



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. Parnham
Executive Director of the Board

DOCKET NUMBER 507-13-3980

**IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 199357
ISSUED TO
FREDDIE MARTINEZ**

**§
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§
§**

**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

OPINION AND ORDER OF THE BOARD

**TO: FREDDIE MARTINEZ
7327 APASTRON HAZE
SAN ANTONIO, TX 78252**

**BETH BIERMAN
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701**

At the regularly scheduled public meeting on October 17-18, 2013, the Texas Board of Nursing (Board) considered the following items: (1) Order Number 2, *Dismissing Case*, issued by the ALJ in the above cited matter; (2) Staff's recommendation that the Board revoke the Respondent's vocational nursing license by default; and (3) Respondent's recommendation to the Board regarding the above cited matter, if any.

On June 6, 2013, the ALJ convened a hearing on the merits in this matter. Staff of the Board was present for the hearing. However, the Respondent was not present at the hearing, and no one appeared on his behalf. During the hearing on June 6, 2013, Staff introduced evidence into the record demonstrating that Respondent had been sent a Notice of Final Hearing by first class certified mail return receipt requested to his last known address of record maintained by the Board in accordance with 22 Tex. Admin. Code §213.10(a). The ALJ found that Staff's notice was adequate and issued Order No. 2, granting Staff's Motion for Default and dismissing the case from the docket of SOAH and remanding it to the Board for informal disposition on a default basis in accordance with the Government Code §2001.056.

The Board, after review and due consideration of Order Number 2, *Dismissing Case*, issued by the ALJ in the above cited matter, finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with the Government Code §2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Occupations Code Chapter 301 (Nursing Practice Act) for retention of Respondent's license to practice vocational nursing in the State of Texas. The Board further finds that the Formal Charges were properly initiated and filed in accordance with the Occupations Code §301.458. The Board further finds that proper and timely notice regarding the violations alleged in the Formal Charges was given to Respondent in accordance with the requirements of the Government Code §2001.051 and §2001.052 and 1 Tex. Admin. Code §155.501. The Board further finds that the Respondent failed to appear in accordance with 22 Tex. Admin. Code Chapter 213 and 1

Tex. Admin. Code §155.501. As a result of the Respondent's failure to appear, the Board has determined that the factual allegations listed in the Formal Charges are to be deemed admitted by default and the Board is authorized to enter a default order against the Respondent pursuant to the Government Code §2001.056 and 22 Tex. Admin. Code §213.22. Further, the Board has determined that it is entitled to revoke the Respondent's vocational nursing license pursuant to 22 Tex. Admin. Code §213.33(m).

Therefore, the Board hereby adopts the factual allegations, which have been deemed admitted, and the conclusions of law contained in the Formal Charges, which are attached hereto and incorporated herein by reference for all purposes, and Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing in accordance with the Government Code Chapter 2001 and 22 Tex. Admin. Code §213.23(l), as applicable. All parties have a right to judicial review of this Order. All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.


IT IS, THEREFORE, ORDERED THAT Permanent Certificate Number 199357, previously issued to FREDDIE MARTINEZ, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privileges, if any, to practice nursing in the State of Texas.

FURTHER, pursuant to the Occupations Code §301.467, RESPONDENT is not eligible to petition for reinstatement of licensure until at least one (1) year has elapsed from the date of this Order. Further, upon petitioning for reinstatement, RESPONDENT must satisfy all then existing requirements for relicensure.

Entered this 18th day of October, 2013.

TEXAS BOARD OF NURSING


KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR FOR THE BOARD

Attachment: Formal Charges

In the Matter of § BEFORE THE TEXAS
Permanent Vocational Nurse §
License Number 199357 §
Issued to FREDDIE MARTINEZ, §
Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, FREDDIE MARTINEZ, is a Vocational Nurse holding License Number 199357, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about January 22, 2013, Respondent was noncompliant with the Agreed Order issued to him by the Texas Board of Nursing on November 13, 2012. Noncompliance is the result of Respondent's failure to pay a fine in the amount of two hundred fifty (\$250) dollars. Stipulation Number Four (4) of the Agreed Order dated November 13, 2012, states, in pertinent part:

"(4) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty (\$250.00) dollars. RESPONDENT SHALL pay this fine within forty-five (45) days of entry of the suspension being stayed."

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) & (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

CHARGE II.

On or about February 19, 2013, Respondent was noncompliant with the Agreed Order issued to him by the Texas Board of Nursing on November 13, 2012. Noncompliance is the result of Respondent's failure to abstain in that he submitted a specimen for a drug screen which resulted positive for Marijuana. Stipulation Number Nine (9) of the Agreed Order dated November 13, 2012, states, in pertinent part:

"(9) 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."

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) & (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(10)(A)(D) & (11)(B).

CHARGE III.

On or about March 2, 2013, Respondent was noncompliant with the Agreed Order issued to him by the Texas Board of Nursing on November 13, 2012. Noncompliance is the result of Respondent's failure to submit a quarterly nursing performance report. Stipulation Number Seven (7) of the Agreed Order dated November 13, 2012, states, in pertinent part:

"(8) 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 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."

