under this Order, PETITIONER SHALL be directly supervised by a Registered Nurse or a Licensed Vocational Nurse. Direct supervision requires another professional or vocational nurse to be working on the same unit as PETITIONER and immediately available to provide assistance and intervention. PETITIONER SHALL work only on regularly assigned, identified and predetermined unit(s). The PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(8) For the remainder of the stipulation period, PETITIONER SHALL be supervised by a Registered Nurse or a Licensed Vocational Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as PETITIONER, 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 Petitioner is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s).

PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(9) PETITIONER SHALL NOT practice as a vocational nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Petitioner is regularly assigned for one (1) year of employment as a vocational nurse.

(10) PETITIONER SHALL NOT practice as a vocational nurse in any critical care area for one (1) year of employment as a vocational nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(11) PETITIONER SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a vocational nurse.

(12) PETITIONER SHALL CAUSE each employer to submit, on forms provided to the Petitioner by the Board, periodic reports as to Petitioner's capability to practice vocational nursing. These reports shall be completed by the Registered Nurse or Licensed Vocational Nurse who supervises the PETITIONER. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) months for three (3) years of employment as a vocational nurse.

(13) PETITIONER SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, PETITIONER SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner,

within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and PETITIONER SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.**

(14) PETITIONER SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the second three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the stipulation period, random screens shall be performed at least once every three (3) months. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis is the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the PETITIONER's place of employment at any time during the stipulation period and require PETITIONER to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. PETITIONER SHALL be responsible for the costs of all random drug screening during the stipulation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Petitioner's license and multistate licensure privileges, if any, to practice nursing in the State of Texas.

(15) PETITIONER SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. PETITIONER SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by PETITIONER. PETITIONER SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) month period. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from PETITIONER'S license(s) to practice nursing in the State of Texas and PETITIONER may be eligible for nurse licensure compact privileges, if any.

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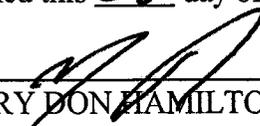
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PETITIONER'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Reinstatement Agreed Order. I waive representation by counsel. I certify that my past behavior, except as disclosed in my Petition for Reinstatement of Licensure, 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 convictions, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

I have reviewed this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. 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 agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to reinstating my license to practice vocational nursing in the state of Texas. I understand that if I fail to comply with all terms and conditions of this Order, my license(s) to practice nursing in the State of Texas will be revoked, as a consequence of my noncompliance.

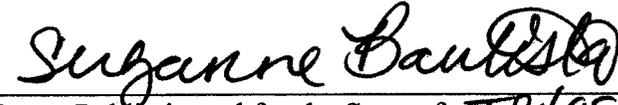
Signed this 28 day of October, 2013



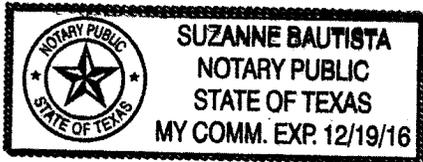
GARY DON HAMILTON, Petitioner

Sworn to and subscribed before me this 28 day of October, 2013

SEAL



Notary Public in and for the State of TEXAS



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 28th day of October, 2013, by GARY DON HAMILTON, Vocational Nurse License Number 132674, and said Order is final.

Effective this 10th day of December, 2013.



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

BEFORE THE TEXAS BOARD OF NURSING

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

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of GARY DON HAMILTON, Vocational Nurse License Number 132674, 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

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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.

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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.

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(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.

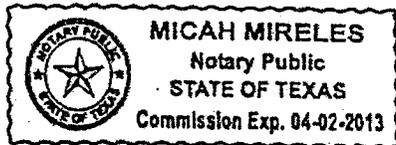
Signed this 23 day of March, 2010.

