In the Matter of	§	**BEFORE THE TEXAS**
Permanent Registered Nurse	§	
License Number 703599	§	
Issued to FRANK ANTHONY TAMARIZ,	§	
Respondent	§	**BOARD OF NURSING**

I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.

Executive Director of the Board

ORDER OF TEMPORARY SUSPENSION

TO: FRANK ANTHONY TAMARIZ
P.O. BOX 5672
KINGSVILLE, TX 78363

A public meeting of the Texas Board of Nursing was held on January 10, 2014 at 333 Guadalupe, Room 3-460, Austin, Texas, in which the Temporary Suspension of Permanent Registered Nurse License Number 703599, issued to FRANK ANTHONY TAMARIZ was considered pursuant to Section 301.455, TEXAS OCCUPATIONS CODE. Staff of the Texas Board of Nursing appeared and presented information and evidence concerning the conduct of FRANK ANTHONY TAMARIZ and whether his continued practice as a nurse would constitute a continuing and imminent threat to the public welfare.

After review and due consideration of the evidence and information presented, the Board finds that the following charges are substantiated:

CHARGE I.

On or about April 30, 2012, Respondent failed to comply with the Agreed Order issued to him on September 14, 2010, by the Texas Board of Nursing. Noncompliance is the result of his failure to comply with Stipulation Number Three (3) of the Agreed Order which states, in pertinent part:

> (3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics....

CHARGE II.

On or about April 30, 2012, Respondent failed to comply with the Agreed Order issued to him on September 14, 2010, by the Texas Board of Nursing. Noncompliance is the result of his failure to comply with Stipulation Number Four (4) of the Agreed Order which states, in pertinent part:

> (4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills,"...

CHARGE III.

On or about December 4, 2013, while employed with Coastal Bend Cancer Center, Corpus Christi, Texas, Respondent was noncompliant with the Agreed Order issued to him by the Texas Board of Nursing on September 14, 2010. Noncompliance is the result of Respondent's failure to abstain from the consumption of alcohol and/or use of controlled substances in that he submitted a specimen for a drug screen which resulted positive for ethyl glucuronide (EtG) and ethyl sulfate (EtS), metabolites of alcohol. Stipulation Number Twelve (12) of the Agreed Order dated September 14, 2010, states, in pertinent part:

> (12) "RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or use of controlled substances..."

The Texas Board of Nursing further finds that, given the nature of the charges, the continued practice of nursing by FRANK ANTHONY TAMARIZ constitutes a continuing and imminent threat to public welfare and that the temporary suspension of Permanent Registered Nurse License Number 703599, is justified pursuant to Section 301.455, TEXAS OCCUPATIONS CODE.

NOW, THEREFORE, IT IS ORDERED that Permanent Registered Nurse License Number 703599, issued to FRANK ANTHONY TAMARIZ, to practice nursing in the State of Texas be, and the same is/are, hereby SUSPENDED IMMEDIATELY in accordance with Section 301.455, TEXAS OCCUPATIONS CODE.

IT IS FURTHER ORDERED that a probable cause hearing be conducted in accordance with Section 301.455(c) not later than seventeen (17) days following the date of the entry of this order, and a final hearing on the matter be conducted in accordance with 301.455(d) not later than the 61st day following the date of the entry of this order.

Entered this 10th day of January, 2014.

TEXAS BOARD OF NURSING

BY: _____
KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR

D455-12/06/2012

In the Matter of	§	BEFORE THE TEXAS
Permanent Registered Nurse	§	
License Number 703599	§	
Issued to FRANK ANTHONY TAMARIZ,	§	
Respondent	§	BOARD OF NURSING

FIRST AMENDED FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, FRANK ANTHONY TAMARIZ, is a Registered Nurse holding License Number 703599, 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 April 30, 2012, Respondent failed to comply with the Agreed Order issued to him on September 14, 2010, by the Texas Board of Nursing. Noncompliance is the result of his failure to comply with Stipulation Number Three (3) of the Agreed Order which states, in pertinent part:

> (3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics....

A copy of the September 14, 2010, Agreed Order, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this pleading.

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

CHARGE II.

On or about April 30, 2012, Respondent failed to comply with the Agreed Order issued to him on September 14, 2010, by the Texas Board of Nursing. Noncompliance is the result of his failure to comply with Stipulation Number Four (4) of the Agreed Order which states, in pertinent part:

> (4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills,"...

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

CHARGE III.

