BEFORE THE TEXAS BOARD OF NURSING

In the Matter of
Registered Nurse License Number 782225
& Vocational Nurse License Number 165920
issued to HILTON JAY FERGUSON



ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 782225, and Vocational Nurse License Number 165920, issued to HILTON JAY FERGUSON, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

- 1. Respondent is currently licensed to practice professional nursing in the State of Texas. Respondent holds a license to practice vocational nursing in the State of Texas, which is currently in delinquent status.
- 2. Respondent waived representation by counsel, informal proceedings, notice and hearing.
- 3. Respondent received a Certificate in Vocational Nursing from Galen College of Nursing, San Antonio, Texas, on October 30, 1997. Respondent received an Associate Degree in Nursing from Northern Virginia Community College, Annandale, Virginia, on May 14, 2007. Respondent was licensed to practice vocational nursing in the State of Texas on December 11, 1997. Respondent was licensed to practice professional nursing in the State of Texas on March 2, 2010.
- 4. Respondent's complete vocational and professional nursing employment history is unknown.

- 5. On or about January 13, 2010, Respondent was issued the sanction of REMEDIAL EDUCATION WITH A FINE through an Agreed Order by the Texas Board of Nursing. A copy of the Finding of Fact, Conclusions of Law and Order dated January 13, 2010 is attached and incorporated herein by reference as part of this Order.
- 6. On or about March 19, 2013, while employed with Northeast Baptist Hospital, San Antonio, Texas, Respondent obtained a credit card belonging to Patient CN, without the patient's permission, and used it to make an unauthorized purchase at a local department store. Respondent's conduct was deceptive and likely to defraud the patient of monies charged to his/her credit card.
- 7. On or about September 16, 2013, Respondent entered a plea of "Nolo Contendere" to and was convicted of FORG COMM INST/CHECK, a State Jail Felony offense committed on August 31, 2012, in the 227th District Court, Bexar County, Texas, under Cause No. 2013CR3635. As a result of the conviction, Respondent was placed on probation for a period of five (5) years and ordered to pay a fine and court costs.
- 8. On or about September 16, 2013, Respondent entered a plea of "Guilty" to and was convicted of CREDIT/DEBIT CARD ABUSE-ELDERLY, a Third Degree Felony offense committed on March 19, 2013, in the 227th District Court, Bexar County, Texas, under Cause No. 2013CR6861W. As a result of the conviction, Respondent was sentenced to confinement in the Institutional Division of the Texas Department of Criminal Justice (TDCJ), for a period of five (5) years (to run concurrent with Cause No. 2013CR3635); however, the imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of five (5) years, and ordered to pay restitution in the amount of two hundred fifty dollars and seventy-one cents (\$250.71), along with fines and court costs.
- 9. On September 16, 2013, the Respondent agreed to voluntarily surrender the right to practice nursing in the State of Texas. A copy of Respondent's notarized statement, dated September 16, 2013, is attached and incorporated herein by reference as part of this Order.

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(s) of 22 Tex. ADMIN. CODE

§217.12(6)(G)&(13).

- 4. The evidence received is sufficient cause pursuant to Section 301.452(b)(3)&(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 782225, and Vocational Nurse License Number 165920, heretofore issued to HILTON JAY FERGUSON, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
- 5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
- 6. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
- 7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TAC§§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

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ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 782225, and Vocational Nurse License Number 165920, heretofore issued to HILTON JAY FERGUSON, to practice nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

- 1. RESPONDENT SHALL NOT practice vocational and professional nursing, use the title of "vocational nurse" or "registered nurse" or the abbreviation "LVN" or "RN" or wear any insignia identifying himself as a vocational or registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational or registered nurse during the period in which the license is surrendered.
- 2. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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.

Effective this 1st day of October, 2013.

TEXAS BOARD OF NURSING

By:

Katherine A. Thomas, MN, RN, FAAN

Executive Director on behalf

of said Board

License and Authorization Surrender Affidavit		
State of Texas	8	227 District Court
	§ §	District Court
County of Bexed	§	
Before me, the undersigned authority per deposed as follows:	rsonally appea	red the affiant, who being by me duly sworn,
statement, and have personal knowledge	of these facts	I am of sound mind, capable of making this which are true and correct. I wish to state as tions I hold that were issued by the Texas Board
Registered Nurse License Number 4368	and/or V	ocational Nurse License Number
Unlicensed person - I voluntarily by the Texas Department of Insurance.	agree I will no	t ever apply for a license or authorization issued
Licensed person (Initial one Opti-	on Below)	
		cense issued by the Texas Board of Nursing and rany authorization issued by the Texas Board of
Option 2 - I voluntarily agree to surrender any license issued by the Texas Department of Insurance for years from the date of this affidavit. I waive my right to apply for a license or authorization issued by the Texas Board of Nursing for years from the date of this affidavit.		
while I am on deferred adjudication probat	tion or commu	y license issued by the Texas Board of Nursing nity supervision. I waive my right to apply for a Nursing while I am on deferred adjudication or
Further Affiant sayeth not.	ffiant	
SWORN TO AND SUBSCRIBED before	me on this the	16 day of Septense, 2013.
X Venn	YENA YENA	II TANG
Signature of Notary Public	Notary Public My Comm	State of Texotary Stamp) ssion Expires 5, 2016
Defendant: last: Ferguson	fir	st: Filton mi: J
Date of Birth: So	cial Security	

BEFORE THE TEXAS BOARD OF NURSING



Texas Board of Nursing Control of Nursing Control of Nursing Control of Nursing Control of the Board Executive Director of the Board

In the Matter of Vocational Nurse \$ AGREED License Number 165920 \$ issued to HILTON JAY FERGUSON and \$ ORDER APPLICANT for Professional Nurse Licensure \$

On this day the Texas Board of Nursing, hereinafter referred to as the Boconsidered the matter of HILTON JAY FERGUSON, Vocational Nurse License Number 165920, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Article 4528c sec. 10(a)(9), TEX. REV. CIV. STAT. ANN. (effective 9/1/95), Section 302.402(a)(3)&(10) (effective 9/1/99), and Section 301.452(b)(8), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on January 7, 2010, 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 proceedings, notice and hearing, and agreed to the entry of this Order.
- 3. Respondent holds a vocational nursing license in the State of Texas which is in Delinquent status.
- 4. Respondent received a Certificate in Vocational Nursing from the Health Institute of San Antonio, San Antonio, Texas, on October 30, 1997. Respondent was licensed to practice vocational nursing in the State of Texas on December 11, 1997. Respondent graduated with

an Associate Degree in Nursing from Northern Virginia Community College, Springfield, Virginia, on May 14, 2007.

- 5. Respondent's complete vocational nursing employment history is unknown.
- 6. On or about May 31, 1996, Respondent entered a plea of Guilty to ASSAULT BODILY INJURY-MARRIED, in the County Court at Law No. 9 of Bexar County, San Antonio, Texas, under Cause No. 634072. 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 one (1) year. Additionally, he was ordered to pay a fine and court costs.
- 7. On or about July 14, 2000, Respondent entered a plea of Nolo Contendere and was convicted of FORGE WRITING (a misdemeanor offense), in the County Court at Law No. 1, of Bexar County, San Antonio, Texas, under Cause No. 756644. As a result of the conviction, Respondent was sentenced to confinement in the Bexar County Jail facility for a period of one hundred seventy (170) days; however, the imposition of the sentence of confinement was suspended and Respondent was placed on probation for a period of one (1) year. Additionally, he was ordered to pay a fine and court costs.
- 8. On or about June 12, 2008, Respondent's license to practice practical nursing in the State of Virginia was issued the sanction of a MONETARY PENALTY of \$300 by the Virginia Department of Health Professions, Alexandria, Virginia. A copy of the Findings of Fact, Conclusions of Law and Agreed Order, dated June 12, 2008, is attached and incorporated by reference as part of this Order.
- 9. Formal Charges were filed on January 5, 2010.
- 10. Formal Charges were mailed to Respondent on January 6, 2010.

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 Article 4528c sec. 10(a)(9), TEX. REV. CIV. STAT. ANN (effective 9/1/95).
- 4. The evidence received is sufficient to prove violation of Section 302.402(a)(3)&(10), Texas Occupations Code, (effective 9/1/99), and 22 TEX. ADMIN. CODE §239.11(29)(A)(iii)(effective until 1/31/04).

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- 5. The evidence received is sufficient to prove violation of Section 301.452(b)(8), Texas Occupations Code.
- 6. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 165920, heretofore issued to HILTON JAY FERGUSON, including revocation of Respondent's license to practice 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 REMEDIAL EDUCATION WITH A FINE, 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 RESPONDENT is CONDITIONALLY ELIGIBLE to sit for the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination). IT IS FURTHER ORDERED that RESPONDENT, upon attaining a passing grade on the NCLEX-RN®, shall be issued a license to practice professional nursing in the State of Texas which shall bear the appropriate notation. RESPONDENT SHALL NOT be eligible for temporary authorization to practice as a Graduate Nurse in the State of Texas.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice 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 is sued to HILTON JAY FERGUSON to the office of the Texas Board of Nursing within ten (10) days of the date of ratification of this Order.
- (2) RESPONDENT SHALL pay a monetary fine in the monitoring fee 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.
- (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, 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 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 vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 2th day of January, 2010.

