

BEFORE THE TEXAS BOARD OF NURSING



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

In the Matter of Registered Nurse License Number 256953 § AGREED
issued to ALEJANDRO H. GARZA, JR. § ORDER

An investigation by the Texas Board of Nursing, hereinafter referred to as the Board, produced evidence indicating that ALEJANDRO H. GARZA, JR., hereinafter referred to as Respondent, Registered Nurse License Number 256953, may have violated Article 4525(b)(9), TEX. REV. CIV. STAT. ANN. and Section 301.452(b)(3)&(10), Texas Occupations Code.

An informal conference was held on December 16, 2008, at the office of the Texas Board of Nursing, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Louis Leichter, Attorney at Law. In attendance were Katherine A. Thomas, MN, RN, Executive Director; John F. Legris, Assistant General Counsel; Kyle Hensley, Assistant General Counsel; Jena R. Abel, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; John De La Rosa, Investigator; Erin Menefee, Investigator; and Christen Werley, Investigator.

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 notice and hearing, and consented 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 Incarnate Word College, San Antonio, Texas, on December 16, 1981. Respondent was licensed to practice professional nursing in the State of Texas on March 19, 1982.

5. Respondent's complete professional nursing employment history includes:

03/82 - 1985	Staff Nurse	U.S. Army Fort Sam Houston, Texas
1985 - 1986	Staff Nurse	Wilford Hall Medical Center Lackland AFB, Texas
1986 - 1988	Staff Nurse	Brooke Army Medical Center Fort Sam Houston, Texas
12/88 - 06/08	Staff Nurse	Veteran Affairs Hospital Audie Murphy Division San Antonio, Texas
06/08 - Present	PRN	Med Trust Agency San Antonio, Texas

6. On or about December 5, 1997, Respondent entered a plea of Nolo Contendere to DISORDERLY CONDUCT - LANGUAGE, a Class C misdemeanor offense committed on October 4, 1996 (reduced from the Class B misdemeanor offense of INDECENT EXPOSURE), in the County Court at Law No. 2, Bexar County, Texas, under Cause No. 646144. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of thirty (30) days. Additionally, Respondent was ordered to pay a fine and court costs.
7. On September 2, 1999, Respondent entered a plea of Nolo Contendere and was convicted of DRIVING WHILE INTOXICATED (a Class B Misdemeanor offense committed on February 23, 1999), in the County Court at Law No. 2, Bexar County, Texas, under Cause No. 719061. As a result of the conviction, Respondent was sentenced to ninety (90) days confinement in the Bexar County Jail; however, the imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of six (6) months. Additionally, Respondent was ordered to pay a fine and court costs.
8. On July 25, 2000, Respondent entered a plea of Nolo Contendere to DISORDERLY CONDUCT, a Class C misdemeanor offense committed on June 17, 2000 (reduced from the Class B misdemeanor offense of PROSTITUTION), in the County Court at Law No. 11, Bexar County, Texas, under Cause No. 758279. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of ninety (90) days. Additionally, Respondent was ordered to pay a fine and court costs.

9. On or about July 11, 2002, Respondent entered a plea of Nolo Contendere and was convicted of DRIVING WHILE INTOXICATED - 2ND (a Class A misdemeanor offense committed on December 3, 2001), in the County Court at Law No. 8, Bexar County, Texas, under Cause No. 803117. As a result of the conviction, Respondent was sentenced to one (1) year of confinement in the Bexar County Jail; however, the imposition of the sentence of confinement was suspended and Respondent was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay a fine and court costs, and to have an Ignition Interlock Device installed on any vehicle he operated.
10. On or about March 26, 2008, Respondent entered a plea of Nolo Contendere and was convicted of DRIVING WHILE INTOXICATED - 3RD OR MORE (a 3rd Degree felony offense committed on August 16, 2007), in the 379th District Court, Bexar County, Texas, under Cause No. 2007CR8984. As a result of the conviction, Respondent was sentenced to confinement in the Institutional Division of the Texas Department of Criminal Justice for a period of five (5) years; however, the imposition of the sentence of confinement was suspended and Respondent was placed on probation for a period of five (5) years. Additionally, Respondent was ordered to pay a fine and court costs, and to have an Ignition Interlock Device installed on any vehicle he operated.
11. In response to Findings of Fact Numbers Six (6) through Ten (10), Respondent admits to all Findings and states: He has attended treatment, joined AA and has been a sober member of Alcoholics Anonymous since his last DWI arrest plead to and entered on March 26, 2008. At this junction, he has obtained more than a year of sobriety as he was successfully discharged from the Starlite Recovery Center following a year's completion of this aftercare program.