On or about December 4, 2013, while employed with Coastal Bend Cancer Center, Corpus Christi, Texas, Respondent was noncompliant with the Agreed Order issued to him by the Texas Board of Nursing on September 14, 2010. Noncompliance is the result of Respondent's failure to abstain from the consumption of alcohol and/or use of controlled substances in that he submitted a specimen for a drug screen which resulted positive for ethyl glucuronide (EtG) and ethyl sulfate (EtS), metabolites of alcohol. Stipulation Number Twelve (12) of the Agreed Order dated September 14, 2010, states, in pertinent part:

> (12) "RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or use of controlled substances..."

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(11)(B).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and 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.texas.gov.

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

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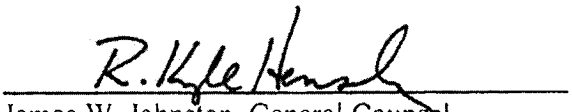
CONTINUED ON NEXT PAGE

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order dated September 14, 2010.

Filed this 10th day of January, 2014.

TEXAS BOARD OF NURSING



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333 Guadalupe, Tower III, Suite 460
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Attachments: Agreed Order dated September 14, 2010.

D/2012 06 19

BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Registered Nurse	§	AGREED
License Number 703599	§	
issued to FRANK ANTHONY TAMARIZ	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of FRANK ANTHONY TAMARIZ, Registered Nurse License Number 703599, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(1),(9)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on July 23, 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.

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.

4. Respondent received an Associate Degree in Nursing from Del Mar College, Corpus Christi, Texas, on December 19, 2003. Respondent was licensed to practice professional nursing in the State of Texas on February 26, 2004.

5. Respondent's professional nursing employment history includes:

02/04 - 07/06	RN Nurse	Christus Spohn Hospital Shoreline, TX

Respondent's professional nursing employment history continued:

08/06	Unknown	
09/06 - 01/08	RN Nurse	Fresenius Medical Care Kingsville, TX
02/08 - 08/08	Unknown	
09/08 - 01/10	RN Nurse	Sea Crest Home Health Rockport, TX
02/10 - Present	Unknown	

6. On or about April 1, 2008, 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 Findings of Fact, Conclusions of Law, and Agreed Order dated April 1, 2008, is attached and incorporated, by reference, as part of this Order.

7. At the time of the incident described in Finding of Fact Number Eight (8), Respondent was employed as a Registered Nurse and Branch Director with Sea Crest Home Health, Kingsville, Texas, and had been in this position for one (1) month.

8. On or about January 13, 2009, Respondent engaged in the intemperate use of Cocaine in that while participating in the Texas Peer Assistance Program for Nurses (TPAPN), Respondent produced a specimen for a drug screen which resulted positive for Cocaine. Possession of Cocaine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Cocaine by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

9. On or about January 13, 2009, Respondent failed to comply with an Agreed Order issued to him on April 1, 2008, by the Texas Board of Nursing for the State of Texas. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Three (3) of the Order which states in pertinent part that:

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

On January 13, 2009, Respondent was dismissed from TPAPN and referred to the Board after his drug screen resulted positive for Cocaine.

10. Respondent's last known date of sobriety is January 13, 2009, as indicated in Finding of Fact Number Eight (8).

11. Regarding the conduct outlined in Finding of Fact Number Eight (8), Respondent admits to the intemperate use of Cocaine. He says he has been seeking help by attending Narcotics Anonymous and is trying to get his life in order.

12. 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 a violation of Section 301.452(b)(1),(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5),(9),(10)(A),(D)& (11)(B).

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 703599, heretofore issued to FRANK ANTHONY TAMARIZ, including revocation of Respondent's license 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 703599, previously issued to FRANK ANTHONY TAMARIZ, to practice nursing in Texas is hereby SUSPENDED and said suspension is ENFORCED until Respondent completes a treatment program approved by the Board, provides documentation of successful completion, and has obtained twelve (12) consecutive months of sobriety. Any relapse prior to the completion of the twelve (12) consecutive months of sobriety will

result in an extension of the enforced suspension until such twelve (12) consecutive months of sobriety and additional treatment have been attained.

IT IS FURTHER ORDERED that Permanent Certificate Number 703599 previously issued to FRANK ANTHONY TAMARIZ, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

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 license is 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.

IT IS FURTHER AGREED, upon verification of successful completion of the approved treatment and twelve (12) consecutive months of sobriety as set out in this Order, the Suspension will be STAYED, and RESPONDENT will be placed on PROBATION for three (3) years with the following agreed terms of probation:

(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 pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.

