

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Registered Nurse License Number 249840 §
issued to DAVID LEE LATHAM § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of DAVID LEE LATHAM, Registered Nurse License Number 249840, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(2)&(10) and 301.453, Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on October 17, 2013, 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(s).
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 Odessa College, Odessa, Texas, on May 1, 1978. Respondent was licensed to practice professional nursing in the State of Texas on September 4, 1979.
5. Respondent's nursing employment history is unknown.



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

6. On or about September 26, 2008, Respondent was issued the sanction of REMEDIAL EDUCATION WITH A FINE by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated September 26, 2008 is attached and incorporated, by reference, as part of this Order.
7. On or about January 8, 1999, Respondent was arrested by the Odessa Police Department, Odessa, Texas, with DRIVING WHILE INTOXICATED, a class B misdemeanor offense. On or about April 29, 1999, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED, a class B misdemeanor offense, in the County Court at Law of Ector County, Texas, under Cause No. 99373. As a result of the conviction, Respondent was sentenced to confinement in the Ector County Jail for a period of six (6) months; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of one (1) year, and ordered to pay a fine and court costs.
8. On or about April 29, 1999, Respondent entered a plea of Guilty and was convicted of DRIVING LIC SUSPENDED/INVALID, a misdemeanor offense, in the County Court at Law No. 2 of Ector County, Texas, under Cause No. 991716. As a result of the conviction, Respondent was sentenced to confinement in the Ector County Jail for a period of three (3) days, and ordered to pay a fine and court costs.
9. On or about June 9, 2005, Respondent was arrested by the Texas Highway Patrol Lubbock, Texas, with DRIVING WHILE INTOXICATED 2ND, a class A misdemeanor offense. On or about January 8, 2005, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED 2ND, a Class A misdemeanor offense, in the County Court at Law No. 1 of Lubbock County, Texas, under Cause No. 2005492391. As a result of the conviction, Respondent was sentenced to confinement in the Lubbock County Jail for a period of three hundred (300) days, however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of twenty-four (24) months and ordered to pay a fine and court costs.
10. On or about October 8, 2006, Respondent submitted a Online Renewal Document Licensed Vocational Nurse to the Texas Board of Nursing in which he provided false, deceptive, and/or misleading information, in that 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, received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrest whether or not on appeal (excluding minor Class C traffic violations)? This includes expunged offenses and deferred adjudication with or without a finding of guilt. Please note that DUIs, DWIs, PI's must be reported and are not considered minor traffic violations. One time minor in possession [MIP] or minor in consumption [MIC] do not need to be disclosed; therefore, you may answer "No." If you have two or more MIPs or MICs, you must answer "Yes". You may answer "No" if you have previously disclosed a criminal

matter otherwise responsive to this question in a renewal and/or licensure form.

Respondent failed to disclose that on or about January 8, 2005, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED 2ND, a class A misdemeanor offense, in the County Court at Law of Lubbock County, Texas, under Cause No. 2005492391. As a result of the conviction, Respondent was sentence to confinement in the Lubbock County Jail for a period of three hundred (300) days ; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of twenty-four (24) months and ordered to pay a fine and court costs.

11. On or about September 21, 2008, Respondent submitted a Online Renewal Document Licensed Vocational Nurse to the Texas Board of Nursing in which he provided false, deceptive, and/or misleading information, in that he answered "No" to the question:

"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

- A. been convicted of a misdemeanor?
- B. been convicted of a felony?
- C. pled nolo contendere, no contest, or guilty?
- D. received deferred adjudication?
- E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
- F. been sentenced to serve jail or prison time? court-ordered confinement?
- G. been granted pre-trial diversion?
- H. been arrested or have any pending criminal charges?
- I. been cited or charged with any violation of the law?
- J. been subject of a court-martial; Article 15 violation; or received any form of military judgment/punishment/action?"

Respondent failed to disclose that on or about October 25, 2006, Respondent entered a plea of Guilty and was convicted of DWLI, a class B misdemeanor offense, in the County Court at Law of Lubbock County, Texas, under Cause No. 2006498733. As a result of the conviction, Respondent was sentence to confinement in the Lubbock County Jail for a period of three (3) days.

12. In response to Findings of Fact Numbers Seven (7) through Eleven (11), Respondent states this appears to be a very straight forward matter. This issue or concern in this investigation surrounds Respondent's failure to disclose a DUI conviction when renewing his license in October 2006, and his failure to disclose his conviction for DWLS when he renewed in September 2008. Respondent states he simply did not make a good decision. He was very reluctant to disclose these incidents as part of his renewal and once the decision was made there was no going back.

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(s) of 22 TEX. ADMIN. CODE §217.12(6)(I)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2)&(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 249840, heretofore issued to DAVID LEE LATHAM, including revocation of Respondent's license(s) 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 RESPONDENT SHALL receive the sanction of WARNING 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, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

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.

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse licensure compact 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, 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) 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.texas.gov/disciplinaryaction/stipscourses.html>

(2) 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. *Board-approved courses may be found at the following Board website address: <http://www.bon.texas.gov/disciplinaryaction/stipscourses.html>.*

(3) RESPONDENT SHALL pay a monetary fine in the amount of three 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 AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:

(4) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S license(s). 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(s). 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) RESPONDENT SHALL CAUSE each employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.

(7) 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 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 one (1) year of employment as a nurse.

(8) 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 a pain management**

and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.

(9) 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. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board.

Specimens shall be screened for at least the following substances and their metabolites:

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 stipulation 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 stipulation period.

Any positive result for which the nurse does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject the nurse to further disciplinary action, including

EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas. Further, failure to report for a drug screen, excessive dilute specimens, or failure to call in for a drug screen may be considered the same as a positive result or refusal to submit to a drug or alcohol screen.

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

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RESPONDENT'S CERTIFICATION

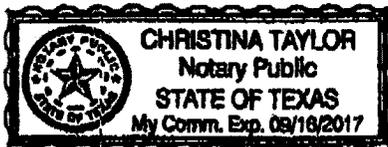
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to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

Signed this 21st day of February, 2014.

David Lee Latham
DAVID LEE LATHAM, RESPONDENT

Sworn to and subscribed before me this 21st day of February, 2014.

SEAL



Christina Taylor
Notary Public in and for the State of Texas

Approved as to form and substance.

Jeff B. McDonald
Jeff B. McDonald, Attorney for Respondent

Signed this 22nd day of February, 2014.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 26th day of February, 2014, by DAVID LEE LATHAM, Registered Nurse License Number 249840, and said Order is final.

Effective this 18th day of March, 2014.



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