



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

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 147988 §
issued to GARY ALAN BANDA § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of GARY ALAN BANDA, Vocational Nurse License Number 147988, 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 representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on March 4, 2009, 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 vocational nursing in the State of Texas.
- 4. Respondent received a Certificate in Vocational Nursing from Vernon Regional Junior College, Wichita Falls, Texas, on July 6, 1994. Respondent was licensed to practice vocational nursing in the State of Texas on August 29, 1994.

5. Respondent's vocational nursing employment history includes:

| | | |
|-------------------|-------------|--|
| 08/1994 - 01/1995 | Staff Nurse | Park Place Living Center Wichita Falls, Texas |
| 02/1995 - 04/1995 | Staff Nurse | Grace Care Center Wichita Falls, Texas |
| 05/1995 - Unknown | Staff Nurse | Red River Hospital Wichita Falls, Texas |

6. On or about December 7, 1998, Respondent's license to practice vocational nursing in the State of Texas was issued the sanction of Suspension with Probation through an Agreed Board Order by the Board of Vocational Nurse Examiners for the State of Texas. A copy of the Agreed Board, dated December 7, 1998, is attached and incorporated herein by reference as part of this Order.
7. At the time of the initial incident, Respondent was employed as a Staff Nurse with Red River Hospital, Wichita Falls, Texas, and had been in this position for twelve (12) years, four (4) months.
8. On or about September 18, 2007, through September 19, 2007, while employed with Red River Hospital, Wichita Falls, Texas, Respondent failed to report a change in condition of Patient Medical Record Number 232012 to the physician when the blood sugar of that patient fell below sixty (60) twice during his shift. Shortly after Respondent's shift, the patient was found unresponsive with thready pulse, and expired September 19, 2007, after attempted resuscitation was unsuccessful. Respondent's conduct may have contributed to the patient's demise.
9. In response to the incident in Finding of Fact Number Eight (8), Respondent states that he knew the patient for nine (9) years due to the patient's frequent visits to the hospital. Usually the patient would tell Respondent if he felt hypo or hyperglycemic. Usually the milk, juice, and crackers would bring his blood sugar up. On that particular day, the patient showed no signs of low blood sugar. Respondent had worked at that hospital for fourteen (14) years and never before experienced a death there.

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)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B),(1)(M),(1)(P)&(2)(A) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B)&(4).
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 147988, heretofore issued to GARY ALAN BANDA, including revocation of Respondent's license to practice vocational nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a REPRIMAND WITH STIPULATIONS, and 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.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice nursing in compact states.

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 that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to GARY ALAN BANDA, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, 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) contact 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>.

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include Nurses. The didactic portion of this course shall be a minimum of six (6) hours in length. RESPONDENT SHALL perform physical assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The

clinical component SHALL focus on tasks of physical assessment only and shall be provided by the same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. Performing assessments on mock patients or mannequins WILL NOT be accepted. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor 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 this Order, 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://www.learningext.com/products/generalce/critical/ctabout.asp>.*

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 STIPULATIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations 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 present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations 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.

(6) 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.

(7) For the first year of employment as a Licensed Vocational Nurse under this Order,

RESPONDENT SHALL be directly supervised by a Registered Nurse or a Licensed Vocational Nurse. Direct supervision requires another professional or vocational 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.

(8) For the remainder of the stipulation period, RESPONDENT SHALL be supervised by a Registered Nurse or a Licensed Vocational 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.

(9) 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 Registered Nurse or Licensed Vocational 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) month period for two (2) years of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT's license and RESPONDENT shall be eligible for multistate licensure privileges, if any, to practice nursing in the State of Texas.

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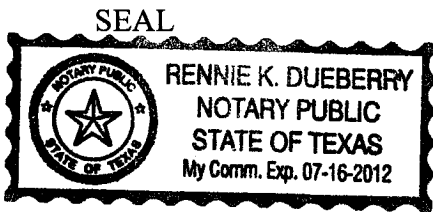
RESPONDENT'S CERTIFICATION

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

Signed this 1 day of April, 2009.

Gary Alan Banda
GARY ALAN BANDA, Respondent


Sworn to and subscribed before me this 1 day of April, 2009.



