



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 207757 § ORDER
issued to ERIC ESQUIVEL DELEON §

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of ERIC ESQUIVEL DELEON, Vocational Nurse License Number 207757, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(1) & (10), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on May 7, 2012, 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 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 Texas Southmost College, Brownsville, Texas, on December 13, 2005. Respondent was licensed to practice vocational nursing in the State of Texas on January 4, 2007.
- 5. Respondent's vocational nursing employment history includes:

March 2007 to November 2007	LVN	Spanish Meadows Brownsville, Texas
December 2007 to August 2007	Unknown	

Respondent's vocational nursing employment history continued:

September 2007 - Present LVN La Hacienda Healthcare
Harlingen, Texas

6. On October 5, 2006, Respondent was issued an Order of Conditional Eligibility by the Texas Board of Nursing. A copy of the October 5, 2006, Order of Conditional Eligibility, Findings of Fact and Conclusions of Law is attached and incorporated, by reference, as part of this Order.
7. On April 23, 2009, Respondent's license to practice vocational nursing in the State of Texas was suspended by the Texas Board of Nursing. The suspension was stayed, and Respondent was placed on probation for three (3) years. A copy of the April 23, 2009, Agreed Order is attached and incorporated, by reference, as part of this Order.
8. On or about August 25, 2009; September 14, 2009; September 21, 2009; October 6, 2009; November 11, 2009; December 11, 2009; and January 7, 2010; while employed with La Hacienda Healthcare, Harlingen, Texas, Respondent failed to comply with the Agreed Order issued to him on April 23, 2009, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Thirteen (13) of the Order which states, in pertinent part:

(13) Respondent shall submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol....
9. On or about August 15, 2009; November 15, 2009; February 15, 2010; and May 15, 2010, while employed with La Hacienda Healthcare, Harlingen, Texas, Respondent failed to comply with the Agreed Order issued to him on April 23, 2009, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Fourteen (14) of the Order which states, in pertinent part:

(14) 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....
10. On or about April 24, 2010, while employed with La Hacienda Healthcare, Harlingen, Texas, Respondent failed to comply with the Agreed Order issued to him on April 23, 2009, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Three (3) of the Order which states, in pertinent part:

(3) Respondent shall, within one (1) year of the date of the Order, successfully complete a course in Texas nursing jurisprudence and ethics....

11. 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.
12. Charges were filed on October 12, 2011. Charges were mailed to Respondent on October 14, 2011.
13. Respondent submitted the following letters of recommendation to the Board.
 - a. Daniel Zamora, RN, BSN, Harlingen, Texas. Mr. Zamora states that he has known the Respondent since Mr. Zamora began his employment at La Hacienda on June 20, 2011. Mr. Zamora states that the Respondent is one of their best nurses and in fact, one of the nurses he feels other nurses should emulate and be more like. Mr. Zamora states that Respondent has been employed at La Hacienda since November 21, 2007. Mr. Zamora has been the Director of Nursing at La Hacienda since he was hired and has been a nurse since August, 1999. Throughout his career, Mr. Zamora has meet numerous nurses and in his opinion, he has to say that the most important trait a nurse must possess is the ability to care, which entails having a caring attitude towards patients. Mr. Zamora knows that the Respondent possesses that necessary trait, which he has witnessed first hand, and the Respondent has also demonstrated humility, obedience, and a positive attitude. In addition to a caring attitude, Mr. Zamora states that the Respondent has leadership qualities and he considers him the leader when there are no supervisors on the floor. Mr. Zamora states that different patients' family members have approached him on several occasions and have only given praise about the Respondent's character, not only in providing care to the patients, but in dealing with the family members. Mr. Zamora further states that the Respondent is punctual, always willing to help in times of need, and is an asset to the facility. The Respondent has proven to be a good decision maker and because of this, Mr. Zamora has encouraged the Respondent to continue his education so he can have a positive impact on more patients under his care. Mr. Zamora states that Respondent is currently enrolled at UTB and has started the process to become a Registered Nurse. Mr. Zamora states that he submitted his letter of recommendation to notify the Board that he holds the Respondent in the highest regard so the patients he cares for continue to be cared for by the excellent nurse the Respondent truly is.
 - b. Ricardo A. Rodriguez, Administrator, Harlingen, Texas. Mr. Rodriguez has worked with the Respondent since 2007 and has witnessed the Respondent's impressive demeanor, dedication, and humble service to the patients at La Hacienda Healthcare first hand. Mr. Rodriguez states that the Respondent generously cares for their extremely ill population with integrity, patience, kindness, and perseverance. He is always willing to dedicate countless hours to helping their residents achieve a better quality of life. Further, Mr. Rodriguez states that, earlier this year, one of their families felt compelled to mention the Respondent in the *Valley Morning Star* after they lost their dad due to cancer. The Respondent tirelessly stayed by his side caring

