



Respondent's vocational nursing employment history continued:

January 2004	-	April 2004	Staff Nurse Kinder Hearts Home Health Abilene, Texas
May 2004	-	July 2004	Unknown
August 2004	-	August 2005	Staff Nurse Maxim Healthcare Services Corpus Christi, Texas
September 2005	-	Present	Unknown

6. At the time of the initial incident cited in Finding of Fact Number Seven (7), Respondent was employed as a Staff Nurse with Maxim Healthcare Services, Corpus Christi, Texas, and had been employed in this position for approximately one (1) year.
7. On or about July 31, 2005, Respondent failed to document nursing care delivered and medications administered in the Medication Administration Record (MAR), and/or nurses notes of Patient Medical Record Number 23100110B. Respondent's conduct was likely to injure the patient in that subsequent care givers would rely on Respondent's documentation to further medicate the patient which could result in an overdose.
8. While employed as a Staff Nurse with Maxim Healthcare Services, Corpus Christi, Texas, Respondent engaged in the intemperate use of Marijuana while on duty in that Respondent was frequently chemically impaired while caring for Patient Medical Record Number 23100110B. Respondent frequently smoked Marijuana with the patient's uncle in the home of Patient Medical Record Number 23100110B while on duty. Possession of Marijuana is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Marijuana by a Licensed Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
9. On or about August 1, 2005, while employed as a Staff Nurse with Maxim Healthcare Services, Corpus Christi, Texas, Respondent failed to recognize and honor professional interpersonal boundaries appropriate to the therapeutic relationship or health care setting in that Respondent failed to provide monetary compensation for Patient Medical Record Number 23100110B uncle's truck before driving off in the vehicle and not returning. Respondent's conduct was likely to injure the patient in that boundary violations can cause delayed distress for the patient which may not be recognized or felt by the patient until harmful consequences occur.
10. On or about August 15, 2005, while seeking employment with Highland Medical Center, Lubbock, Texas, Respondent engaged in the intemperate use of Marijuana in that Respondent provided a specimen for a pre-employment drug screen which resulted positive for Marijuana. When asked by the Chief Nursing Officer (CNO) if Respondent had indeed used Marijuana recently, Respondent stated, "Yes...I'm young and make dumb decisions sometimes." Possession of Marijuana is prohibited by Chapter 481 of the Texas Health &

Safety Code (Controlled Substances Act). The use of Marijuana by a Licensed Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

11. 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. Respondent's conduct described in Findings of Fact Numbers Seven (7) through Ten (10) was significantly influenced by Respondent's dependency on chemicals.
13. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

### CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violations of Section 301.452 (a) (9), (10) & (13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§ 217.11 (1)(D)(ii) & (iv), and 217.12 (1)(E), (5), (6)(D), (10)(A) & (D).
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 191694, heretofore issued to FERNANDO HENRY NOLAN, including revocation of Respondent's vocational license to practice nursing in the State of Texas.
5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

### ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Board of Nurse Examiners.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§ 301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE § 211.01 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privileges, if any, to practice vocational 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 State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including revocation of Respondent's license and multistate licensure privileges, if any, to practice vocational 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 waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Board of Nurse Examiners, 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.

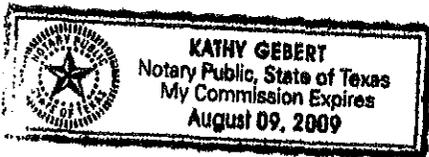
Signed this 30 day of January, 2008

Fernando Henry Nolan  
FERNANDO HENRY NOLAN, Respondent

Sworn to and subscribed before me this 30 day of January, 2008

SEAL

Kathy Gebert  
Notary Public in and for the State of Texas



WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby accept and enter the Agreed Order that was signed on the 30<sup>th</sup> day of January, 2006, by FERNANDO HENRY NOLAN, Vocational Nurse License Number 191694, and said Order is final.

Effective this 6th day of February, 2006.



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