



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 P. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse § AGREED
License Number 709123 §
issued to RICHARD CHARLES MARTINEZ § ORDER

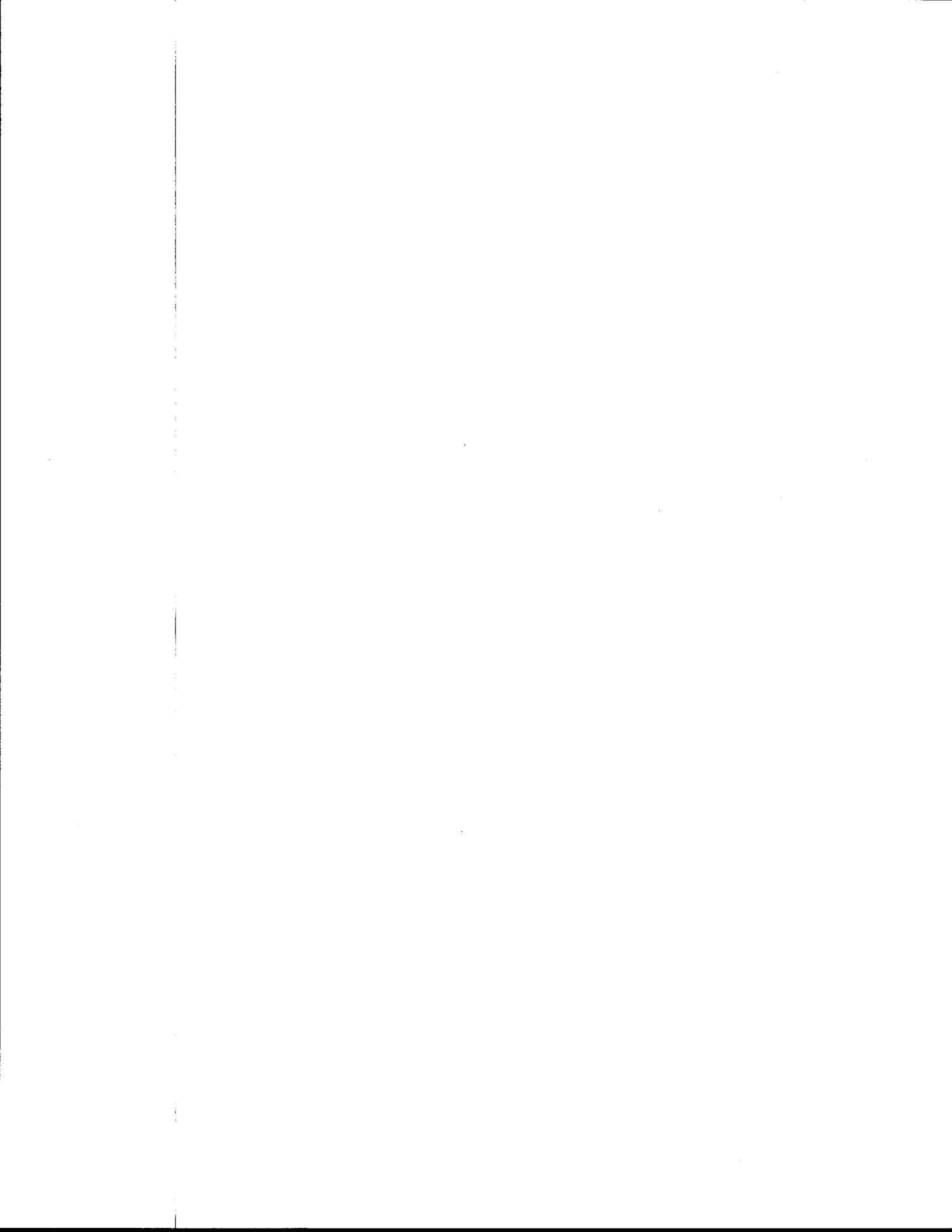
On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of RICHARD CHARLES MARTINEZ, Registered Nurse License Number 709123, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9),(10),(12)&(13), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on May 3, 2011, 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(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 LaBoure College, Boston, Massachusetts, on April 30, 2004. Respondent was licensed to practice professional nursing in the State of Texas on August 19, 2004.
5. Respondent's complete professional nursing employment history includes:

