



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. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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

§
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ORDER OF THE BOARD

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

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

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

FINDINGS OF FACT

1. Respondent is currently licensed to practice vocational nursing in the State of Texas.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing.
3. Respondent received a Certificate in Vocational Nursing from Vernon Regional Junior College, Vernon, Texas, on September 4, 1990. Respondent was licensed to practice vocational nursing in the State of Texas on May 30, 1991.

4. Respondent's vocational nursing employment history includes:

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

5. On or about March 24, 2010, Respondent was issued an Agreed Order by the Texas Board of Nursing which required him to participate and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Finding of Fact, Conclusions of Law and Agreed Order dated March 24, 2010, is attached and incorporated herein by reference as part of this Order.
6. Formal Charges were filed on July 26, 2010. A copy of the Formal Charges is attached and incorporated by reference as part of this Order.
7. Formal Charges were mailed to Respondent on July 28, 2010.
8. On October 12, 2010, the Board received a notarized statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's notarized statement, dated October 12, 2010, is attached and incorporated herein by reference as part of this Order.
9. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
10. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation of Section 301.452(b)(1)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(9)&(11)(B).
4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

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

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


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

Effective this 22nd day of November, 2010.

TEXAS BOARD OF NURSING



By:


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

BEFORE THE TEXAS BOARD OF NURSING

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

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

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

FINDINGS OF FACT

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

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

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6. On or about September 20, 2007, Respondent submitted a License Renewal Form for Licensed Vocational Nurses to the Board of Nurse Examiners for the State of Texas, in which he answered "No" to the question: "Have you ever been convicted, placed on community supervision whether or not adjudicated guilty, sentenced to serve jail or prison time or granted pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country, or received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests . . ." Respondent failed to disclose that on April 22, 2007, he was arrested by the Hutto Police Department, Hutto, Texas, for ASSAULT CAUSES BODILY INJURY FAMILY MEMBER (a Class A misdemeanor). Respondent's conduct was likely to deceive the Board and could have affected the decision to issue a license.
7. On or about October 8, 2007, Respondent entered a plea of No Contest to ASSAULT CAUSING BODILY INJURY (a Class A misdemeanor offense committed on April 22, 2007) in the County Court of Law Number 1, Williamson County, Texas, under Cause No. 0742501. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and he was placed on probation for a period of eighteen (18) months. Additionally, he was ordered to pay a fine and court costs.
8. On or about September 24, 2008, Respondent entered a plea of Nolo Contendere to PUBLIC INTOXICATION (a Class C misdemeanor offense committed on September 9, 2008), in the Municipal Court of Williamson County, Hutto, Texas, under Cause No. CR000158-01. Respondent was ordered to pay a fee.
9. On January 12, 2009, Respondent was issued an Order of Commitment as a Condition of Community Supervision by the County Court at Law No. 1 of Williamson County, Texas, cause number 0742501. Respondent was ordered to serve six (6) days in the Williamson County Jail and attend the Cornerstone Outpatient Alcohol Rehabilitation, Austin, Texas, for six weeks and aftercare treatment for six months. He completed both programs.
10. The Respondent's conduct described in the preceding Finding of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
11. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.
12. Respondent's conduct described in Findings of Fact Numbers Seven (7) and Eight (8) resulted from Respondent's impairment on chemicals.
13. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

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CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violations of Section 301.452(b)(2),(3)&(10) Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(I)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 132674, heretofore issued to GARY DON HAMILTON, including revocation of Respondent's license to practice nursing in the State of Texas.
5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

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

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

By: _____

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

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

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

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

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

IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license and multistate licensure privileges, if any, to practice nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

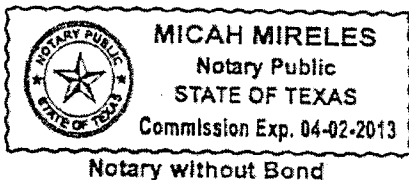
Signed this 23 day of March, 2010.

[Signature]
GARY DON HAMILTON, Respondent

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

SEAL

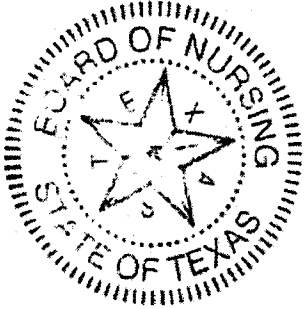
[Signature]
Notary Public in and for the State of Texas



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By: _____

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



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

A handwritten signature in cursive script, appearing to read 'Katherine A. Thomas', is written over a horizontal line.

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

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

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, GARY DON HAMILTON, is a Vocational Nurse holding license number 132674, which is in Current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about June 15, 2010, Respondent failed to comply with the Agreed Order issued to him by the Texas Board of Nursing on March 24, 2010. Non-compliance is the result of Respondent's failure to apply and be accepted into the Texas Peer Assistance Program for Nurse (TPAPN). Stipulation number one (1) of the Agreed Order dated March 24, 2010, states that:

- (1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00) payable to TPAPN.

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

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

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.state.tx.us.

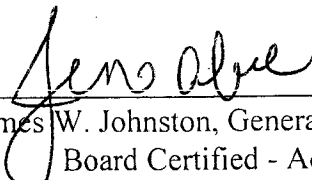
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder which can be found at the Board's website, www.bon.state.tx.us.

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

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

Filed this 26th day of July, 2010.

TEXAS BOARD OF NURSING


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

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

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

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) 305-6824
F: (512) 305-8101 or (512)305-7401

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

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

Voluntary Surrender Statement

October 12, 2010

Dear Texas Board of Nursing:

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

Signature 

Date 10-12-2010


Texas Nursing License Number/s 132674

The State of Texas

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

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




Notary Public in and for the State of TX