



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 Registered Nurse § AGREED
License Number 667090 §
issued to BART W. PLUMBLEY § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BART W. PLUMBLEY, Registered Nurse License Number 667090, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(2),(3),(9)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on May 5, 2011, 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(s).
2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent holds a license to practice professional nursing in the State of Texas, which is in delinquent status.
4. Respondent received an Associate Degree in Nursing from Community College of Denver, Denver, Colorado, on May 1, 1999. Respondent was licensed to practice professional nursing in the State of Texas on February 17, 2000.
5. Respondent's professional nursing employment history is unknown.

6. On or about June 12, 1986, Respondent entered a plea of guilty and was convicted of INDECENT EXPOSURE (a misdemeanor offense), in the County Court No. 2 of Tarrant County, Texas, under Cause No. 269435. As a result of the conviction, Respondent was ordered to pay a fine and court costs.
7. In response to Finding of Fact Number Six (6), Respondent states: He was involved in an intoxicated dare from drinking buddies that ended up an indecent exposure charge
8. On or about July 10, 1987, Respondent entered a plea to THEFT BY CHECK \$20 (a misdemeanor offense), in the County Court of Dallas County, Texas, under Cause No. MB8702315. As a result, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of six (6) months. Additionally, Respondent was ordered to pay a fine and court costs.
9. In response to Finding of Fact Number Eight (8), Respondent states: This was an oversight due to an empty bank account and poor money management skills.
10. On or about July 10, 1987, Respondent entered a plea to INDECENT EXPOSURE (a misdemeanor offense), in the County Court of Dallas County, Texas, under Cause No. MB8726534. As a result, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of six (6) months. Additionally, Respondent was ordered to pay a fine and court costs.
11. In response to Finding of Fact Number Ten (10), Respondent states: This was childish behavior from an immature young man resulting in an unforeseen outcome.
12. On or about February 17, 2000, Respondent submitted a Temporary License/Endorsement Application 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 question:

"Have you ever been convicted of a crime other than minor traffic violations?"

Respondent failed to disclose that, on or about June 12, 1986, Respondent entered a plea of guilty and was convicted of INDECENT EXPOSURE (a misdemeanor offense), in the County Court No. 2 of Tarrant County, Texas, under Cause No. 269435.
13. In response to Finding of Fact Number Twelve (12), Respondent states: He did contact the Board and consulted his attorney and was informed that misdemeanor violations dating back more than ten years did not need to be disclosed.
14. On or about April 4, 2011, Respondent submitted a License Renewal Form (Delinquent for over 90 days) to the Texas Board of Nursing in which he answered "Yes" to the question:

- Has any licensing authority refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, suspend, placed on probation, refused to renew a nursing license, certificate, or multi-state privilege held by you now or previously, or ever fined, censured, reprimand, or otherwise disciplined you? (You may exclude disciplinary actions previously disclosed to the Texas Board of Nursing on an initial licensure or renewal application).
- In the past 5 years, have you been addicted or treated for the use of alcohol or any other drug? (You may answer "no" if you have completed and/are in compliance with TPAPN).

On or about February 11, 2009, Respondent signed an Agreement to participate in the Nursing Peer Health Assistance or Nurse Alternative to Discipline Program, following his admission of drug abuse. On September 5, 2008, while practicing as a professional nurse at Pagosa Mountain Hospital, he diverted a Carpuject of Lorazepam 2mg/ml and self-injected the Carpuject of Lorazepam while on duty.

15. In response to Finding of Fact Number Fourteen (14), Respondent states: In September of 2008, Respondent diverted medication from his place of employment for personal use. This was a onetime isolated incident, related to significant stressful incidents in his personal life. Respondent was very remorseful about the incident and immediately referred himself to the Colorado Nursing Peer Assistance Program. Respondent has been in the program since October 2008. Respondent is compliant with his rehabilitation, attending 12 step meetings, seeing a therapist and weekly random drug screens. Respondent was having difficulty in April 2008 and voluntarily went to a 40-day residential treatment program which he completed. His sobriety date is April 28, 2010. Respondent is attending AA/NA meetings 5-7 times a week and has completed step 1-9 of the AA/NA program.
16. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
17. 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.
18. Respondent's conduct described in Finding of Fact Number Fourteen (14) was significantly influenced by Respondent's impairment by dependency on chemicals.
19. 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(b)(2),(3),(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(8),(10)(A)&(13).
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 667090, heretofore issued to BART W. PLUMBLEY, including revocation of Respondent's license(s) 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 TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep his license(s) to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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 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 multistate licensure 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, 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 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.

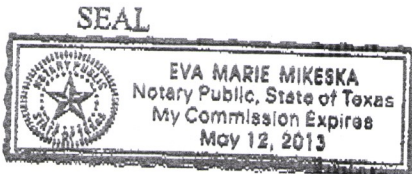
RESPONDENT'S CERTIFICATION

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 Texas Board of Nursing, 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 13 day of May, 202011

Bart W. Plumbley
BART W. PLUMBLEY, Respondent

Sworn to and subscribed before me this 13 day of May, 2011.



Eva Marie Mikeska
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 accept and enter the Agreed Order that was signed on the 11th day of May, 2011, by BART W. PLUMBEEY, Registered Nurse License Number 667090, and said Order is final.



Entered and effective this 13 day of May, 2011.

Katherine A. Thomas

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