[Signature]
GARY DON HAMILTON, Respondent

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

SEAL

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



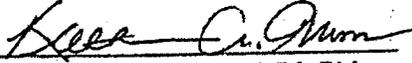
Notary without Bond

By: _____

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

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MAR 24 2010

By: _____

BEFORE THE TEXAS BOARD OF NURSING

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

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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.
William J. Pappas
Executive Director of the Board

ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 132674, issued to GARY DON HAMILTON, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent is currently licensed to practice vocational nursing in the State of Texas.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing.
3. 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.

4. Respondent's vocational nursing employment history includes:

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

5. On or about March 24, 2010, Respondent was issued an Agreed Order by the Texas Board of Nursing which required him to participate and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Finding of Fact, Conclusions of Law and Agreed Order dated March 24, 2010, is attached and incorporated herein by reference as part of this Order.
6. Formal Charges were filed on July 26, 2010. A copy of the Formal Charges is attached and incorporated by reference as part of this Order.
7. Formal Charges were mailed to Respondent on July 28, 2010.
8. On October 12, 2010, the Board received a notarized statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's notarized statement, dated October 12, 2010, is attached and incorporated herein by reference as part of this Order.
9. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
10. 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 violation of Section 301.452(b)(1)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(9)&(11)(B).
4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 132674, heretofore issued to GARY DON HAMILTON, to practice vocational nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice vocational nursing, use the title of vocational nurse or the abbreviation LVN or wear any insignia identifying himself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

IT IS FURTHER AGREED and 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.

Effective this 22nd day of November, 2010.

TEXAS BOARD OF NURSING

By:


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



In the Matter of Permanent License § BEFORE THE TEXAS
Number 132674, Issued to §
GARY DON HAMILTON, Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, GARY DON HAMILTON, is a Vocational Nurse holding license number 132674, which is in Current 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 June 15, 2010, Respondent failed to comply with the Agreed Order issued to him by the Texas Board of Nursing on March 24, 2010. Non-compliance is the result of Respondent's failure to apply and be accepted into the Texas Peer Assistance Program for Nurse (TPAPN). Stipulation number one (1) of the Agreed Order dated March 24, 2010, states that:

- (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.

On June 15, 2010, Respondent was dismissed from TPAPN and referred to the Board. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated March 24, 2010, is attached and incorporated as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(9)&(11)(B).

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 Section 301.461, Texas Occupations Code. 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.

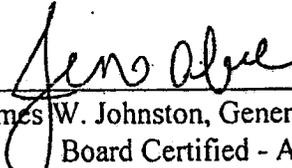
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder which can be found at the Board's website, www.bon.state.tx.us.

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.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Orders which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order dated March 24, 2010.

Filed this 26th day of July, 2010.

TEXAS BOARD OF NURSING


James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Renee Koslan Abel, Assistant General Counsel
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel
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State Bar No. 00785533

TEXAS BOARD OF NURSING

333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701

P: (512) 305-6824

F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Board dated March 24, 2010
0999/D

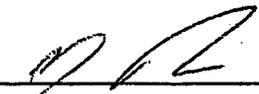
GARY DON HAMILTON
7203 Crossbow Trl.
Lago Vista, TX 78645
Texas LVN License #132674

Voluntary Surrender Statement

October 12, 2010

Dear Texas Board of Nursing:

I no longer desire to be licensed as a vocational nurse. Accordingly, I voluntarily surrender my license to practice in Texas. I GARY DON HAMILTON waive representation by counsel and consent to the entry of an Order which outlines requirements for reinstatement of my license. I understand that I will be required to comply with the Board's Rules and Regulations in effect at the time I submit any petition for reinstatement.

Signature 

Date 10-12-2010

Texas Nursing License Number/s 132674

The State of Texas

Before me, the undersigned authority, on this date personally appeared GARY DON HAMILTON who, being duly sworn by me, stated that he executed the above for the purpose therein contained and that he understood same.

Sworn to before me the 12th day of October, 2010.



Noemi Leal
Notary Public in and for the State of TX