

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse § AGREED
License Number 620026 §
issued to DONALD HENDERSON § 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.
Katherine A. Thomas
Executive Director of the Board

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of DONALD HENDERSON, Registered Nurse License Number 620026 hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9),(10)&(12) Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on January 5, 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 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 San Jacinto College, Pasadena, Texas, on May 1, 1995. Respondent was licensed to practice professional nursing in the State of Texas on July 11, 1995.
5. Respondent's professional nursing employment history includes:

05/95 - 05/97	RN Nurse	LBJ Hospital Houston, Texas
05/97 - 06/99	RN Nurse	UTMB-Managed Care Houston, Texas

Respondent's professional nursing employment history continued:

07/99 - 07/06	RN Nurse	Angleton Danbury Medical Center Angleton, Texas
08/06 - 12/07	RN Nurse	Clear Lake Regional Medical Center Webster, Texas
01/08 - Present	Unknown	

6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a Registered Nurse with Angleton Danbury Medical Center, Angleton, Texas, and had been in this position for six (6) years and eight (8) months.
7. During March 2006, through July 2006, while employed with Angleton Danbury Medical Center (ADMC), Angleton, Texas, Respondent lacked fitness to practice professional nursing in that he reported for duty "very tremulous" and had repeated absences due to inpatient treatment for medical/mood stability and chemical dependency. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
8. At the time of the behavior described in Findings of Fact Numbers Nine (9) and Ten (10), Respondent was employed as a Registered Nurse with Clear Lake Regional Medical Center, Webster, Texas, Texas, and had been in this position for one (1) year and one (1) month.
9. On or about September 20, 2007, while employed with Clear Lake Regional Medical Center, Webster, Texas, Respondent engaged in the intemperate use of Alcohol in that he produced a specimen for a drug/Alcohol screen that resulted positive for Ethyl Glucuronide 4,410 ng/ml. The use of Alcohol 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.
10. On or about November 5, 2007, while employed with Clear Lake Regional Medical Center, Webster, Texas, Respondent engaged in the intemperate use of Alcohol in that he produced a specimen for a drug/Alcohol screen that resulted positive for Ethyl Gucuronide 1,640 ng/ml and he admitted that he consumed wine. The use of Alcohol 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.

11. In response to the conduct described in Finding of Fact Number Seven (7), Respondent states this was the result of tensions between Respondent and a supervisor at ADMC. However, during this time, Respondent did complete a program to treat his Alcohol dependence. In response to the conduct described in Findings of Fact Numbers Nine (9) and Ten (10), Respondent states he can control his consumption of alcohol to an occasional drink with his meals on days off.
12. 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.
13. 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.
14. Respondent's conduct described in Findings of Fact Numbers Seven (7), through Nine (9), and Ten (10) resulted from Respondent's impairment on chemicals.
15. 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 violation of Section 301.452(b)(9),(10)&(12) Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5),(9)&(10)(A).
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 620026, heretofore issued to DONALD HENDERSON, 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 five hundred dollars (\$500.00) 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.

(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 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 professional nursing in the State of Texas, as a consequence of my noncompliance.

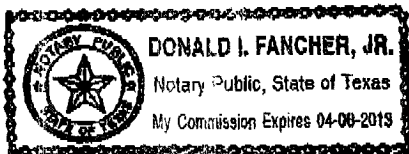
Signed this 26th day of February, 2010.

Donald Henderson
DONALD HENDERSON, Respondent

Sworn to and subscribed before me this 26th day of February, 2010.

SEAL

Donald I. Fancher, Jr.
Notary Public in and for the State of TX



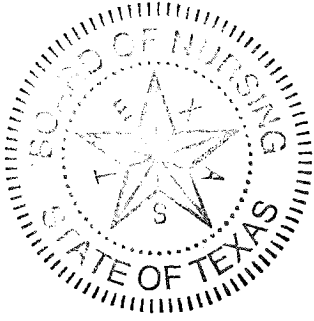
Approved as to form and substance.


Alejandro Y. Torres
Alejandro Y. Torres, Attorney for Respondent

Signed this 26th day of FEBRUARY, 2010.

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 26th day of February, 2010, by DONALD HENDERSON, Registered Nurse License Number 620026, and said Order is final.

Entered and effective this 11th day of March, 2010.




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