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) & (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

CHARGE IV.

On or about April 9, 2013, Respondent was non-compliant with the Agreed Order issued to him by the Texas Board of Nursing on November 13, 2012. Non-compliance is the result of Respondent's failure to abstain in that he submitted a specimen for a drug screen which resulted positive for Cocaine. Stipulation Number Nine (9) of the Agreed Order dated November 13, 2012, states, in pertinent part:

"(9) 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."

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) & (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(10)(A)(D) & (11)(B).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33 and TEX. OCC. CODE Ch. 53. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.texas.gov.

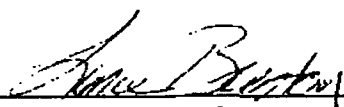
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Guidelines for Criminal Conduct and on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, and for Lying and Falsification, which can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.texas.gov/disciplinaryaction/discp-matrix.html.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order dated November 13, 2012.

Filed this 26th day of April, 2013.

TEXAS BOARD OF NURSING


James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Abel, Assistant General Counsel
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TEXAS BOARD OF NURSING
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6811
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Attachments: Order of the Board dated November 13, 2012

D/2012.06.19



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 § AGREED
Vocational Nurse License Number 199357 §
issued to FREDDIE MARTINEZ § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of FREDDIE MARTINEZ, Vocational Nurse License Number 199357, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(2),(3)&(10),(effective 9/1/2003), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on August 7, 2012, by Katherine A. Thomas, MN, RN, FAAN, 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 representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Galen Health Institute, San Antonio, Texas, on June 23, 2005. Respondent was licensed to practice vocational nursing in the State of Texas on July 19, 2005.
5. Respondent's nursing employment history is unknown.

6. On or about April 5, 2005, Respondent submitted an Application by NCLEX-PN Examination for Licensed Vocational Nurses to the Board of Vocational 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 been convicted, adjudicated 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)? This includes expunged offenses and deferred adjudications with or without prejudice of guilt. Please note that DUIs, DWIs, 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".)"

Respondent failed to disclose that, on or about September 13, 1999, Respondent entered a plea of Guilty and was adjudged Guilty, of the following Charges and Specifications during a General Court-Martial, convened under the authority of Action and Order No. 1-00, at the Joint Law Center, Marine Corps Air Station, Cherry Point, North Carolina:

Charge I: Violation of the UCMJ Art. 107
Specification: False Official Statement

Charge II: Violation of the UCMJ Art. 112a
Specification 1: Wrongful use of LSD
Specification 2: Wrongful possession of LSD
Specification 3: Wrongful distribution of LSD
Specification 4: Wrongful use of LSD
Specification 5: Wrongful possession of LSD
Specification 6: Wrongful distribution of LSD
Specification 7: Wrongful use of LSD
Specification 8: Wrongful use of marijuana
Specification 9: Wrongful use of marijuana

Additional Charge I: Violation of the UCMJ Art. 112a
Specification: Wrongful introduction of LSD

As a result of his guilty plea, Respondent was sentenced to confinement for four (4) years, with all confinement in excess of twenty-two (22) months suspended for two (2) years, ordered to forfeit all pay and allowances, reduction to pay grade E-1, and was discharged with a bad conduct discharge.

7. In response to Finding of Fact Number Six (6), Respondent states that about fifteen years ago, he found out who his father was. The method in which he found out was his mother

told him over the phone that his dad was in a coma. He knew this man all his childhood but he never knew he was his father. At the time he was stationed in Okinawa, Japan. So, he was granted leave and upon seeing this man as his father for the first time is something that will live with him for ever. As he walked into the room he was walking in with the intentions of telling this man that he did not need him and that he had become something even without his help or having him ever there for him. Things didn't go as he thought because when he saw him he fell to his knees and asked for his forgiveness. He was laying on a bed on a ventilator and head tubes coming out of his nose, mouth and more out his arms. His body was swollen from ant bites because he was found in his house 2 days laying with ant bites all over him as they were trying to eat him alive. He stayed with his dad for hours asking and praying that God would just give them a chance. He so longed for him to be a part of his life. He always wanted a dad but never had one so this was his chance to finally have one. His dream was short lived because he passed a way a few months later. So he didn't get his chance to have a dad and this is when all his problems began. He was stationed in Cherry Point, NC, and he met some fellow marines whom at the time he considered friends. He was so down and depressed that he couldn't handle things. So one night they introduced him to a different life style and at the time it felt good because it made his feelings and depression disappear. He became dependent on this and used it like it used him. It wasn't until he confessed his sins and paid for his sins that he realized he didn't need this drug that all he truly needed was the love of his family and God. It opened his eyes and made him truly appreciate life. So, he wanted to do something that his father would be proud of and he thought of that day he met him as his father again and that's when it hit him. He wanted to give of himself of all that he had learned and gone through and make a positive impact in someone's life. So, he chose to become a nurse. He did the research and went through school and did all that he had to in order to become a nurse.

8. On March 2, 2012, Respondent was seen by Troy Martinez, Psy.D., to undergo a Chemical Dependency Evaluation. Dr. Martinez states the following: Mr. Freddie Martinez is a 34 year old male referred for chemical dependency evaluation by the TBON. He has been a LVN since July 2005. Mr. Martinez describes a relatively unremarkable upbringing but for a few incidents of sexual abuse as a preteen. He then enlisted in the Marine Corps at age 18 and was then confronted with a highly stressful situation at age 19 when first learning the true identity of his biological father who was in a coma following years of alcohol abuse and found unconscious covered in ants leading to hospitalization. Mr. Martinez was granted temporary leave from the Marine Corps to visit with his father and describes a very intense, complex emotional reaction after learning about his father's identity and the circumstances of doing so. This event would have a significant destabilizing influence on his young life, aggravated further by his father's failure to medically recover then death, which culminated in a downward spiral for Mr. Martinez after an uneventful military career to that point. Gravitating now to substance abusing military peers, he began an unhealthy pattern of altering unpleasant/intolerable mood states through the use of illegal drugs, which also included the sharing/distribution of drugs within this fairly small group of fellow marines. This group collectively was arrested and prosecuted through military court and all were discharged, in Mr. Martinez's case following an 18 month incarceration. His failure to

disclose to the Board a DUI arrest (later dismissed) and felony conviction for drug possession and distribution seem to reflect a naive understanding of criminal records in the wake of being advised that his Federal/Military record would be undiscoverable, which he now understands and regrets. Denying illicit drug use during the past 13 years of his life (and no additional information to contradict this), there is no compelling evidence of drug dependence or drug misuse for more than a decade. His status/classification regarding alcohol abuse/dependence is less clear. What is most obvious is a history of alcohol misuse and abuse, with most problematic use occurring while in the military and reflected in arrests for DUI and drug possession and distribution while also consuming alcohol often and in high quantity. SASSI-3 results indicated a "high probability" of a substance dependence disorder, though I believe the totality of information derived from historical information and qualitative analysis of this instrument most reliably classify his status as historical alcohol abuse. His reported pattern of consumption over the past couple of years (noted above), which might reasonably be viewed as social consumption in moderation, might nevertheless raise some level of concern in light of current circumstances (i.e., the prompting of referral for examination), particularly if one takes a conservative stance in the context of fitness for duty as a healthcare professional. In this spirit, he would recommend that the Board consider monitoring Mr. Martinez's substance use within the expectation that he remain completely abstinent from all substances of potential abuse (including alcohol). This might be accomplished by requiring Mr. Martinez to remain completely abstinent and submit to random urine analysis, thus creating the expectation that he experience the routine trials and stresses of life without the intoxicating effects of mood altering substances concurrent with a period of community-based continuing education regarding emotional and physical wellness (including substance abuse education). Otherwise, and assuming the absence of any return to substance abuse, he would not foresee any relevant mental health impairment that would prevent him from practicing nursing with reasonable skill and safety to patients.

9. On or about November 22, 2011, Respondent defaulted on his Texas Guaranteed Student Loans as provided in Section §57.491 of the Texas Education Code. Respondent failure to repay a Texas Guaranteed Student Loan may have deprived other students of funds for nursing school loans.
10. Formal Charges were filed on July 10, 2012.
11. Formal Charges were mailed to Respondent on July 11, 2012.

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 §239.11(8)&(29)(A), and 22 TEX. ADMIN. CODE §217.12(7).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2),(3)&(10),(effective 9/1/2003), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 199357, heretofore issued to FREDDIE 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 Vocational Nurse License Number 199357, previously issued to FREDDIE MARTINEZ, to practice nursing in Texas is hereby SUSPENDED and said suspension is ENFORCED until Respondent completes the following requirements:

(1) RESPONDENT SHALL initiate contact with the Texas Guaranteed Student Loan Corporation and make arrangements to repay the student loan within forty-five (45) days from the date of this Order. Upon approval of a repayment contract with the Texas Guaranteed Student Loan Corporation, RESPONDENT SHALL CAUSE the Texas Guaranteed Student Loan Corporation to submit verification of the defaulted loan's repayment status directly to the Board.

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.

IT IS FURTHER AGREED, upon verification of successful completion of the above requirements, the Suspension will be STAYED, and RESPONDENT will be placed on PROBATION for one (1) year with the following agreed terms of probation:

(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 pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.

(3) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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.texas.gov/disciplinaryaction/stipscourses.html>

(4) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty (\$250.00) dollars. RESPONDENT SHALL pay this fine within forty-five (45) days of entry 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 ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) 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) RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational 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.

(8) 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 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.

(9) 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.

(10) 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. 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.

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.

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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 violation(s) 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.

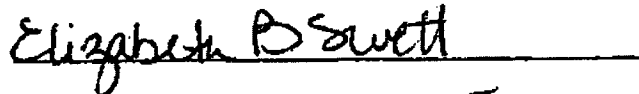
Signed this 3rd day of Oct, 2012.


FREDDIE MARTINEZ, Respondent

Sworn to and subscribed before me this 3rd day of October, 2012.

SEAL




Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 3rd day of October, 2012, by FREDDIE MARTINEZ, Vocational Nurse License Number 199357, and said Order is final.

Effective this 13th day of November, 2012.



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