



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

DOCKET NUMBER 507-14-1715

**IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 703599
ISSUED TO
FRANK A. TAMARIZ**

**§
§
§
§
§**

**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

OPINION AND ORDER OF THE BOARD

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

**REBECCA S. SMITH
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701**

At the regularly scheduled public meeting on July 17-18, 2014, the Texas Board of Nursing (Board) considered the following items: (1) Order Number 1, *Dismissing Case*, issued by the ALJ in the above cited matter; (2) Staff's recommendation that the Board revoke the Respondent's registered nursing license by default; and (3) Respondent's recommendation to the Board regarding the above cited matter, if any.

On February 19, 2014, the ALJ convened a hearing on the merits in this matter. Staff of the Board was present for the hearing. However, the Respondent was not present at the hearing, and no one appeared on his behalf. During the hearing on February 19, 2014, Staff introduced evidence into the record demonstrating that Respondent had been sent a Notice of Final Hearing by first class certified mail return receipt requested to his last known address of record maintained by the Board in accordance with 22 Tex. Admin. Code §213.10(a). The ALJ found that Staff's notice was adequate and issued Order No. 1, granting Staff's Motion for Default and dismissing the case from the docket of SOAH and remanding it to the Board for informal disposition on a default basis in accordance with the Government Code §2001.056.

The Board, after review and due consideration of Order Number 1, *Dismissing Case*, issued by the ALJ in the above cited matter, finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with the Government Code §2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Occupations Code Chapter 301 (Nursing Practice Act) for retention of Respondent's license to practice professional nursing in the State of Texas. The Board further finds that the First Amended Formal Charges were properly initiated and filed in accordance with the Occupations Code §301.458. The Board further finds that proper and timely notice regarding the violations alleged in the First Amended Formal Charges was given to Respondent in accordance with the requirements of the Government Code §2001.051 and §2001.052 and 1 Tex. Admin. Code §155.501. The Board further finds that the Respondent failed to appear in accordance with 22 Tex. Admin. Code Chapter 213 and 1 Tex. Admin. Code §155.501. As a result of the

Respondent's failure to appear, the Board has determined that the factual allegations listed in the First Amended Formal Charges are to be deemed admitted by default and the Board is authorized to enter a default order against the Respondent pursuant to the Government Code §2001.056 and 22 Tex. Admin. Code §213.22. Further, the Board has determined that it is entitled to revoke the Respondent's registered nursing license pursuant to 22 Tex. Admin. Code §213.33(m).

Therefore, the Board hereby adopts the factual allegations, which have been deemed admitted, and the conclusions of law contained in the First Amended Formal Charges, which are attached hereto and incorporated herein by reference for all purposes, and Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing in accordance with the Government Code Chapter 2001 and 22 Tex. Admin. Code §213.23(l), as applicable. All parties have a right to judicial review of this Order. All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

IT IS, THEREFORE, ORDERED THAT Permanent Certificate Number 703599, previously issued to FRANK A. TAMARIZ, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privileges, if any, to practice nursing in the State of Texas.

FURTHER, pursuant to the Occupations Code §301.467, RESPONDENT is not eligible to petition for reinstatement of licensure until at least one (1) year has elapsed from the date of this Order. Further, upon petitioning for reinstatement, RESPONDENT must satisfy all then existing requirements for relicensure.

Entered this 17th day of July, 2014.

TEXAS BOARD OF NURSING



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR FOR THE BOARD

Attachment: First Amended Formal Charges

TEXAS BOARD OF NURSING

In the Matter of Permanent

Certificate Number RN 703599

Issued to FRANK ANTHONY TAMARIZ

NOTICE OF FINAL HEARING

SOAH Docket Number 507-14-1715

Respondent: Frank A. Tamariz
P.O. Box 5672
Kingsville, TX 78364

In accordance with Section 2001.051 et seq., Texas Government Code, you are hereby notified that a hearing will be held before an Administrative Law Judge (ALJ), on the **19th day of February, 2014, beginning at 9:00 a.m., and continuing day to day as ordered by the ALJ**, at the State Office of Administrative Hearings, William P. Clements Building, 300 W. 15th Street, 4th Floor, Austin, Texas, regarding Formal Charges previously filed and hereby served upon you by the Texas Board of Nursing. The Formal Charges are attached and incorporated by reference as a part of this notice.

The hearing is to be held under the legal authority and jurisdiction of the Administrative Procedures Act, Texas Government Code §2001 et seq.; Title I Part VII Texas Administrative Code Chapter 155; the Nursing Practice Act, Texas Occupations Code §301.451 through §301.555; and the Board of Nursing Rule 213 at 22 Texas Administrative Code.

The particular sections of statutes and rules involved in determining the charges are stated in the attached Formal Charges in connection to the facts or conduct alleged.

Pursuant to 22 TEX. ADMIN. CODE §213.22, you are required to enter an appearance in this proceeding by filing a written answer or other responsive pleading with the State Office of Administrative Hearings, P.O. Box 13025, Austin, Texas, 78711-3025, with a copy to the staff (General Counsel, Texas Board of Nursing, 333 Guadalupe, Suite 3-460, Austin, Texas 78701). **FAILURE TO ENTER AN APPEARANCE BY FILING A WRITTEN ANSWER OR OTHER RESPONSIVE PLEADING TO THE FORMAL CHARGES, SHALL ENTITLE THE STAFF TO A CONTINUANCE AT THE TIME OF THE HEARING.** "Staff" is defined by 22 TEX. ADMIN. CODE §213.1(41). Continuances are set by the Administrative Law Judge.