for the patient and his suffering family. The patient's daughter visited with Mr. Rodriguez and stated that the Respondent was the kindest, most helpful, most friendly, most skilled nurse he had on staff. Mr. Rodriguez has worked at La Hacienda for over 10 years and he has never had a family single out an employee in such a positive manner. Respondent's commitment to serving the sick even prompted the family to make a significant donation to the facility's patients and residents. Mr. Rodriguez further states that Respondent is a positive and trustworthy member of their team, and he is contributing greatly to society. Respondent is a man of great character and serves honorably. Mr. Rodriguez states that he understands that people make mistakes, but he honestly feels that Respondent is a responsible nurse and would never compromise a patient's health. Mr. Rodriguez states that his patients and facility needs the Respondent and the Respondent is a great asset to La Hacienda Healthcare and the Harlingen community.

- c. Karmin Bres, RN, MDS Coordinator, Harlingen, Texas. Ms. Bres states that the Respondent has been working for La Hacienda Healthcare as a floor nurse since 2007. Through his entire tenure, he has shown superior competency in his job performance. Throughout this time, some of the Respondent's duties have included performing resident assessments, medication administration, documentation, and frequent communication with residents, family members, physicians, and their staff. Respondent has also used his skills in identifying and communicating changes in status of residents to his superiors and physicians. Ms. Bres states that the Respondent has shown interest in helping others in their time of need. By working in their facility, Respondent has shown to be an unselfish individual who chose to put his time toward the need of the residents. Respondent's interaction with residents, staff, and family members has been extremely professional and has always brought forth a caring attitude. Respondent has even recently been named and thanked in the newspaper under a resident's obituary because he helped the resident and family throughout their hard transition time. Respondent has demonstrated initiative and his main goal is always to focus on the quality of care given to each resident. Respondent has proven to be a fast learner, thorough with his skills and willing to take on new tasks. Mr. Bres states that the Respondent has never presented himself under the influence of any substance, and has good attendance. Overall, Ms. Bres states that the Respondent should be allowed to continue to practice as an LVN and has been an asset to their facility.
- d. Thelma Hinojosa, LVN, Harlingen, Texas. Ms. Hinojosa states that she has known the Respondent since 2007 as a co-worker and as his boss. Ms. Hinojosa states that she can confirm that the Respondent is a man of great integrity, is extremely dedicated to his family, career, work and is entirely heart warming. Ms. Hinojosa further states that Respondent is very respectful to everyone, especially the elderly he takes care of. Respondent is very knowledgeable at what he does. He communicates well with co-workers, residents, and families. Further, Ms. Hinojosa states that the Respondent is reliable, dependable, and respectful.