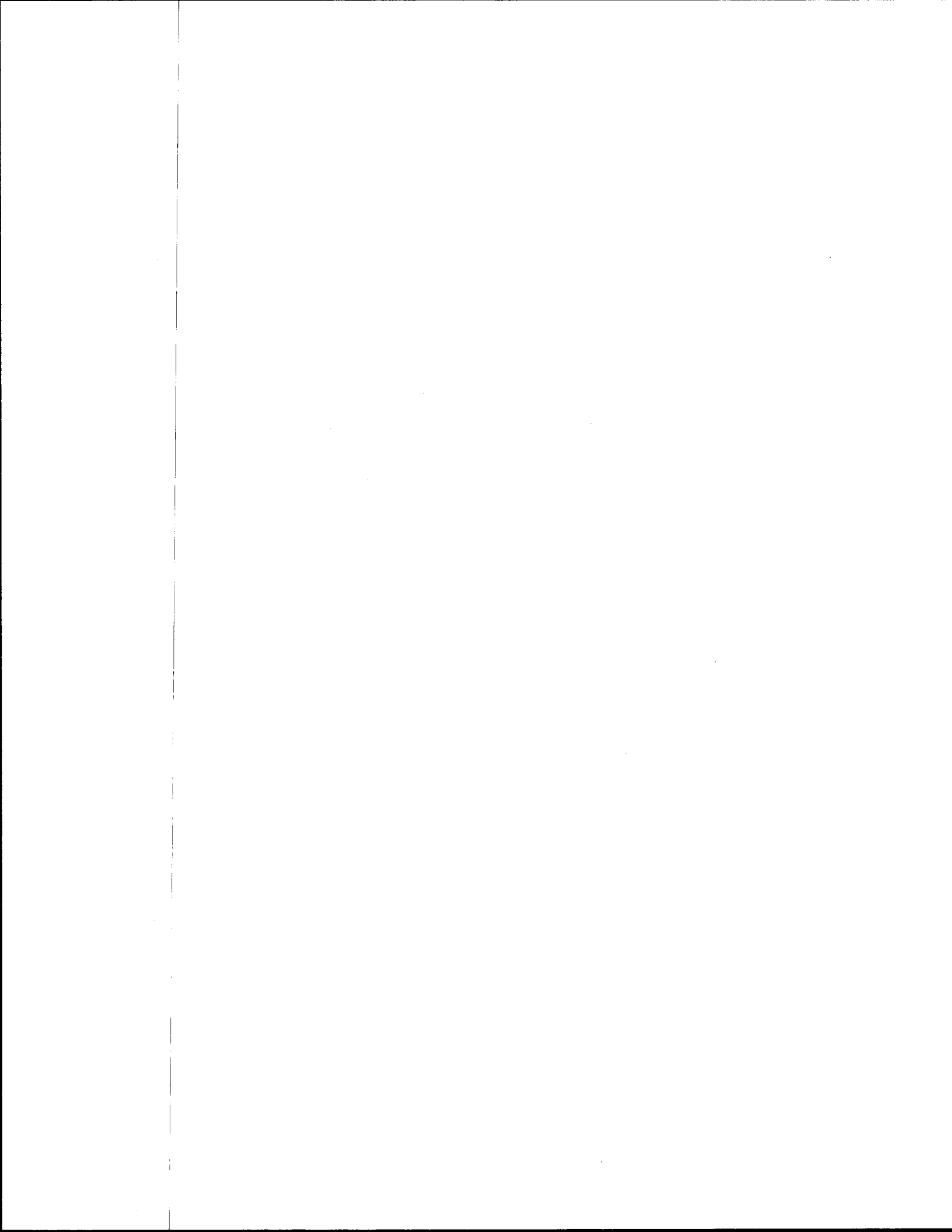
08/04-2006	RN	Tomball Regional Hospital Tomball, Texas
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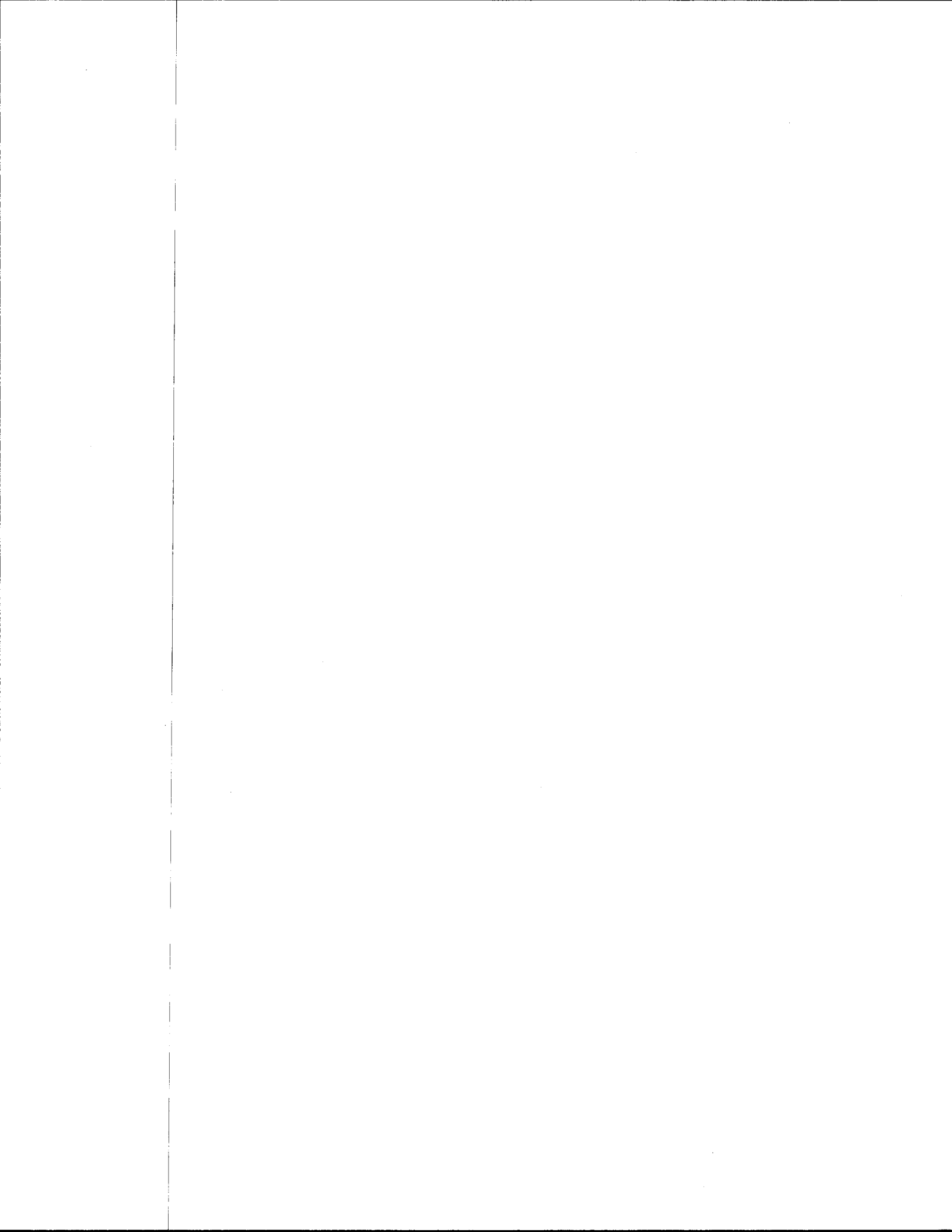
Respondent's complete professional nursing employment history includes (continued):