(3) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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.*

(4) RESPONDENT SHALL, within one (1) year of entry of the suspension being stayed, 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.*

(5) RESPONDENT SHALL pay a monetary fine in the amount of seven hundred fifty dollars ($750). RESPONDENT SHALL pay this fine within forty-five (45) days of the suspension being stayed. 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.

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 THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY 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) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(4) 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.

(5) 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.

(6) For the first year of employment as a nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse. Direct supervision requires another nurse to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). The 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.

(7) For the remainder of the probation period, 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 NOT practice as a 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 Respondent is regularly assigned for one (1) year of employment as a nurse.

(9) RESPONDENT SHALL NOT practice as a nurse in any critical care area for one (1) year of employment as a 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.

(10) RESPONDENT 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 nurse.

(11) 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 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) months for three (3) years of employment as a nurse.

(12) RESPONDENT 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, RESPONDENT 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 RESPONDENT 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.

(13) RESPONDENT 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 next 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 probation 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 are 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 RESPONDENT'S place of employment at any time during the probation period and require RESPONDENT 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. RESPONDENT SHALL be responsible for the costs of all random drug screening during the probation 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 Respondent's license and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

(14) RESPONDENT 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. RESPONDENT 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 RESPONDENT. RESPONDENT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) months. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

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 license, 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 license to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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. 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 license to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 11th day of August, 2010.

Frank Anthony Tamariz

FRANK ANTHONY TAMARIZ, Respondent

Sworn to and subscribed before me this 11th day of August, 2010.

SEAL

Esmeralda Zuniga

Notary Public in and for the State of Texas

ESMERALDA ZUNIGA
NOTARY PUBLIC
STATE OF TEXAS
My Comm. Exp. 02-20-2011

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 11th day of August, 2010, by FRANK ANTHONY TAMARIZ, Registered Nurse License Number 703599, and said Order is final.

Effective this 14th day of September, 2010.

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 Registered Nurse License Number 703599	§	AGREED
issued to FRANK ANTHONY TAMARIZ	§	ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of FRANK ANTHONY TAMARIZ, Registered Nurse License Number 703599, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived informal conference, notice and hearing, and agreed to the entry of this Order offered February 14, 2007, 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 informal conference, 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.

4. Respondent received an Associate Degree in Nursing from Del Mar College, Corpus Christi, Texas, on December 19, 2003. Respondent was licensed to practice professional nursing in the State of Texas on February 26, 2004.

5. Respondent's professional nursing employment history includes:

02/04 - 07/06	RN	Christus Spohn Shoreline Corpus Christi, Texas
08/06 - present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Christus Spohn Shoreline, Corpus Christi, Texas, and has been in this position for approximately two (2) years and two (2) months.

7. On or about April 8, 2006, through June 26, 2006, while employed at Christus Spohn Shoreline, Corpus Christi, Texas, Respondent withdrew Dilaudid from the Medication Dispensing System (Pyxis) for patients, but failed to document, or accurately document the administration of the medications in the patients' Medication Administration Records (MARs), Nurses Notes, or both, as follows:

Date/ Time	Patient	Medication Dispensing System (Pyxis)	Physician's Order	Medication Administration Record	Nurses Notes	Waste
4/8/06 @ 0904	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	0800	None
4/8/06 @ 1257	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	1200	None
4/8/06 @ 1547	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	1600	None
4/9/06 @ 1612	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	3 mg @ 1600	None
4/16/06 @ 0937	0000805524	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 2 H PRN PAIN	Not Documented	Not Documented	None
4/18/06 @ 2316	0000805524	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 2 H PRN PAIN	Not Documented	Not Documented	None
6/17/06 @ 1502	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/18/06 @ 1024	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/18/06 @ 1436	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/18/06 @ 0940	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/19/06 @ 1606	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1023	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1445	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1835	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None

Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on his documentation to further medicate the patient which could result in an overdose and is in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

8. On or about April 8, 2006, through June 26, 2006, while employed at Christus Spohn Shoreline, Corpus Christi, Texas, Respondent withdrew Dilaudid from the Medication Dispensing System (Pyxis) for patients in excess frequency of the physicians' orders, as follows:

