



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 A. Thomas*  
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse           §       AGREED  
License Number 649022                       §  
issued to HENRY VALMANA                   §       ORDER

An investigation by the Texas Board of Nursing, hereinafter referred to as the Board, produced evidence indicating that HENRY VALMANA, hereinafter referred to as Respondent Registered Nurse License Number 649022, may have violated Section 301.452(b)(10), Texas Occupations Code, (effective September 1, 1999), and Section 301.452(b)(10), Texas Occupations Code, (effective September 1, 2005) .

An informal conference was held on July 26, 2011, 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 Kenda B. Dalrymple, Attorney at Law. In attendance were Mary Beth Thomas, PhD, RN, Director of Nursing, Executive Director's Designee; Lance Brenton, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Earl E. Stearns, CFE, Supervising Investigator; and Barbara Darling, Administrative Assistant III.

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 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 the University of Texas, El Paso, Texas, on December 1, 1997. Respondent was licensed to practice professional nursing in the State of Texas on February 24, 1998.

5. Respondent's professional nursing employment history includes:

1998 - 2005	RN/Staff Nurse	Del Sol Medical Center El Paso, Texas
2005-2006	RN/Director of Telemetry/ICU	Physicians Hospital El Paso, Texas
2004-2007	RN/Various Agency Nurse Positions and then full-time employee	Providence Memorial Hospital El Paso, Texas
2008 - present	RN	Las Palmas Medical Center El Paso, Texas
2008 - 2010	RN	Sierra Medical Center East El Paso, Texas

6. On or about March 8, 2000, Respondent was arrested by the El Paso Police Department, El Paso, Texas, for DRIVING WHILE INTOXICATED (a Class B misdemeanor offense).

On or about June 16, 2000, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED (a Class B misdemeanor offense committed on March 8, 2000), in the County Court At Law Number 6, El Paso County, Texas, under Cause No. 20000C04049. Respondent was sentenced to confinement in the El Paso County Jail for a period of one hundred eighty (180) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of fifteen (15) months. Additionally, Respondent was ordered to pay a fine and court costs.

7. In response to Find of Fact Number Six (6), Respondent states on the advice of his attorney, he pled guilty and was given six (6) months probation. Respondent states he completed all the probation requirements and was released from his probation on time.

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8. On or about January 27, 2005, Respondent was arrested by the El Paso Police Department, El Paso, Texas for DRIVING WHILE INTOXICATED 2ND (a Class A misdemeanor offense).

On or about October 27, 2005, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED 2ND (a Class A misdemeanor offense committed on January 27, 2005), in the County Court At Law Number 2, El Paso County, Texas, under Cause No. 20050C03617. Respondent was sentenced to confinement in the El Paso County Jail for a period of three hundred sixty five (365) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of one (1) year. Additionally, Respondent was ordered to pay a fine and court costs.

9. On or about September 12, 2005, Respondent submitted a License Renewal Form to the Board of Nurse Examiners for the State of Texas in which Respondent provided false, deceptive, and/or misleading information, in that he answered "No" to the 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 adjudication with or without prejudice of guilt. Please note that DUI's, DWI's, 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 MIP's ors MIC's, you must answer "Yes.")

Respondent failed to disclose that on or about on or about January 27, 2005, Respondent was arrested for DRIVING WHILE INTOXICATED 2ND in El Paso County, Texas.

10. In response to Finding of Fact Number Nine (9), Respondent states at the time of his license renewal in 2005, he had been arrested but the case was unresolved. He states his attorney advised him to answer "no" on the renewal form. Respondent understands he made an error in the way he answered questions on his prior renewal, and he wanted to try and set these matters straight.

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11. On or about September 24, 2007, Respondent submitted a Self-Report to the Texas Board of Nursing in which he disclosed the prior arrests and convictions. On his subsequent License Renewal Form, he answered "Yes" 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 a pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country, or received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests whether or not on appeal (excluding minor Class C traffic violations)? This includes expunged offenses and deferred adjudications with or without prejudice of guilt. Please note that DUIs, DWIs, and PI's must be reported and are not considered minor traffic violations. One time minor in possession [MIP] or minor in consumption [MIC] does 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."

12. In response to the Find of Fact Number Eleven (11), Respondent states he made a serious mistake in judgment regarding his actions that led to the criminal proceedings, and he understands that the self-report would have serious ramifications on his nursing license and ability to practice nursing.

Respondent states shortly after he was hired at Las Palmas Medical Center, a group of his friends took him out to celebrate his new job. He states he had several drinks, but believed he was tired, as opposed to intoxicated. Respondent states he had been careful to monitor his alcohol intake during evenings out since his last DWI, and when he got in his car to drive home, he did not believe he was drunk. He states on his way home, he was pulled over and was arrested again for DWI. Respondent states he was very upset with himself and decided to stop drinking completely. Respondent further states he has not had a drink since June 7, 2005.

13. On August 13, 2007, Leticia Medina, Case Manager for Judge Robert S. Anchondo of DWI Drug Court Program, Texas, submitted a letter stating that on or about October 27, 2005, Respondent was placed in a twelve month DWI Drug Court Program and the program was divided into four phases. Each phase was three months long and each phase consisted of different requirements that Respondent needed to successfully complete. Respondent was required to do the following; attend treatment counseling for six months, attend AA meetings, ingest Antabuse medication, perform community service hours, install an interlock device on vehicle, and report to Probation Officer and to the DWI Drug Court review hearing on a weekly basis. On November 3, 2006, Respondent completed and fulfilled all requirements of said program. He continues doing well and they wish him to continue his success.

## 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 of Section 301.452(b)(10), Texas Occupations Code, (effective September 1, 1999); Section 301.452(b)(10), Texas Occupations Code, (effective September 1, 2005); 22 TEX. ADMIN. CODE §217.12(6)(I)&(13); and Section 301.463(d) of the Act provides that the Agreed Order is a Settlement Agreement under Rule 408 of the Rules of Evidence for purposes of civil or criminal litigation.
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 649022, heretofore issued to HENRY VALMANA, 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 RESPONDENT SHALL receive the sanction of a 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.state.tx.us/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. *Information regarding Board-approved courses may be found at the following Board website address:*  
<http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.

(3) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500). 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 ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS 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. 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. 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 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.

(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 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) month period for one (1) year of employment as a nurse.



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 shall 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 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 17 day of September, 2011.  
Henry Valmana  
HENRY VALMANA, Respondent

Sworn to and subscribed before me this 17<sup>th</sup> day of September, 2011.



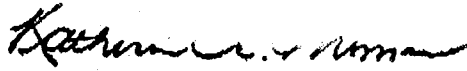
Marlene Duran  
Notary Public in and for the State of Texas

Kenda B. Dalrymple  
KENDA B. DALRYMPLE, Attorney for Respondent

Signed this 21<sup>st</sup> day of Sept., 2011.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 17<sup>th</sup> day of September, 2011, by HENRY VALMANA, Registered Nurse License Number 649022, and said Order is final.

Effective this 27th day of October, 2011.



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