- e. Amanda Gutierrez, LVN, MDS Coordinator, Harlingen, Texas. Ms. Gutierrez states that she has known the Respondent since nursing school and has had the pleasure of working with him for the past 5 years. Ms. Gutierrez states that the Respondent has proven to be a great asset for their residents. Respondent is a reliable, compassionate nurse. Respondent truly enjoys working with the elderly and has proven to go the extra mile to satisfy his patients, even if it is a simple smile or thank you. Respondent has been charge nurse for the past 5 years and he is very knowledgeable and shows responsibility, dependability, is respectful, and has a great character. Respondent manages to bring a smile to their staff and patients. Ms. Gutierrez further states that La Hacienda Healthcare has been privileged to have Respondent in its family and caring for their community.
 - f. Deborah Lozano, LVN, Harlingen, Texas. Ms. Lozano states that she has known the Respondent for a little over three years. Respondent is one of the most dedicated co-workers that she knows and he strives for the best each and every single day. Respondent is a well rounded individual who loves his field of work. Ms. Lozano states that Respondent is a good person and shows it through his work. Respondent is always kind and generous with others. Ms. Lozano states that she can personally say that Respondent is there for the residents and not for the check he receives at the end of the day.
14. Respondent provided urine drugs screen testing results from June 23, 2011; June 29, 2011; July 19, 2011; July 27, 2011; August 19, 2011; August 24, 2011; October 28, 2011; November 15, 2011; November 17, 2011; November 22, 2011; November 29, 2011; and December 5, 2011, all of which were negative. Respondent also provided hair follicle drug testing results from March 11, 2010, and March 15, 2012, both of which were negative.
15. Respondent also provided intake evaluations from the following providers:
- a. Mesquite Treatment Center, Lisa Cavazos, LCDC. Ms. Cavazos performed an assessment and interview of Respondent on March 24, 2012. Following the assessment and interview, Ms. Cavazos determined that Respondent does not meet criteria for outpatient counseling at this time according to the DSM-IV manual for substance dependence and/or abuse. Ms. Cavazos further states that Respondent would benefit from attending support groups, such as AA/CA/NA, and maintaining a health support system comprised of family and friends who will encourage abstinence from all mood altering chemicals.
 - b. Exodus Project Counseling Center, Amos V. Gonzales, MCC, CEO. Mr. Gonzales conducted an interview with the Respondent on April 23, 2012. After completing the interview, Mr. Gonzales determined that Respondent was inappropriate for the Exodus Project's program, as information provided to Mr. Gonzales suggested that Respondent had not used alcohol or drugs within the last six months.

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)(1) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12 (11)(B).
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 207757, heretofore issued to ERIC ESQUIVEL DELEON, 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 License Number 207757, previously issued to ERIC ESQUIVEL DELEON, to practice nursing in Texas is hereby SUSPENDED and said suspension is ENFORCED until Respondent completes a treatment program approved by the Board, provides documentation of successful completion, and has obtained twelve (12) consecutive months of sobriety. Any relapse prior to the completion of the twelve (12) consecutive months of sobriety will result in an extension of the enforced suspension until such twelve (12) consecutive months of sobriety and additional treatment have been attained.

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 multistate 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 the Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED, upon verification of successful completion of the approved treatment and twelve (12) consecutive months of sobriety as set out in this Order, the Suspension will be STAYED, and RESPONDENT will be placed on PROBATION for three (3) years with the following agreed terms of probation:

(1) RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, 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 pay all re-registration fees, if applicable, and be issued a license to practice nursing in the State of Texas with the appropriate notation.

(3) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete a course in 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, and 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 can be found at the following Board's website address: <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.*

(4) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500.00). RESPONDENT SHALL pay this fine within forty-five (45) days of the suspension being stayed. 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 PROBATION CONDITIONS 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 THE USE OF A REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:

(5) 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.

(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 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 probation 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 NOT practice as a 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 nurse.

(10) RESPONDENT SHALL NOT practice as a nurse in any critical care area for one (1) year of employment as a 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.

(11) RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a nurse.

(12) 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) months for three (3) years of employment as a nurse.

(13) 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.**

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

Specimens shall be screened for at least the following substances:

Amphetamines
Barbiturates

Meperidine
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 or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and 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 and multistate licensure privileges, if any, to practice nursing in the State of Texas.

(15) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. 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.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license, the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

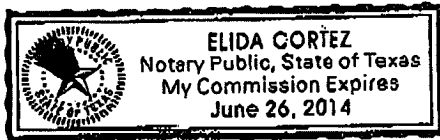
IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT's license and RESPONDENT shall be eligible for multistate licensure privileges, if any, to practice nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I 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 nursing in the State of Texas, as a consequence of my noncompliance.



Signed this 14th day of May, 2012
Eric
ERIC ESQUIVEL DELEON, Respondent

Sworn to and subscribed before me this 14th day of May, 2012
Elida Cortez

SEAL

Notary Public in and for the State of TEXAS

Approved as to form and substance.

[Signature]
DAN LYPE, Attorney for Petitioner

Signed this 14th day of May, 2012

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 14th day of May, 2012, by ERIC ESQUIVEL DELEON, Vocational Nurse License Number 207757, and said Order is final.

Effective this 12th day of June, 2012.



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