Frank A. Tamariz
February 3, 2014
Page 2 of 2

You have the right to appear at this hearing and to have legal representation at the hearing at your own expense. **FAILURE TO APPEAR AT THE HEARING IN PERSON OR BY LEGAL REPRESENTATIVE, REGARDLESS OF WHETHER AN APPEARANCE HAS BEEN ENTERED, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF SHALL BE GRANTED BY DEFAULT.**

If it is determined that the Formal Charges are substantiated, then any prior disciplinary action that has been taken against your license will be considered when determining the appropriate sanction for these violation(s).

Issued, dated, and mailed this the 3rd day of February, 2014.

TEXAS BOARD OF NURSING



By:

Katherine A. Thomas, MN, RN, FAAN
Executive Director



In the Matter of
Permanent Registered Nurse
License Number 703599
Issued to FRANK ANTHONY TAMARIZ,
Respondent

§
§
§
§
§

BEFORE THE TEXAS

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.

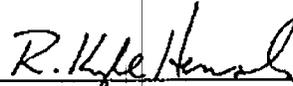
BALANCE OF PAGE INTENTIONALLY LEFT BLANK

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



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

Jena Abel, Assistant General Counsel
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel
State Bar No. 24066924

John R. Griffith, Assistant General Counsel
State Bar No. 24079751

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel
State Bar No: 24052269

John F. Legris, Assistant General Counsel
State Bar No. 00785533

TEXAS BOARD OF NURSING
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6811
F: (512) 305-8101 or (512)305-7401

Attachments: Agreed Order dated September 14, 2010.

0/2012 06 19

BEFORE THE TEXAS BOARD OF NURSING

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

§ AGREED
§
§ 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
Benzo diazepines	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.

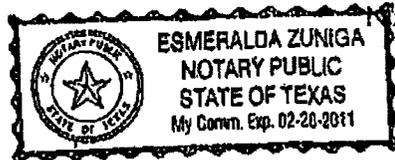
Signed this 11th day of August, 2010.

FRANK ANTHONY TAMARIZ
FRANK ANTHONY TAMARIZ, Respondent

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

SEAL

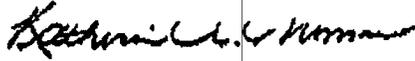
Esmeralda Zuniga



Notary Public in and for the State of Texas

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

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.

SCANNED

RECEIVED

APR 11 2008

APR 11 2008

BY: _____

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.

RECEIVED

APR 11 2000

BY: _____

C40

703599:107

SCANNED

- 4 - JUN 20 2000

WMS: WMS

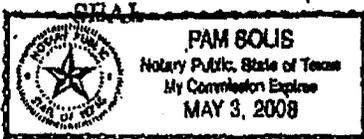
RESPONDENT'S CERTIFICATION

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.



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

Approved as to form and substance.

[Signature]
CHRISTOPHER MALISH, Attorney for Respondent

Signed this 18th day of MARCH, 2008.

RECEIVED
APR 1 2 2008
SCANNED

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, 2008, by FRANK ANTHONY TAMARIZ, Registered Nurse License Number 703599, and said Order is final.

Entered and effective this 1st day of April, 2008.


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 the Texas Board of Nursing.
Date: 4/8/08
Signed: [Signature]

RECEIVED

APR 11 2008

BY: _____

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 @ 2116	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 @ 1347	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 PAJ 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.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I 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 Tamarez
FRANK ANTHONY TAMAREZ, 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

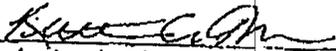
Approved as to form and substance.

Chris Malish
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, 2007, by FRANK ANTHONY TAMARIZ, Registered Nurse License Number 703599, and said Order is final.

Entered and effective this 13th day of July, 2007.


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

SOAH DOCKET NO. 507-14-1715

TEXAS BOARD OF NURSING

v.

FRANK ANTHONY TAMARIZ

§
§
§
§
§
§
§

BEFORE THE STATE OFFICE

OF

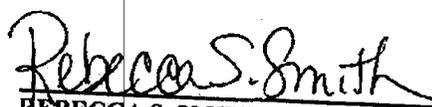
ADMINISTRATIVE HEARINGS

ORDER NO. 1
DISMISSING CASE

This matter came to be heard on February 19, 2014, before Administrative Law Judge (ALJ) Rebecca S. Smith. Assistant General Counsel Kyle Hensley appeared on behalf of the staff (Staff) of the Texas Board of Nursing. Respondent Frank Anthony Tamariz did not appear and was not represented at the hearing. Upon receiving Staff's exhibits showing proof of adequate notice to Respondent, the ALJ found there was adequate notice and granted Staff's oral motion for default. Accordingly,

It is **ORDERED** that this matter is **DISMISSED** from the State Office of Administrative Hearings docket on a default basis, and the file is being returned to the Board for informal disposition on a default basis. Tex. Admin. Code § 155.501(d); Tex. Gov't Code § 2001.056.¹

SIGNED March 3, 2014.



REBECCA S. SMITH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

¹ The ALJ only reviewed the adequacy of the notice and not the sufficiency of the factual allegations.