

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse § AGREED
License Number 661920 §
issued to JAVIER AVILA § ORDER



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 P. Thomas
Executive Director of the Board

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 661920, issued to JAVIER AVILA, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c) of the Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

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

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to 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 a Baccalaureate Degree in Nursing from University of Texas, El Paso, Texas, on May 1, 1999. Respondent was licensed to practice professional nursing in the State of Texas on July 8, 1999.
5. Respondent's nursing employment history is unknown.
6. On or about December 7, 2006, Respondent was arrested by the El Paso Police Department, El Paso, Texas, and subsequently charged under Cause No. 20070C01715 with ASSAULT-FAMILY VIOLENCE, (a misdemeanor offense). On or about December 3, 2007, Cause No. 20070C01715 was dismissed in County Court At Law No. 1, El Paso, Texas for the reason:

"The said Defendant was convicted in another case; (AFV) 20070C14321, (AFV) 20070C05582, (AFV) 20070C14320."

7. On or about February 22, 2007, Respondent was arrested by the El Paso Police Department, El Paso, Texas for ASSAULT CAUSES BODILY INJURY FAMILY MEMBER (a Class A misdemeanor offense).

On or about December 3, 2007, Respondent entered a plea of Guilty and was convicted of ASSAULT CAUSES BODILY INJURY FAMILY (a Class A misdemeanor offense committed on February 13, 2007), in the County Court No. 1, El Paso County, Texas, under Cause No. 20070C05582. Respondent was sentenced to confinement in the El Paso County Jail for a period of one (1) year: however, the imposition of sentence of confinement was suspended, and Respondent was placed on community supervision for a period of twenty (20) months. Additionally, Respondent was ordered to pay a fine and court costs.

On or about August 22, 2008, Respondent was dismissed from probation under Cause No. 20070C05582, in the County Court At Law No. 1, El Paso County, Texas, for the reason: "Prosecutorial Discretion."

8. In response to Finding of Fact Number Seven (7), Respondent states the offense in question was in result to varied reasons. Respondent states he was in the process of closing his business while at the same time working as a nurse, which left little time for his spouse. Respondent admits to his spouse being jealous and having a history of abuse. An argument ensued between Respondent and his spouse, resulting in her filing a report against Respondent. At the request of Respondent's attorney, he entered a plea agreement.
9. On or about September 15, 2007, Respondent was arrested by the El Paso Police Department, El Paso, Texas for ASSAULT CAUSES BODILY INJURY FAMILY MEMBER (a Class A misdemeanor offense).

On or about December 3, 2007, Respondent entered a plea of Guilty and was convicted of ASSAULT CAUSES BODILY INJURY FAMILY (a Class A misdemeanor offense committed on September 6, 2007), in the County Court No. 1, El Paso County, Texas, under Cause No. 20070C14320. Respondent was sentenced to confinement in the El Paso County Jail for a period of one (1) year: however, the imposition of sentence of confinement was suspended, and Respondent was placed on community supervision for a period of twenty (20) months. Additionally, Respondent was ordered to pay a fine and court costs.

On or about August 22, 2008, Respondent was dismissed from probation under Cause No. 20070C14320, in the County Court At Law No. 1, El Paso County, Texas, for the reason: "Prosecutorial Discretion."

10. On or about September 15, 2007, Respondent was arrested by the El Paso Police Department, El Paso, Texas for ASSAULT CAUSES BODILY INJURY FAMILY MEMBER (a Class A misdemeanor offense).

On or about December 3, 2007, Respondent entered a plea of Guilty and was convicted of ASSAULT CAUSES BODILY INJURY FAMILY (a Class A misdemeanor offense committed on September 8, 2007), in the County Court No. 1, El Paso County, Texas, under Cause No. 20070C14321. Respondent was sentenced to confinement in the El Paso County Jail for a period of one (1) year: however, the imposition of sentence of confinement was suspended, and Respondent was placed on community supervision for a period of twenty (20) months. Additionally, Respondent was ordered to pay a fine and court costs.

On or about August 22, 2008, Respondent was dismissed from probation under Cause No. 20070C14321, in the County Court At Law No. 1, El Paso County, Texas, for the reason: "Prosecutorial Discretion."

11. On or about September 23, 2008, Respondent was arrested by the El Paso Police Department, El Paso, Texas, for ASSAULT CAUSE BODILY INJ DATE/FAMILY/HOUSE ENH (a 3rd Degree Felony offense). The case is currently awaiting trial.

Respondent, by his signature to this Order, expresses his desire to voluntarily surrender his license to practice nursing in the State of Texas.

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)(3)&(10), Texas Occupations Code (effective September 1, 2007), and 22 TEX. ADMIN. CODE §217.12(13) (effective after September 28, 2004).
4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Registered License Number 661920, heretofore issued to JAVIER AVILA, including revocation of Respondent's license to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.

6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Registered License Number 661920, heretofore issued to JAVIER AVILA, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying himself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered 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.
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 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 violation 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 becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 24th day of SEPTEMBER 2010.

Javier Avila
JAVIER AVILA, Respondent

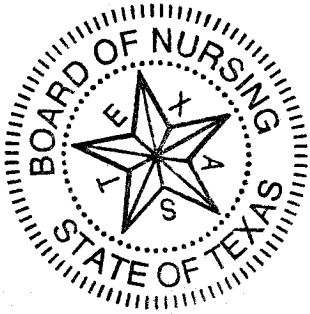
Sworn to and subscribed before me this 24th day of SEPTEMBER 2010.

SEAL


Frank Malcolm
Notary Public in and for the State of TEXAS



WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Registered Nurse License Number 661920, previously issued to JAVIER AVILA.



Effective this 12th day of October, 2010.


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