2006-2007	RN	Abetta Care Travel Nursing North Austin Medical Center Austin, Texas
2007-05/07	RN	Abetta Care Travel Nursing Doctors Regional Medical Center Corpus Christi, Texas
05/07-07/07	RN	All About Staffing St. David's Medical Center Austin, Texas
07/07-04/09	RN	The Hospital at Westlake Medical Center Austin, Texas
04/09-02/10	Unknown	
02/10-Present	Staff RN	WellMed Senior Clinic at Ben White Austin, Texas

6. At the time of the initial incident as stated in Finding of Fact Number Seven (7), Respondent was employed as a Registered Nurse with All About Staffing, Austin, Texas, and assigned to St. David's Medical Center, Austin, Texas, and had been in this position for approximately two (2) months.
7. On or about June 29, 2007, while employed as a Registered Nurse with All About Staffing, Austin, Texas, and assigned at St. David's Medical Center, Austin, Texas, Respondent engaged in the intemperate use of Marijuana, in that he produced a specimen for a drug screen which resulted positive (15 ng/mL) for Marijuana. Possession of Marijuana is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Marijuana by a Registered 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.
8. In Response to Finding of Fact Number Seven (7), Respondent admits to smoking marijuana in the days prior to the submission of a specimen, however, he denies all inferences of intemperate use or of being impaired while providing nursing care at St. David's Medical Center in Austin, Texas, on June 29, 2007. Additionally, Respondent admits to very sporadic marijuana use of the nature of 3 to 4 times a year on weekends only. Respondent states that when he has consumed marijuana in the past he has never been scheduled for a shift the next day and has only smoked at home alone when no other responsibilities are required.



9. At the time of the incident as stated in Finding of Fact Numbers Ten (10) through Twelve (12), Respondent was employed as a Registered Nurse with The Hospital at Westlake Medical Center, Austin, Texas, and had been in this position for approximately eight (8) months.
10. On or about May 4, 2008, through June 5, 2008, while employed as a Registered Nurse with The Hospital at Westlake Medical Center, Austin, Texas, Respondent withdrew Hydrocodone, Hydromorphone, Morphine, and Alprazolam from the Medication Dispensing System for patients, but failed to document or completely and accurately document the administration, including signs, symptoms, and responses to the medications in the patients' Medication Administration Records and/or nurses notes. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on his documentation to further medicate the patient which could result in an overdose.
11. On or about May 4, 2008, through June 5, 2008, while employed as a Registered Nurse with The Hospital at Westlake Medical Center, Austin, Texas, Respondent withdrew Hydrocodone, Hydromorphone, Morphine, and Alprazolam from the Medication Dispensing System for patients but failed to follow the facility's policy and procedures for wastage of any of the unused portions of the medications. Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
12. On or about May 4, 2008, through June 5, 2008, while employed as a Registered Nurse with The Hospital at Westlake Medical Center, Austin, Texas, Respondent misappropriated Hydrocodone, Hydromorphone, Morphine, and Alprazolam from the facility or patients thereof or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
13. On or about July 10, 2008, while employed as a Registered Nurse with The Hospital at Westlake Medical Center, Austin, Texas, Respondent lacked fitness to practice professional nursing, in that Respondent was diagnosed with Polysubstance Dependency. Additionally, Respondent entered and completed the Right Step Intensive Outpatient Program, Austin, Texas. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
14. On or about October 24, 2008, while employed as a Registered Nurse with The Hospital at Westlake Medical Center, Austin, Texas Respondent engaged in the intemperate use of Tramadol, in that he submitted a specimen for a drug screen that resulted positive for Tramadol (>2000 ng/mL). Possession of Tramadol is prohibited by Chapter 48e of the Texas Health and Safety Code (Dangerous Drugs Act). The use of Tramadol by a Registered 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.