Rennie K. Dueberry
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 1st day of April, 2009, by GARY ALAN BANDA, Vocational Nurse License Number 147988, and said Order is final.

Effective this 12th day of May, 2009.


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

00147988

BOARD OF VOCATIONAL
NURSE EXAMINERS

VS.

GARY ALAN BANDA

* STATE OF TEXAS

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COUNTY OF TRAVIS

AGREED BOARD ORDER

On this day came to be considered by the Board of Vocational Nurse Examiners for the State of Texas, hereinafter referred to as the Board, the matter of vocational nurse license number 147988, held by GARY ALAN BANDA hereinafter called Respondent.

A sworn Complaint has been filed and served on the Respondent, which alleges violations of the Vocational Nurse Act, Texas Revised Civil Statutes Annotated, Article 4528c, and grounds to take disciplinary action against Respondent.

A prehearing conference was held on Tuesday, November 3, 1998, at the office of the Board of Vocational Nurse Examiners. The conference was conducted by Mary M. Strange, R.N., Executive Director of the Board, assisted by Cathy Parrott, LVN, member of the Board of Vocational Nurse Examiners. Respondent was present and was not represented by counsel.

The conference was attended by Champ R. Kerr, Investigator for the Board, and Kay Johnsonius, Assistant Attorney General. By their notarized signature on this Order, Respondent does hereby waive the right to Notice of Formal Hearing and a Formal Hearing of the Complaint before the Board, and to judicial review of this disciplinary action after this Order is ratified by the Board.

AGREED BOARD ORDER
RE: GARY ALAN BANDA, LVN #147988
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After reviewing the Complaint and information provided at the prehearing conference, Respondent agrees to the entry of an Order dispensing with the need for further proceedings on the Complaint. By Respondent's signature on this Order, Respondent neither admits nor denies the truth of the allegations stated in the Complaint. By Respondent's signature on this Order, Respondent acknowledges that they have read and understood this Order and have approved it for consideration by the Board. Notice of this disciplinary action will appear in the Board's newsletter sent to Texas employers.

ORDER OF THE BOARD

NOW THEREFORE, IT IS ORDERED, subject to ratification by the Board of Vocational Nurse Examiners that license number 147988, heretofore issued to GARY ALAN BANDA to practice vocational nursing in the State of Texas be, and the same is hereby suspended, with said suspension stayed and placed on probation for a period of one (1) year.

The probation of said license is subject to the following stipulations, to wit:

1. That if Respondent's place of employment, name, address or telephone number changes, Respondent is to notify the Board office immediately, or no later than ten (10) days after said change has occurred. Said notification shall be in the form of a written letter or report.
2. That Respondent shall comply with Federal, State, and local laws, and all the provisions of the Vocational Nurse Act and Rules and Regulations of the Board.
3. That by copy of this Board Order, Respondent shall provide notice of Board disciplinary action to his/her immediate nursing supervisors and Director(s) of Nursing, throughout the term of probation.
4. That Respondent shall be responsible for causing his/her immediate nursing supervisor(s) to submit satisfactory reports directly to the Board office on a monthly basis for the first six (6) months of probation. Thereafter, and throughout the remainder of said probation, Respondent shall be responsible for causing his/her immediate nursing supervisor(s) to submit satisfactory reports directly to the Board office on a quarterly basis. The receipt of an unfavorable and/or untimely report shall be considered a violation of probation.