HILTON JAY FERGUSON, Respondent

Sworn to and subscribed before me this 12th day of

Notary Public in and for the State of



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 12th day of January, 2010, by HILTON JAY FERGUSON, Vocational Nurse License Number 165920, and APPLICANT for Professional Nurse Licensure, and said Order is final.



Effective this 13th day of January, 2010.

Katherine A. Thomas, MN, RN Executive Director on behalf

of said Board

VIRGINIA

BEFORE THE BOARD OF NURSING

IN RE:

HILTON J. FERGUSON, L.P.N. APPLICANT

ORDER

Pursuant to §§ 2.2-4019, 2.2-4021 and 54.1-2400(7) of the Code of Virginia (1950), as amended, ("Code"), an informal conference was held before an Informal Conference Committee of the Board of Nursing ("Committee") on May 19, 2008, in Henrico County, Virginia, to receive and act upon the application of Hilton J. Ferguson for licensure by endorsement as a practical nurse in the Commonwealth of Virginia; to consider his eligibility to take the NCLEX-RN examination; and to inquire into evidence that he may have violated certain laws and regulations governing practical nursing practice in Virginia. Mr. Ferguson was present and was not represented by legal counsel.

Upon consideration of the evidence presented, the Committee adopted the following Findings of Facts and Conclusions of Law.

FINDINGS OF FACT

- 1. By application received January 25, 2008, Hilton J. Ferguson applied for licensure by endorsement as a practical nurse in the Commonwealth of Virginia.
- 2. On July 14, 2000, in Bexar County, Texas, Mr. Ferguson pled Nolo Contendere and was convicted of misdemeanor forge writing.
- 3. On December 11, 1997, Mr. Ferguson obtained initial licensure to practice practical nursing in the State of Texas. In December 2003, he was licensed by endorsement in the State of South Carolina. On October 17, 2006, he submitted an application for employment at Inova Alexandria Hospital ("Inova"), Alexandria, Virginia, under his nurse compact license. On his application for employment, Mr. Ferguson failed to disclose his criminal conviction. He was hired to practice practical

nursing at Inova on November 13, 2006.

- 4. On May 15, 2007, Mr. Ferguson graduated from Northern Virginia Community College with an AAS in Nursing. On May 25, 2007, he submitted to the Virginia Board an Application for Licensure by Examination Registered Nurse ("Application #1"), and declared Virginia as his primary state of residence for purposes of the RN licensure. On Application #1, he failed to disclose his criminal conviction, and failed to disclose that he was licensed to practice practical nursing in the State of South Carolina. On June 3, 2007, Inova promoted Mr. Ferguson to a RNA position pending his taking and successfully passing the examination. On June 25, 2007, he took the NCLEX-RN exam. On July 31, 2007, he was notified that he had not passed the examination. In or around August/September 2007, Mr. Ferguson presented to Inova a NCLEX Candidate Report which falsely stated that he had passed the exam. Based on Mr. Ferguson's representation, Inova allowed him to continue to practice as a Registered Nurse.
- 5. On August 30, 2007, Mr. Ferguson submitted an Application for Licensure by Repeat Examination for Registered Nurse ("Application #2"). He failed to disclose his criminal conviction on Application #2. On September 12, 2007, he took the NCLEX-RN exam. On September 20, 2007, Mr. Ferguson was notified that he had not passed the examination. Upon questioning by Inova staff, he maintained that he had passed the examination in June 2007, but had not received his license from the Board of Nursing. Based on Mr. Ferguson's representation, Inova allowed him to continue to practice as a Registered Nurse.
- 6. On November 13, 2007, Mr. Ferguson submitted an Application for Licensure by Repeat Examination for Registered Nurse ("Application #3"). He failed to disclose his criminal conviction on Application #3. On or about November 19, 2007, upon questioning by Inova staff, Mr. Ferguson again presented the fraudulent NCLEX Candidate Report. Inova transferred him to a practical nursing position

pending receipt of a license from the Board, and further investigation. On December 3, 2007, his employment was terminated. On December 26, 2007, Mr. Ferguson was notified that he had not passed the examination.