He meets the requirements for a probated suspension order pursuant to the Board's policy. Additionally, he has a Draeger ignition interlock device installed in his car and all reports indicate he has never tested positive for an alcoholic substance since the device's installation. This device has been installed in his vehicle for quite some time which can be verified through his probation officer. Along those lines, he remains compliant and is expected to discharge satisfactorily on his scheduled date.
12. Formal Charges were filed on September 8, 2008.
13. Formal Charges were mailed to Respondent on September 8, 2008.
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.

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 Article 4525(b)(9), TEX. REV. CIV. STAT. ANN., Section 301.452(b)(3)&(10), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.13(1) and 22 TEX. ADMIN. CODE §217.12(13).
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 256953, heretofore issued to ALEJANDRO GARZA, JR., 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 Professional Nurse License Number 256953, previously issued to ALEJANDRO GARZA, JR., to practice nursing in Texas is hereby SUSPENDED for a period of three (3) years with the said suspension STAYED and Respondent is hereby placed on PROBATION for three (3) years with the following agreed terms of probation:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate privilege, 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.

(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, 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 Chemical Dependency, 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/about/stipscourses.html>.*

(3) RESPONDENT SHALL pay a monetary fine in the amount of five hundred (\$500) dollars. 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, 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 A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS 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 A THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD.

(4) RESPONDENT SHALL notify each present employer 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 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 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 professional 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 professional 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 professional nurse.

(9) RESPONDENT SHALL NOT practice as a professional nurse in any critical care area for one (1) year of employment as professional 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 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 three (3) years of employment as a nurse.

(11) 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.**

(12) 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.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	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 will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board. Failure to report for a drug screen may be considered the same as a positive result and may result in further disciplinary action by this Board.

(13) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and 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.

(14) RESPONDENT SHALL CAUSE his probation officer to submit written reports on forms provided to the Respondent by the Board. The reports shall indicate the RESPONDENT's compliance with the court ordered probation. The reports shall be furnished each and every three (3) month period until RESPONDENT is released from probation. Respondent acknowledges and agrees that if at any time his Community Supervision is revoked by order of the 379th District Court of the State of Texas or any other courts of competent jurisdiction, that his license to practice nursing in the State of Texas will be suspended. This suspension will be enforced and shall be effective immediately. **THIS SUSPENSION SHALL BE EFFECTIVE IMMEDIATELY WITHOUT THE NEED FOR A FORMAL HEARING BEFORE THE BOARD OR THE STATE OFFICE OF ADMINISTRATIVE HEARINGS. RESPONDENT WAIVES ANY SUCH HEARING OR ANY SUCH DUE PROCESS AND ALL RIGHTS OF APPEAL IN REGARD TO THE SUSPENSION.**

IT IS FURTHER AGREED that, upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license to practice nursing in the State of Texas.

RESPONDENT'S CERTIFICATION

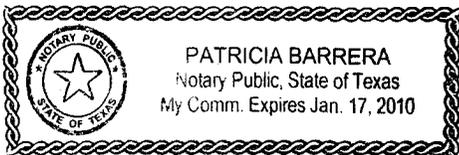
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid 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 professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 21 day of April, 2009.

Alejandro D. Garza
ALEJANDRO GARZA, JR., Respondent

Sworn to and subscribed before me this 21 day of April, 2009.

SEAL



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

Approved as to form and substance.

[Signature]
LOUIS LEICHTER, Attorney for Respondent

Signed this 22 day of April, 2009

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 21st day of April, 2009, by ALEJANDRO GARZA, JR., Registered Nurse License Number 256953, and said Order is final.

Effective this 12th day of May, 2009



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