AGREED BOARD ORDER
RE: GARY ALAN BANDA, LVN #147988
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5. That any period(s) of nursing unemployment must be documented in writing by Respondent and submitted to the Board office, as provided in Stipulation No. four (4).
6. That Respondent shall attend weekly meetings of a Chemical Dependency Support Group (AA/NA), and shall be responsible for causing his/her program sponsor to submit satisfactory reports directly to the Board office on a quarterly basis, throughout the term of probation. The receipt of an unfavorable and/or untimely report shall be considered a violation of probation.
7. That Respondent shall and hereby agrees to remain free of alcohol and all unprescribed controlled substances. Any controlled or legend medication must be prescribed by a physician knowledgeable about the disease of addiction, as well as Respondent's history, and it is incumbent upon Respondent to insure such physician knowledge. In all such cases, the prescribed drugs must be verified in writing to the Board by the prescribing physician.
8. That Respondent shall submit to monthly blood alcohol and urine drug screen(s) upon demand of the Board staff for the first three (3) months of probation. Thereafter, and throughout the remainder of said probation, Respondent shall submit to random blood alcohol and urine drug screen(s) upon demand of the Board staff throughout the term of probation. Respondent shall submit to a drug screening panel consisting of the following: Alcohol, Amphetamines, Barbiturates, Benzodiazepines, Cannabinoids, Cocaine, Hydrocodone, Meperidine, Opiates, Propoxyphene, PCP, Morphine, Codeine, Methadone, and Methaqualone. Said screen(s) shall be properly monitored with adherence to chain of custody procedures. A positive result shall be legally confirmed by Gas Liquid Chromatography/Mass Spectrometry (GCMS). The results of said screen(s) shall be submitted directly to the Board office by the laboratory. The expense of said screen(s) shall be borne by Respondent. The report of a positive drug screen shall be considered a violation of probation.
9. That Respondent shall provide the Board a telephone number by which Respondent may be contacted between the hours of 8:00 a.m. and 5:00 p.m. on weekdays. Respondent must maintain with the Board, during the term of this probation, a current telephone number in order for the Board to request random blood alcohol and urine drug screens, as provided in Stipulation No. eight (8). An inability to contact Respondent by telephone to request said required drug screens shall be considered a violation of probation.
10. That Respondent shall pay a Probation Monitoring fee in the amount of thirty (\$30.00) dollars in the form of a cashier's check or money order, payable to the Board of vocational Nurse Examiners. Said fee shall be paid quarterly, due on the 15th of each quarter, commencing the quarter following the date of the Board's endorsement of the Order, and continuing thereafter until the successful completion of Respondent's probation. Said fee shall be sent to the Board office, addressed to the "Board Accountant". Failure by Respondent to make any quarterly payment on time shall constitute a violation of probation.

This Agreed Order shall not be effective or take effect and become enforceable in accordance with its terms until ratified by a majority of the Board present and voting, at its next regularly called session.

00147988

AGREED BOARD ORDER
RE: GARY ALAN BANDA, LVN #147988
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Dated this the 2 day of NOV., 1998

Gary Banda
Signature of Respondent

1604 BANDERA
Current Address

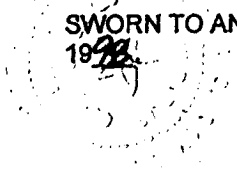
WICHITA FALLS, TX. 76303
City, State and Zip

940-787-2112
Area Code and Telephone Number

The State of Texas
County of Tarrant

Before me, the undersigned authority, on this day personally appeared GARY ALAN BANDA who being duly sworn by me stated that he or she executed the above for the purpose therein contained, and that he or she understood same.

SWORN TO AND SUBSCRIBED before me this the 3rd day of November, 1998



Katherine S. Davis
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My Commission Expires 3-15-99

Mary M. Strange
Mary M. Strange, RN
Agent for the Board of
Vocational Nurse Examiners

00147988

AGREED BOARD ORDER
RE: GARY ALAN BANDA, LVN #147988
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SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the 5th day
of November, 1998.

Sandy H. Gardner
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

00147988

BOARD ORDER
RE: GARY ALAN BANDA, LVN #147988
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WHEREFORE, PREMISES CONSIDERED, the Board of Vocational Nurse
Examiners for the State of Texas does hereby ratify and adopt the Agreed order that was
signed on the 3rd day of November, 1998 by Respondent license number and that Said
Order is Final.

Effective this 7th day of December, 1998.

Mary M. Strange

Mary M. Strange, BSN, RN, CNA
Executive Director
On Behalf of Said Board


00147988

BOARD ORDER
RE: GARY ALAN BANDA, LVN #147988
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CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of December, 19 98, a true and correct copy of the foregoing BOARD ORDER was served by placement in the U.S. Mail, first class, and addressed to the following person(s):

GARY ALAN BANDA
1604 BANDERA
WICHITA FALLS, TX 76303



Mary M. Strange, BSN, RN, CNA
Executive Director
Agent for the Board of Vocational Nurse Examiners