

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse License Number 455078 § AGREED
issued to MICHAEL EARL ZELANKO § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MICHAEL EARL ZELANKO, Registered Nurse License Number 455078, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(1),(2),(3)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on August 10, 2007, by Katherine A. Thomas, MN, RN, Executive Director.

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 conference, 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 a Baccalaureate Degree from Penn State University, University Park, Pennsylvania, on March 30, 1976. Respondent was licensed to practice professional nursing in the State of Texas on October 6, 1980.
5. Respondent's professional nursing employment history is unknown.

6. On or about May 24, 2004, Respondent submitted an Online Renewal Document for Registered Nurses to the Board of Nurse Examiners for the State of Texas in which he provided false, deceptive, and/or misleading information, in that he answered "No" to the following question: *"Since issuance or last renewal, have you plead guilty (including no contest plea), been found guilty or convicted of any felony or misdemeanor other than a minor traffic violation?"*

On or about May 8, 2006, Respondent submitted an Online Renewal Document for Registered Nurses to the Board of Nurse Examiners for the State of Texas in which he provided false, deceptive, and/or misleading information, in that he answered "No" to the following question: *"Have you been convicted, adjudged guilty by a court, plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrest (excluding minor traffic violations) since the last renewal? This includes expunged offenses and deferred adjudications with or without prejudice of guilt."*

7. On or about April 25, 2006, Respondent was requested to comply with a random criminal background audit check. The results revealed the following non disclosed criminal history to wit:
 - A. On or about December 16, 1980, Respondent was charged with the Class C Misdemeanor offense of Public Lewdness in Dallas, Texas. Respondent was released without prosecution.
 - B. On or about July 7, 1995, Respondent was charged with the Class A Misdemeanor offense of Public Lewdness in County Criminal Court Number 9, Fort Worth Texas, Cause Number 0588348. Respondent was sentenced to one (1) year probation, a fine in the amount of one hundred dollars (\$100.00) and court costs of one hundred thirty-six dollars (\$136.00). Respondent was given Deferred Adjudication.
 - C. On or about August 10, 2004, Respondent was charged with the Class A Misdemeanor offense of Public Lewdness in County Criminal Court Number 8, Dallas County, Dallas, Texas, Cause Number MA0374675J. Respondent was sentenced to one (1) year probation, a fine in the amount of seven hundred dollars (\$700.00) and court costs in the amount of three hundred twenty-one dollars (\$321.00). Respondent was given Deferred Adjudication.
8. On July 31, 2007, Respondent was seen by Dr. John Lehman to undergo a forensic psychological evaluation with a Sexual Predator Component and a polygraph examination. The test results indicated Respondent is engaging in compulsive sexual acting out with an illegal component. Dr. John Lehman states Respondent does not appear to be a sexual predator; however, Respondent's behavior clearly has a compulsive/addictive component and these need to be addressed. Dr. John Lehman recommendations are Respondent needs to be involved in mental health treatment focused on curbing at least the illegal aspects of his behaviors. This should be with a licensed mental health provider who is also certified in sex offender treatment. The therapist should be

requested to provide periodic updates to the Texas Board of Nursing of his compliance with treatment. An additional polygraph in a year to ascertain if he is truly abstaining from illegal aspects of this behavior would be a good idea. Dr. John Lehman also recommends that Respondent's license be probated until he has complied with treatment recommendations, at least one year.

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 violations of Section 301.452(b)(1),(2),(3)&(10) Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(I),(13) , and 22 TEX. ADMIN. CODE . §217.12 (23).
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 455078, heretofore issued to MICHAEL EARL ZELANKO, including revocation of Respondent's license to practice professional nursing in the State of Texas.

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ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of REPRIMAND WITH STIPULATIONS, and 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 Professional 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 privilege, if any, to practice professional 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 that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to MICHAEL EARL ZELANKO to the office of the Board of Nursing within ten (10) days of the date of ratification of this Order for appropriate notation.

(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>.*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A REGISTERED 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) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(3) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations 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 stipulations 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.

(4) 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.

(5) 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.

(6) 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 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 one year(s) of employment as a nurse.

(7) RESPONDENT SHALL participate in therapy with a "professional counselor" certified in sex offender treatment possessing credentials approved by the Board. RESPONDENT SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT's progress in therapy, rehabilitation and capability to safely practice professional nursing. The report must indicate whether or not the RESPONDENT's stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the stipulation period, or until RESPONDENT is dismissed from therapy.

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

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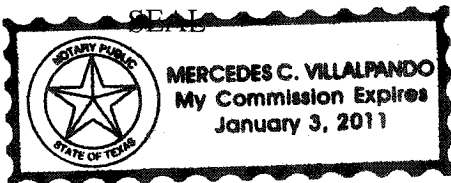
RESPONDENT'S CERTIFICATION

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 when this Order becomes final and the terms of this Order become effective, 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 17 day of DECEMBER, 2007.

Michael Earl Zelanko
MICHAEL EARL ZELANKO, Respondent

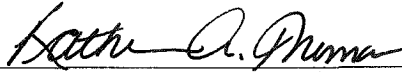
Sworn to and subscribed before me this 17 day of DECEMBER, 2007.



Mercedes C. Villalpando
Notary Public in and for the State of TEXAS

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby ratify and adopt the Agreed Order that was signed on the 17 day of December, 2007, by MICHAEL EARL ZELANKO, Registered Nurse License Number 455078, and said Order is final.

Effective this 12 day of February, 2008.



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