- 7. On January 23, 2008, Mr. Ferguson submitted to the Board a Declaration of Primary State of Residence for Purpose of Nurse Licensure Compact Licensed Practical Nurse. On January 22, 2008, in an interview with an investigator for the Department of Health Professions, Mr. Ferguson stated that he was working for a physician's office but had not informed his employer of his licensure status. Mr. Ferguson did not submit an Application for Licensure by Endorsement Licensed Practical Nurse, until January 25, 2008, approximately 1 year and 2 months after beginning to practice nursing in Virginia.
- 8. Mr. Ferguson admitted that he knowingly practiced as a Registered Nurse Applicant/Registered Nurse without being properly licensed and acknowledged his mistake in doing so.
 - 9. While employed at Inova, Mr. Ferguson had satisfactory job performance evaluations.
- 10. Mr. Ferguson stated that he was active in the military and living in Virginia when he began nursing practice in Virginia. He stated that nursing school was part of his military "job," but that Texas was his home state. He stated that because he was in the military system, he was unaware that he needed to declare Virginia as his primary state and make application for licensure by endorsement. He did not make Virginia his home state until after completing his nursing program, and transferring from active duty to the reserves.

CONCLUSIONS OF LAW

- 1. Finding of Fact #2 constitutes a violation of § 54.1-3007(4) of the Code.
- 2. Finding of Fact #3 constitutes a violation of § 54.1-3007(2) of the Code and 18 VAC 90-20-300(A)(2)(e) of the Board of Nursing Regulations ("Regulations").
 - 3. Finding of Fact #4 constitutes a violation of § 54.1-3007(1), (2), (3) and (5), and 54.1-

3008(A)(1), (2) and (4) of the Code and 18 VAC 90-20-190(G)(1) and (H)(1), and 90-20-300(A)(1)(b), and 90-20-300(A)(2)(a), (b) and (e) of the Regulations.

- 4. Finding of Fact #5 constitutes a violation of § 54.1-3007(1), (2), (3) and (5), and 54.1-3008(A)(1), (2) and (4) of the Code and 18 VAC 90-20-190(G)(1) and (H)(1), and 90-20-300(A)(2)(a) and (b) of the Regulations
- 5. Finding of Fact #6 constitutes a violation of § 54.1-3007(1), (2), (3) and (5), and 54.1-3008(A)(1), (2) and (4) of the Code and 18 VAC 90-20-190(G)(1) and (H)(1), and 90-20-300(A)(2)(a) of the Regulations.
- 6. Finding of Fact #7 constitutes a violation of § 54.1-3007(3) and 54.1-3008(A)(2) of the Code and 18 VAC 90-20-181 of the Regulations.
- 7. The Committee concludes that Mr. Ferguson otherwise meets the requirements of § 54.1-3020 of the Code.

ORDER

On the basis of the foregoing, the Virginia Board of Nursing hereby ORDERS that:

- 1. Hilton J. Ferguson shall pay a MONETARY PENALTY of Three Hundred Dollars (\$300) to the Board within thirty (30) days of the date this Order is entered.
- 2. Upon receipt of the monetary penalty, the Board shall APPROVE the application of Hilton J. Ferguson for licensure by endorsement to practice practical nursing.
- 3. Further, after receipt of the monetary penalty and at such time as Hilton J. Ferguson may submit an Application for Licensure by Repeat Examination for Registered Nurse, and if he meets all criteria to take the Examination, said Application shall be approved unless there is any pending or unresolved allegation. Upon successful completion of the NCLEX-RN examination, Mr. Ferguson shall be issued an unrestricted license to practice as a professional nurse in the Commonwealth, unless there is a

pending or unresolved allegation.

4. Hilton J. Ferguson shall maintain a course of conduct in his capacity as a practical nurse commensurate with the requirements of § 54.1-3000 et seq. of the Code and the Board of Nursing Regulations.

Pursuant to §§ 2.2-4023 and 54.1-2400.2 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as public record and shall be made available for public inspection or copying on request.

If Mr. Ferguson does not consent to the Committee's decision and desires a hearing before the Board or a panel thereof, he shall notify Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, in writing at the Board of Nursing, Perimeter Center, 9960 Mayland Drive, Richmond, Virginia 23233, within thirty-three (33) days from the date of entry of this Order. This Order shall become final upon the expiration of the thirty-three (33) day period unless a request for a formal hearing is received within such time. Upon receiving timely request for a hearing, the Board or a panel thereof shall then proceed with a hearing as provided in §§ 2.2-4020 and 2.2-4021 of the Code.

FOR THE BOARD

Jay P. Douglas, R.N. M.S.M., E.S.A.

Executive Director for the

Board of Nursing

Entered.

Certificate of Service

I hereby certify that a true copy of the foregoing Order was mailed on this date to Hilton J. Ferguson, L.P.N., at 7309 Glenwood Mews Court, Alexandria, Virginia 22315.

Jay P. Douglas, R.N. M.S.M., C.S.A.C.

Executive Director for the

Board of Nursing

DATE