Date/ Time	Patient	Medication Dispensing System (Pyxis)	Physician's Order	Medication Administration Record	Nurses Notes	Waste
4/8/06 @ 1257	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	1200	None
4/8/06 @ 1547	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	1600	None
4/9/06 @ 0850	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	0800	3 mg @ 0800	None
4/9/06 @ 1148	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	1200	3 mg @ 1200	None
4/16/06 @ 0841	0000805524	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 2 H PRN PAIN	0900	4 mg @ 0900	None
4/16/06 @ 0937	0000805524	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 2 H PRN PAIN	Not Documented	None	None
6/26/06 @ 1023	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1332	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	4 mg @ 1345	None
6/26/06 @ 1445	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1835	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1846	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	1900	1900	None

Respondent's conduct was likely to injure the patients in that the administration of Dilaudid in excess frequency of the physicians' orders could result in the patients suffering from adverse reactions, including respiratory depression, and is in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

9. On or about April 8, 2006, through June 26, 2006, while employed at Christus Spohn Shoreline, Corpus Christi, Texas, Respondent withdrew Dilaudid from the Medication Dispensing System (Pyxis) for patients, but failed to follow the facility's policy and procedure for the wastage of the medications, as follows:

Date/ Time	Patient	Medication Dispensing System (Pyxis)	Physician's Order	Medication Administration Record	Nurses Notes	Waste
4/8/06 @ 0904	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	0800	None

Date/ Time	Patient	Medication Dispensing System (Pyxis)	Physician's Order	Medication Administration Record	Nurses Notes	Waste
4/8/06 @ 1257	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	1200	None
4/8/06 @ 1547	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	1600	None
4/9/06 @ 0850	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	0800	3 mg @ 0800	None
4/9/06 @ 1148	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	1200	3 mg @ 1200	None
4/9/06 @ 1612	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 1-3 mg IV Q 4-6 H PRN PAIN	Not Documented	3 mg @ 1600	None
4/10/06 @ 0805	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4-6 mg PO Q 4 H PRN, may alternate w/ IV Dilaudid	0800	3 mg @ 0800	None
4/10/06 @1409	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4-6 mg PO Q 4 H PRN, may alternate w/ IV Dilaudid	1400	3 mg @ 1400	None
4/10/06 @ 1740	0000803043	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4-6 mg PO Q 4 H PRN, may alternate w/ IV Dilaudid	1800	3 mg @ 1800	None
4/19/06 @ 0057	0000805524	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 2 H PRN PAIN	0200	None	None
4/19/06 @ 0411	0000805524	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 2 H PRN PAIN	0500	None	None
6/17/06 @ 1502	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/18/06 @ 1024	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/18/06 @ 1436	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/18/06 @ 0940	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/19/06 @ 1606	0000818399	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid Inj. 4 mg IV Q 4 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1023	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1445	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None
6/26/06 @ 1835	0000820661	(1) Hydromorphone HCL Inj. 4 mg/1ml syringe	Dilaudid 4 mg IV Q 6 H PRN PAIN	Not Documented	Not Documented	None

Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

10. On or about April 8, 2006, through June 26, 2006, while employed at Christus Spohn Shoreline, Corpus Christi, Texas, Respondent misappropriated Dilaudid from the facility and patients thereof, in that Respondent admitted to his employer that he misappropriated Dilaudid from the facility and patients thereof for his personal use. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

11. On or about April 8, 2006, through June 26, 2006, while employed at Christus Spohn Shoreline, Corpus Christi, Texas, Respondent engaged in the intemperate use of Dilaudid in that Respondent admitted to his employer that he misappropriated Dilaudid from the facility and patients thereof for his own personal use. Possession of Dilaudid is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Dilaudid by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

12. On December 11, 2006, Respondent was seen by Dr. Troy Martinez, Psy.D, for a forensic psychological evaluation with a chemical dependency component and a polygraph test. The polygraph test concluded that deception was indicated on the following questions: 1. Did you in any way falsify your statement to the Texas BNE, 2. Did you steal any medication while employed by Christus Spohn? 3. Did you ever take any medications without authorization while with Christus Spohn 4. While at Christus Spohn did you ever fabricate any entry on your MAR's? Results of the PAI and SASSI-3 were rendered invalid due to excessive defensiveness/guardedness. Dr. Martinez states that the current findings would not support the conclusion that Respondent would be able to consistently behave in accordance with the requirements of the minimum standards set by the Board's Rules. Dr. Martinez states that it is unclear whether or not Respondent has a substance abuse/dependence problem or other type of psycho-pathology that contributes to problems operating within a professional nursing capacity, though several sources of data certainly imply serious problems.

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

14. 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.

