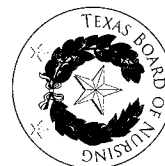


BEFORE THE TEXAS BOARD OF NURSING



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

In the Matter of Registered Nurse License Number 522161 § AGREED
and Vocational Nurse License Number 102147 §
issued to MARIO B. LOPEZ § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board considered the matter of MARIO B. LOPEZ, Registered Nurse License Number 522161, and Vocational Nurse License Number 102147, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(2),(3),(10)&(13), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on June 7, 2009, 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.
2. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent's license to practice vocational nursing is currently in delinquent status. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from El Paso Technical School, El Paso, Texas, on August 16, 1983. Respondent was licensed to practice vocational nursing in the State of Texas on November 30, 1983. Respondent received an Associate Degree in Nursing from El Paso Community College, El Paso, Texas, on June 1, 1984. Respondent was licensed to practice professional nursing in the State of Texas on March 20, 1985.

5. Respondent's vocational and professional nursing employment history includes:

01/84 - 03/88	Staff Nurse	Vista Hills Medical Center El Paso, TX
10/89 - 03/90	Staff Nurse/ House Supervisor	Rio Vista Rehabilitation Center El Paso, TX
09/89 - 07/90	ADON	University Care Center El Paso, TX
04/89 - 05/01	Staff Nurse	Del Sol Medical Center El Paso, TX
05/01 - 05/06	Staff Nurse	El Paso County Jail El Paso, TX
06/06 - Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Prison Health Services, Brentwood, Tennessee, and assigned to El Paso County Jail, El Paso, Texas, and had been in this position for approximately five (5) years.
7. On or about May 23, 2006, while employed as a Registered Nurse with Prison Health Services, Brentwood, Tennessee, and assigned to El Paso County Jail, El Paso, Texas, Respondent engaged in sexual conduct with Inmate L.J. in that he fondled Inmate L.J.'s genitals and attempted to perform oral copulation on Inmate L.J. Respondent's conduct sexually exploited Inmate L.J., which caused emotional harm.
8. In response to Finding of Fact Number Seven (7), Respondent states that he was in an examination room with Inmate L.J. Respondent states that he placed a large Bio-hazard trash container against the door frame to allow the door to be kept ajar, yet provide privacy. Inmate voiced concern regarding a possible hernia in his right testicle due to pain. Respondent states that he assessed both testicles and did not find any signs of hernia and there were no complaints of pain during the assessment. Respondent states that Inmate L.J. then complained that his back was hurting. Respondent, thinking it could possibly be Epididymitis, reassessed both of Inmate L.J.'s testicles. Respondent states that at this time, Inmate L.J. was attempting to push his hand against his penis and was motioning with his mouth, "close the door". Respondent states that he again told Inmate L.J. that there were no signs of a hernia and gave him two sick call slips.

9. On or about May 24, 2006, Respondent was arrested by the El Paso Sheriff's Office, El Paso, Texas, for VIOLATION OF CIVIL RIGHTS PERSON IN CUSTODY (a State Jail Felony offense committed on May 23, 2006).

On or about June 28, 2007, Respondent entered a plea of Guilty to the Lesser Included Offense of ASSAULT AGAINST ELDERLY OR DISABLED INDIVIDUAL (a Class A Misdemeanor offense committed on May 24, 2006), filed in the 346th District Court of El Paso County, El Paso, Texas, under Cause No. 20060D04719. As a result of the guilty plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay a fine and court costs.

On or about September 26, 2007, a Motion for Early Termination of Probation and Dismissal of Cause was entered in the 346th District Court of El Paso County, El Paso, Texas, under Cause No. 20060D04719. On or about November 29, 2007, Respondent's probation was terminated.

10. On or about June 20, 2006, Respondent submitted a License Renewal Form 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 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 your last renewal? This includes expunged offenses and deferred adjudications 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 or MIC's, you must answer "Yes".)

On or about May 24, 2006, Respondent was arrested by the El Paso Sheriff's Office, El Paso, Texas, for VIOLATION OF CIVIL RIGHTS PERSON IN CUSTODY (a State Jail Felony offense committed on May 24, 2006).

11. In response to Finding of Fact Numbers Nine (9) and Ten (10), Respondent states that he was originally indicted for Violation of Civil Rights Person in Custody, Texas Penal Code 39.04, specifically Subsection (a)(2), which was a State Jail Felony. Respondent states that the felony was reduced to a Class A Misdemeanor and that he pled guilty to Assault, Texas Penal Code 22.01, specifically Subsection (a)(1). Respondent states that he was placed on deferred adjudication probation and ninety (90) days after pleading guilty, the assault case was dismissed. Regarding the renewal, Respondent states the he indicated "no" on his renewal because the case had not yet been accepted by the District Attorney's Office for prosecution and it was quite possible that the case could have been declined.

12. On or about April 11, 2009, Respondent underwent a forensic psychological evaluation with John Gonzalez, EdD, Psychologist, Lubbock, Texas. Dr. Gonzalez states that Respondent's psychometric testing and a clinical interview reveal no indication of psycho-pathology or sexual (predator) disorder. Additionally, Dr. Gonzalez states that Respondent should be required to complete a refresher course on all policies, procedures, and ethics required of Nurses by the State of Texas regulations. Furthermore, the Polygraph Examination, conducted by Officer Sutton, reinforces Respondent's tendency not to minimize or conceal information.
13. Formal Charges were filed on January 2, 2009.
14. Formal Charges were mailed to Respondent on January 7, 2009.

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)(2),(3),(10) &(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.11(1)(B)&(J) and 22 TEX. ADMIN. CODE §217.12(6)(C),(D),(E),(H)&(I)&(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 522161 and Vocational Nursing Number 102147, heretofore issued to MARIO B. LOPEZ, including revocation of Respondent's license to practice professional and vocational 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 REPRIMAND 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 this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice professional and vocational nursing in compact states.

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 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 deliver the wallet-sized licenses issued to MARIO B. LOPEZ, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order.

(2) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty (\$250) dollars. 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.

(3) 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>.*

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 STIPULATIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR VOCATIONAL NURSE (LVN) LICENSE 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 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.

(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 two (2) years 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 and RESPONDENT shall be eligible for multistate licensure privileges, if any, to practice nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

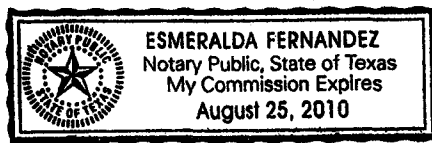
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid 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 to practice professional and vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 18 day of JUNE, 2009.

Mario B. Lopez
MARIO B. LOPEZ, Respondent

Sworn to and subscribed before me this 18th day of June, 2009.

SEAL



Esmeralda Fernandez
Notary Public in and for the State of Texas

Approved as to form and substance.

Paul J. Escobar
PAUL J. ESCOBAR, Attorney for Respondent

Signed this 18th day of June, 2009

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 18th day of June, 2009, by MARIO B. LOPEZ, Registered Nurse License Number 522161 and Vocational Nurse License Number 102147, and said Order is final.

Effective this 23rd day of July, 2009.

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