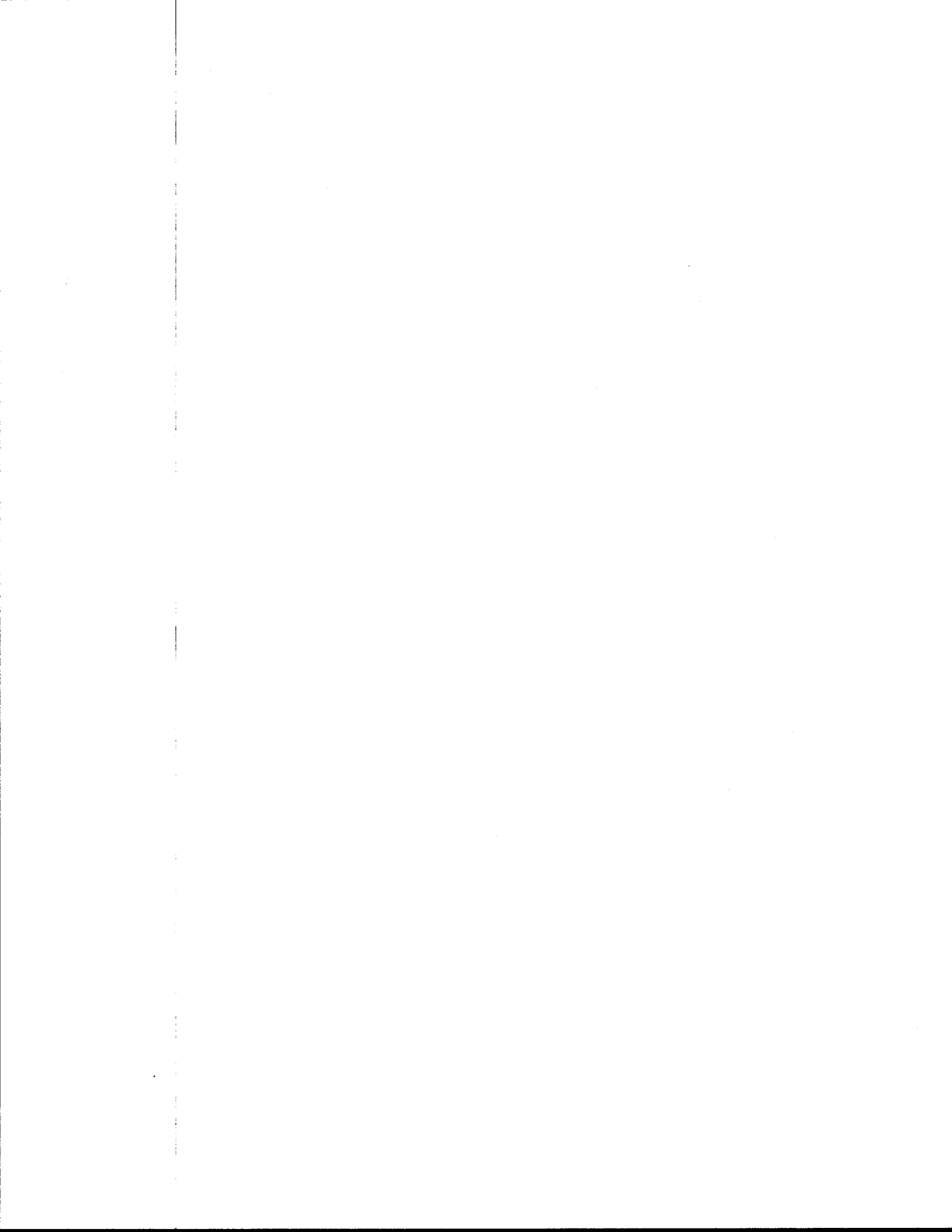
15. In Response to Finding of Fact Number Fourteen (14), Respondent states he inadvertently tested positive after being given a medication described as a "back pill" by his grandmother.
16. On or about April 13, 2009, while employed as a Registered Nurse at The Hospital at Westlake Medical Center, Austin, Texas, Respondent engaged in the intemperate use of alcohol in that he produced a specimen for a drug screen, which resulted positive for Ethyl Glucuronide (2727 ng/mL) and Ehtyl Sulfate (887 ng/mL). The use of alcohol by a Registered 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.
17. Respondent states his date of sobriety as September 10, 2009, as evidenced by random urine drug screens provided to staff of the Texas Board of Nursing showing negative results, from September 10, 2009, to April 14, 2011.
18. 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.

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)(9),(10),(12)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(A)&(D) and 22 TEX. ADMIN. CODE §217.12(1)(A),(B)&(C),(4),(5),(6)(G),(8),(10)(A),(B),(C),&(D)&(11)(B).
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 709123, heretofore issued to RICHARD CHARLES MARTINEZ, 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 Registered Nurse License Number 709123, previously issued to RICHARD CHARLES MARTINEZ, to practice professional nursing in Texas is hereby SUSPENDED for a period of three (3) years with the suspension STAYED and Respondent is hereby placed on



PROBATION for three (3) years with the following agreed terms of probation:

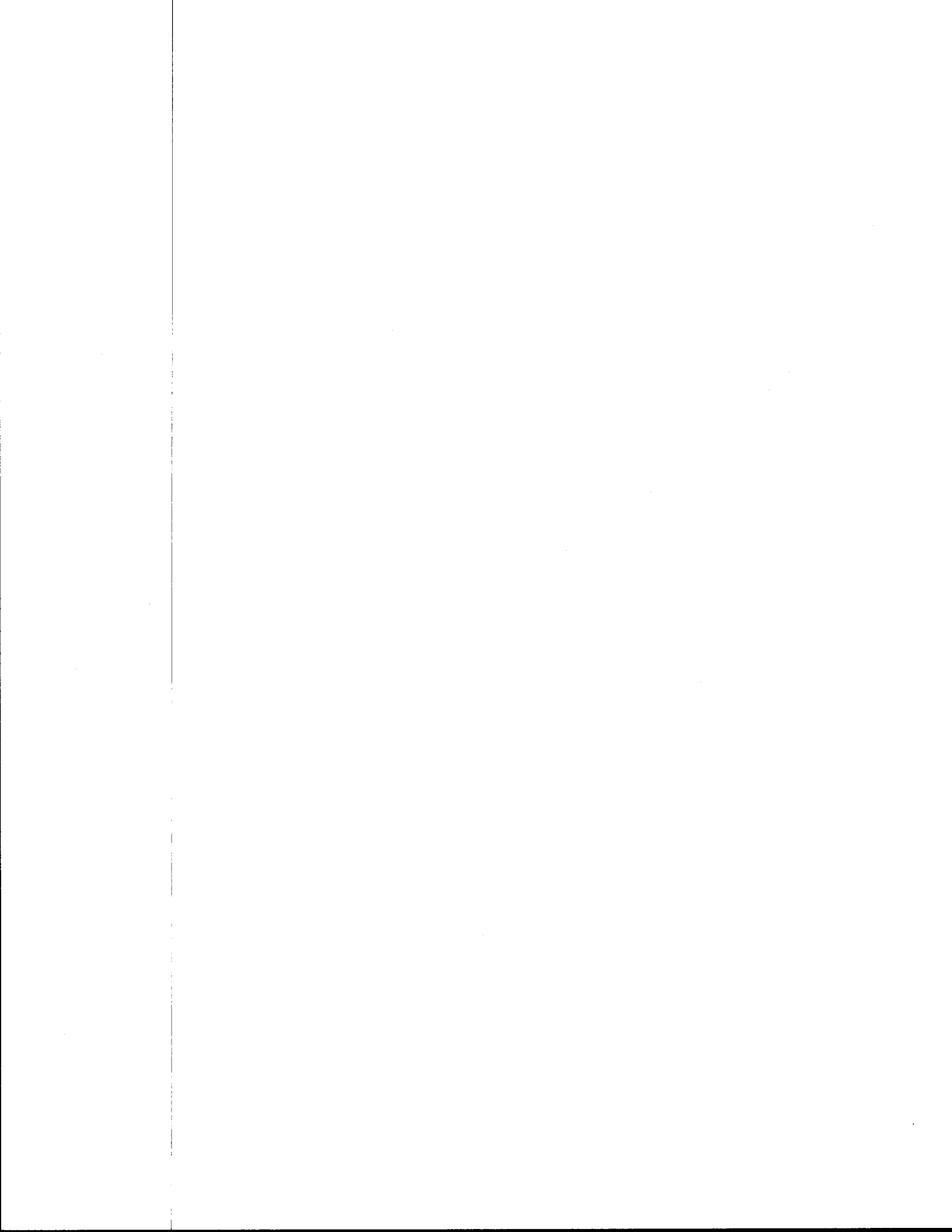
IT IS FURTHER AGREED and ORDERED that, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

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 the 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.

(1) 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.

(2) RESPONDENT SHALL, within one (1) year of the 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.



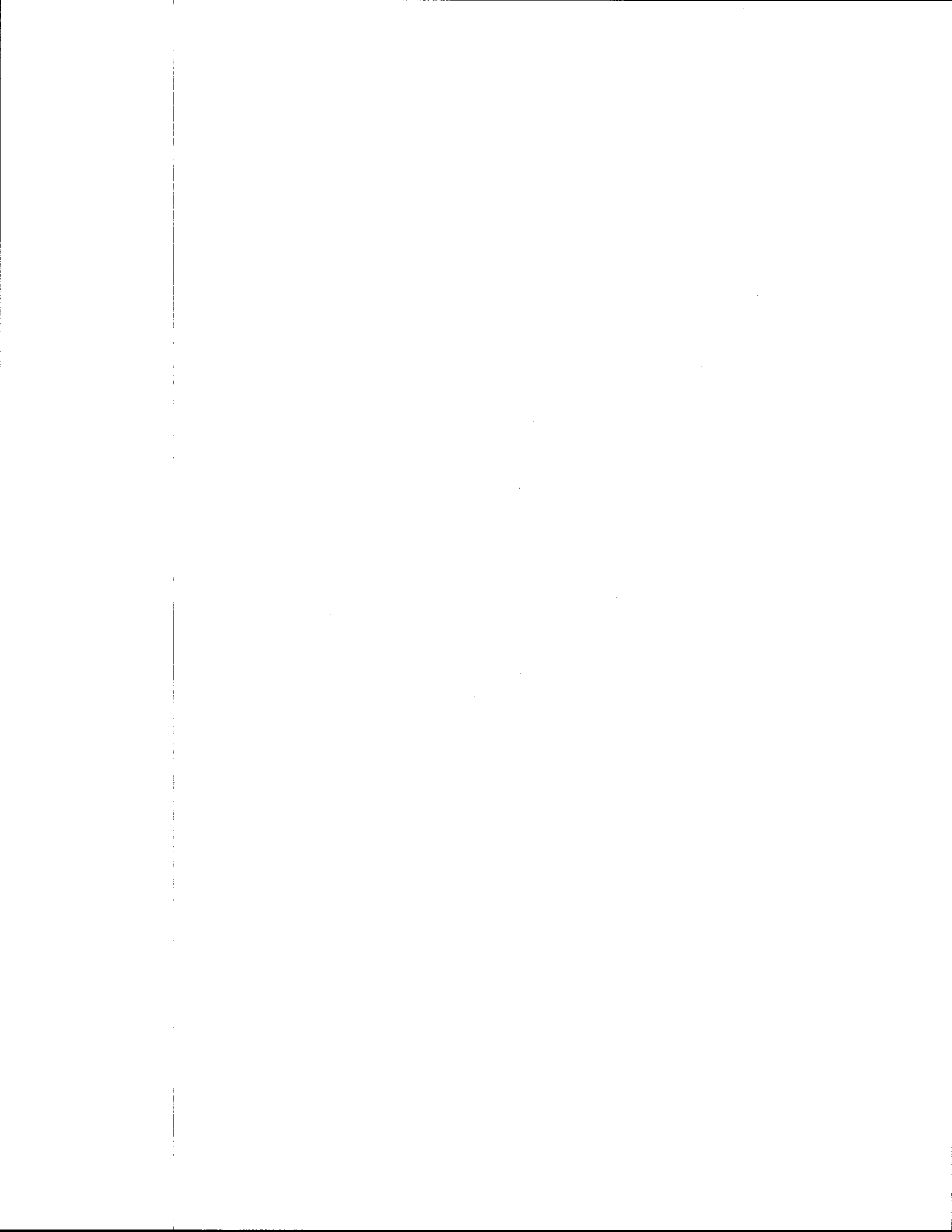
RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if 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>

(3) 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 this workshop may be found at the following web address: <http://www.learningext.com/products/generalce/critical/ctabout.asp>*

(4) RESPONDENT SHALL pay a monetary fine in the amount of seven-hundred and fifty (\$750) dollars. 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 AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR

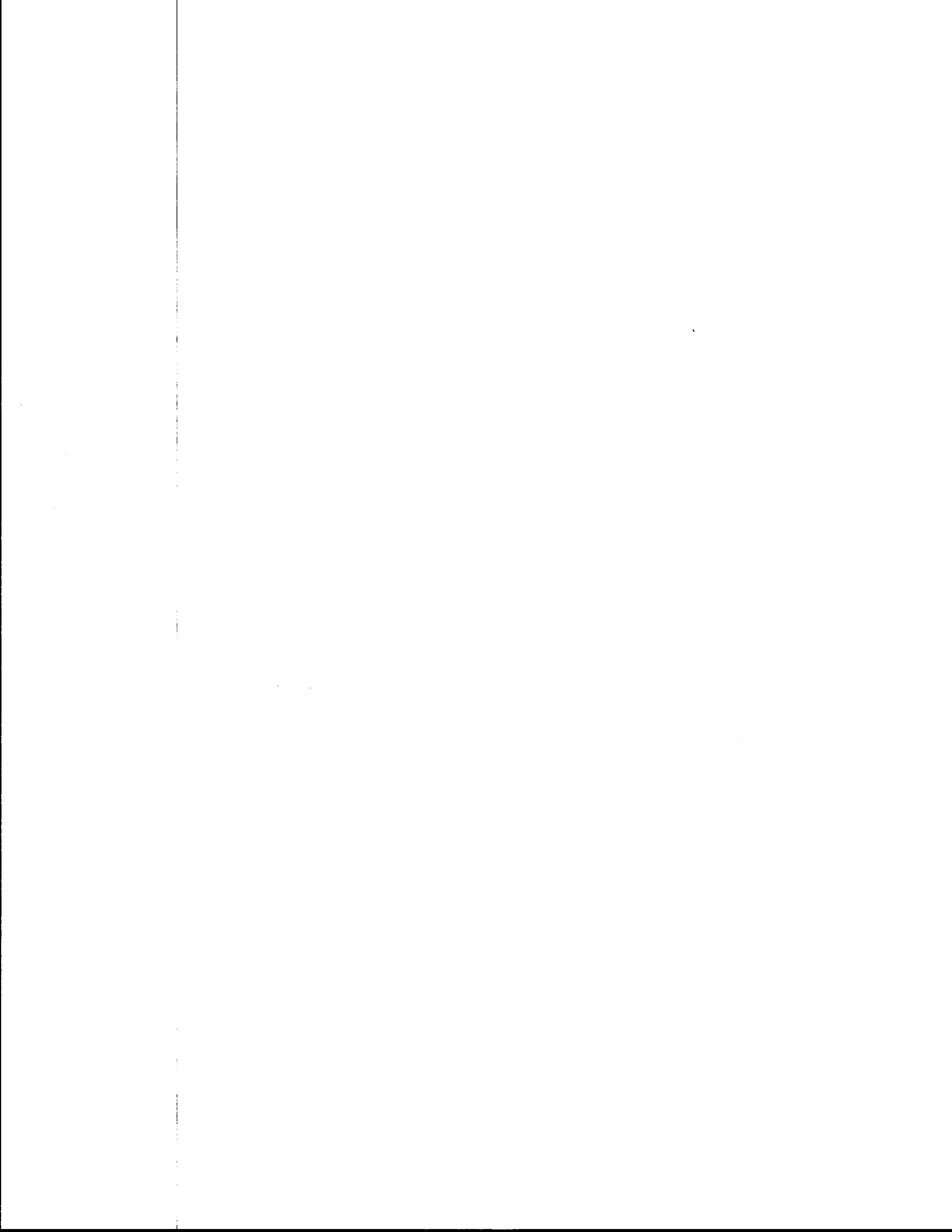


THREE (3) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the probation conditions 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 probation conditions 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.

(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 with the exception of Respondent's current employment as Staff Nurse with WellMed Senior Clinic at Ben White, Austin, Texas, where Respondent's practice may be directly supervised by William B. Inman, MD. Should Respondent's



employment as a Staff Nurse with WellMed Senior Clinic at Ben White, Austin, Texas, cease or change, RESPONDENT SHALL be directly supervised by a Registered Nurse. Direct supervision requires the applicable supervisor 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 who is on the premises, with the exception of Respondent's current employment as Staff Nurse with WellMed Senior Clinic at Ben White, Austin, Texas, where Respondent's practice may be supervised on the premises by William B. Inman, MD. Should Respondent's employment as a Staff Nurse with WellMed Senior Clinic at Ben White, Austin, Texas, cease or change, RESPONDENT SHALL be supervised by a Registered Nurse who is on the premises. The applicable supervisor 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. If being supervised by a nurse, 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 nurse or physician, if applicable, who supervises the RESPONDENT. These reports shall be submitted by the applicable supervisor to the office of the Board at the end of each three (3) month period for three (3) year(s) 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 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.

(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 are the sole method accepted by the Board.

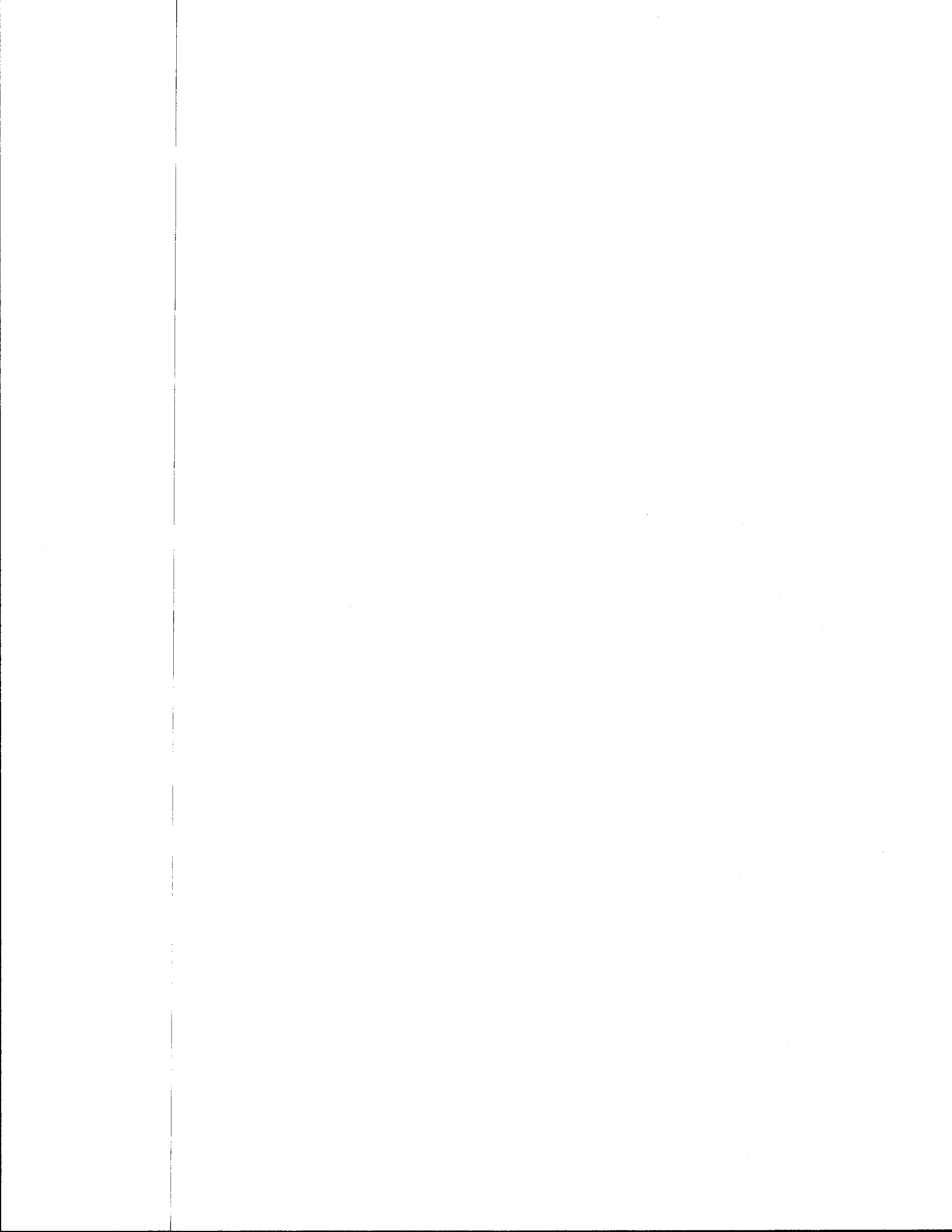
Specimens shall be screened for at least the following substances:

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 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

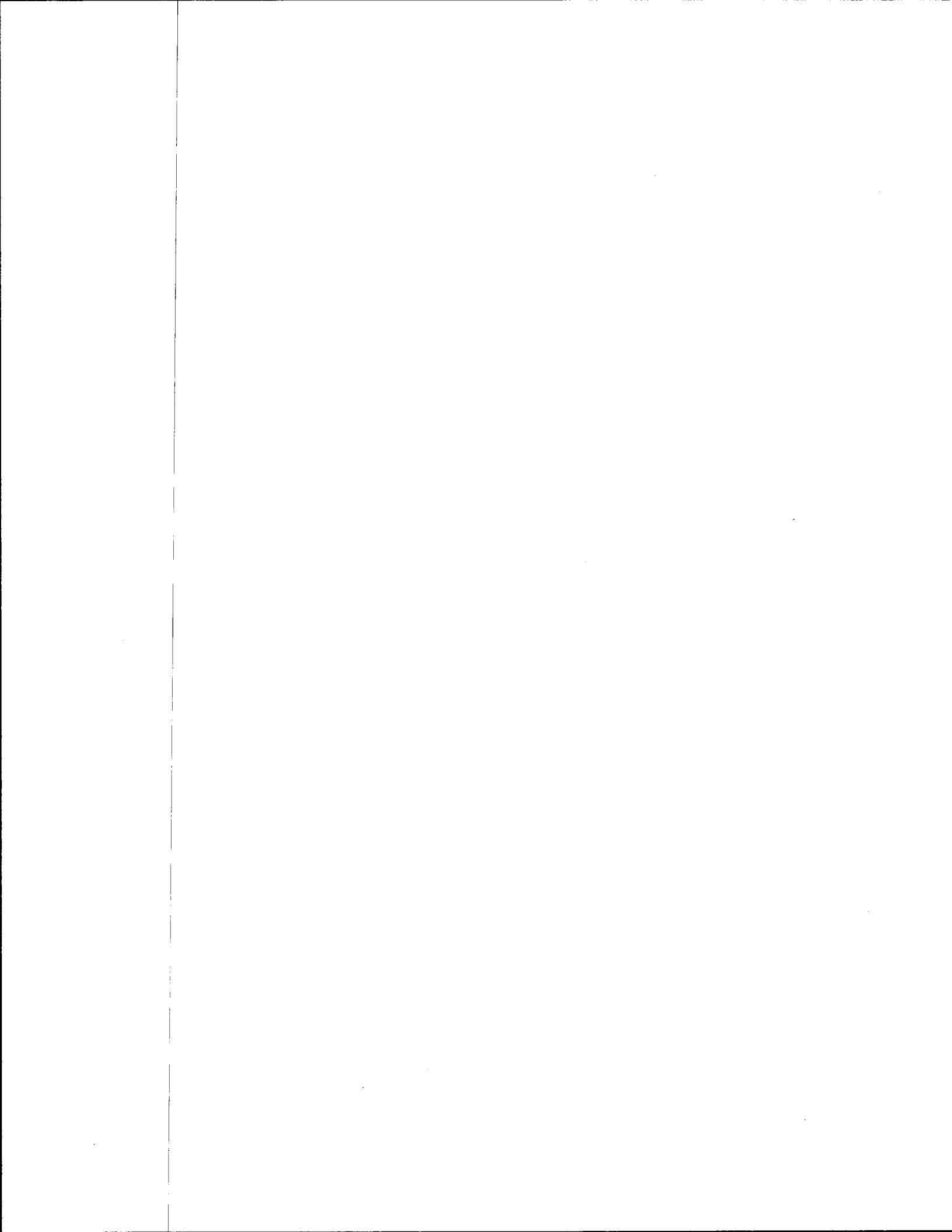


action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

(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) month period. 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(s), 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(s) to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

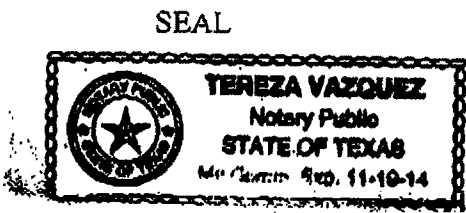


RESPONDENT'S CERTIFICATION

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 14th day of June, 2011.
[Signature]
RICHARD CHARLES MARTINEZ, Respondent

Sworn to and subscribed before me this 14th day of June, 2011



[Signature]
Notary Public in and for the State of Texas.

Approved as to form and substance.

[Signature]
Dan Lype, Attorney for Respondent

Signed this 14th day of June, 2011.



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 14th day of June, 2011, by RICHARD CHARLES MARTINEZ, Registered Nurse License Number 709123, and said Order is final.

Effective this 21st day of July, 2011.



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