15. Formal Charges were filed on March 9, 2007.

16. Formal Charges were mailed to Respondent on March 13, 2007.

17. Respondent's conduct described in Findings of Fact Numbers Seven (7) through Twelve (12) was significantly influenced by Respondent's dependency on chemicals.

18. 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 a violations of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(C)&(D)and §217.12(4),(6)(G),(8),(10)(A),(B),(C)&(E), and (11)(B).

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 703599, heretofore issued to FRANK ANTHONY TAMARIZ, including revocation of Respondent's professional 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 and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars ($500) payable to TPAPN.

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

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

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

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *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 professional 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 State of Texas 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 license and multistate licensure privileges, if any, to practice professional 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 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 Board of Nurse Examiners, 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 professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 29th day of June, 2007.

Frank Anthony Tamariz

FRANK ANTHONY TAMARIZ, Respondent

Sworn to and subscribed before me this 29th day of June, 2007.

SEAL

Patricia D. Ley

Notary Public in and for the State of Texas

PATRICIA D. LEY
NOTARY PUBLIC
STATE OF TEXAS
My Comm. Expires 4-09-2008

Approved as to form and substance.

CHRISTOPHER MALISH, Attorney for Respondent

Signed this 3 day of July, 2007.

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby accept and enter the Agreed Order that was signed on the 29th day of June, 20 07, by FRANK ANTHONY TAMARIZ, Registered Nurse License Number 703599, and said Order is final.

Entered and effective this 13th day of July, 20 07.

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

BEFORE THE TEXAS BOARD OF NURSING
****

In the Matter of Registered Nurse License Number 703599	§	AGREED
issued to FRANK ANTHONY TAMARIZ	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of FRANK ANTHONY TAMARIZ, Registered Nurse License Number 703599, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(1),(9),&(10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered December 19, 2007, 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 conference, 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.

4. Respondent received an Associate Degree in Nursing from Del Mar College, Corpus Christi, Texas, on December 19, 2003. Respondent was licensed to practice professional nursing in the State of Texas on February 26, 2004.

5. Respondent's professional nursing employment history includes:

02/04 - 07/06	RN	Christus Spohn Shoreline Corpus Christi, Texas
08/06 - present	Unknown	

SCANNED JUN 30 2008 BY: _____

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6. On July 13, 2007, Respondent was issued an Agreed Order 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 July 13, 2007, is attached and incorporated, by reference, as a part of this Order.

7. On or about December 7, 2007, Respondent engaged in the intemperate use of Marijuana in that Respondent produced a specimen for a drug screen which resulted positive for marijuana. Possession of Marijuana is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Marijuana by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

8. On or about December 7, 2007, Respondent failed to comply with the Agreed Order issued to him on July 13, 2007, by the Board of Nurse Examiners for the State of Texas. Non-compliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract in that Respondent submitted a specimen for a drug/alcohol screen that resulted positive for Marijuana. Stipulation Number Three (3) of the Order dated July 13, 2007, reads in pertinent part:

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

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

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.

11. Respondent's conduct described in Finding of Fact Number Seven (7) was significantly influenced by Respondent's dependency on chemicals.

12. 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.

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3. The evidence received is sufficient to prove a violations of Section 301.452(b)(1),(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(9)&(11)(B).

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 703599, heretofore issued to FRANK ANTHONY TAMARIZ, including revocation of Respondent's professional 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):

RESPONDENT SHALL deliver the wallet-sized license issued to FRANK ANTHONY TAMARIZ, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order for appropriate notation.

(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) 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

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of Texas current.

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

(5) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars ($250.00). RESPONDENT SHALL pay this fine within forty-five (45) days of entry of this Order. 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.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *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 professional 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 State of Texas 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 license and multistate licensure privileges, if any, to practice professional 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 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 Five (5) 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 professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 18th day of March, 2008.

Frank Anthony Tamariz

FRANK ANTHONY TAMARIZ, Respondent

Sworn to and subscribed before me this 18th day of March, 2008.

SEAL

PAM SOLIS
Notary Public, State of Texas
My Commission Expires
MAY 3, 2008

Notary Public in and for the State of Texas

Approved as to form and substance.

CHRISTOPHER MALISH, Attorney for Respondent

Signed this 1st day of MARCH, 2008.

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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 18th day of March, 20 08, by FRANK ANTHONY TAMARIZ, Registered Nurse License Number 703599, and said Order is final.

Entered and effective this 1st day of April, 20 08.

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

I certify this to be a true copy of the records on file with th Texas Board of Nursing.
Date: 4/9/08
Signed:

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BY: