

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of
Vocational Nurse License Number 165959
issued to OMAR ANDRES BETANCOURT

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ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of, Vocational Nurse License Number 165959, issued to OMAR ANDRES BETANCOURT, 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 vocational nursing in the State of Texas.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing.
3. Respondent received a Certificate in Vocational Nursing from the Practical Nurse Course at Brooks Army medical Center, San Antonio, Texas, on September 19, 1997. Respondent was licensed to practice vocational nursing in the State of Texas on December 17, 1997.
4. Respondent's nursing employment history is unknown.
5. On or about February 8, 2010, Respondent submitted a License Renewal Form Licensed Vocational Nurse to the Texas Board of Nursing in which he answered "Yes" to the question:
"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:
A. been convicted of a misdemeanor?"



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. Plummer
Executive Director of the Board

- B. been convicted of a felony?
- C. pled nolo contendere, no contest, or guilty?
- D. received deferred adjudication?
- E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
- F. been sentenced to serve jail or prison time? court-ordered confinement?
- G. been granted pre-trial diversion?
- H. been arrested or have any pending criminal charges?
- I. been cited or charged with any violation of the law?
- J. been subject of a court-martial; Article 15 violation; or received any form of military judgment/punishment/action?"

Respondent disclosed that on or about May 28, 2009, Respondent was arrested by the San Antonio Police Department, Texas, with DRIVING WHILE INTOXICATED, a Class B misdemeanor offense. On or about July 27, 2009, Respondent entered a plea of Guilty and was convicted of OBSTRUCTING HIGHWAY PASSAGEWAY, a Class B misdemeanor offense, in the County Court at Law No. 9 of Bexar County, Texas, under Cause No. 291171. As a result of the conviction, Respondent was placed on probation for a period of one (1) year and ordered to pay a fine and court costs.

6. On or about March 2, 2012, Respondent submitted a License Renewal Form Licensed Vocational Nurse to the Texas Board of Nursing in which he answered "Yes" to the question:

"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

- A. been convicted of a misdemeanor?
- B. been convicted of a felony?
- C. pled nolo contendere, no contest, or guilty?
- D. received deferred adjudication?
- E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
- F. been sentenced to serve jail or prison time? court-ordered confinement?
- G. been granted pre-trial diversion?
- H. been arrested or have any pending criminal charges?
- I. been cited or charged with any violation of the law?
- J. been subject of a court-martial; Article 15 violation; or received any form of military judgment/punishment/action?"

Respondent disclosed that on or about May 30, 2012, Respondent entered a plea of Nolo Contendere and was convicted of DRIVING WHILE INTOXICATED, a Class B misdemeanor offense committed on October 24, 2010, in the County Court at Law No. 2 of Bexar County, Texas, under Cause No. 344198. As a result of the conviction, Respondent

was sentenced to confinement in the Bexar County Jail for a period of six (6) months; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of fourteen (14) months and ordered to pay a fine and court costs.

7. In response to Findings of Fact Numbers Six (6) and Seven (7), Respondent states that on October 24, 2010, he was rear ended by a truck on the highway. The driver of the truck left the scene. When the police responded to the hit and run, he was asked if he had been drinking and the police officer arrested him on suspicion of DUI. He has been fighting this case in court for two years. This has in no way interfered with his ability to perform his job as a nurse.

8. On or about May 31, 2013, Respondent was seen by Sean Connolly, Ph.D. to undergo a Chemical Dependency Evaluation. The following is the Dr Connolly's response:

Respondent is a 41-year-old man who was referred by the Texas Board of Nursing as part of assessing his fitness to practice nursing in Texas. He has had two DWI's and has participated in a treatment program for abuse of alcohol. He has completed community supervision, as well as alcohol awareness classes, has undergone UA's, and continues to attend AA meetings. He indicated that he no longer uses alcohol at all. He denied any regular abuse of alcohol, but clearly there was some poor judgment related to use of alcohol and drinking on two occasions. The objective data from psychological testing does not indicate any addictive or dependent personality that would be consistent with alcoholism, and he does not obtain the profiles that are most commonly found for individuals who have a history of abuse of alcohol or drugs. He indicated that he has maintains complete sobriety since January of this year, and expressed a desire to continue this. He continues to attend AA meetings, and it would seem prudent to continue this for at least another year, and possibly have monthly individual sessions with a chemical dependency counselor. there is no evidence of any significant emotional or other behavioral problem that would warrant ongoing behavioral health treatment. In this clinician's opinion, there is nothing in the assessment that would indicate that he is not fit to practice nursing in the State of Texas, as long as he takes responsibility for managing his use of alcohol. Apparently, from the record, he has had many years of effective performance in this professional field.

9. Formal Charges were filed on October 15, 2013.

10. Formal Charges were mailed to Respondent on October 16, 2013.

11. On December 10, 2013, the Board received a notarized statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's notarized statement, dated , is attached and incorporated herein by reference as part of this Order.

12. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
13. 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 violation(s) of 22 TEX. ADMIN. CODE §217.12(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 165959, heretofore issued to OMAR ANDRES BETANCOURT, 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 Vocational Nurse License Number 165959, heretofore issued to OMAR ANDRES BETANCOURT, 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 nursing, use the title of vocational nurse or the abbreviation "LVN" or wear any insignia identifying himself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. 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 day 10th of December , 2013.

TEXAS BOARD OF NURSING

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

Cover Form

Dec. 10 2013.

To: Texas Board of Nursing 512 305 6890

Att: Tamika Rose Investigator.

From Omar Betancourt.

402 E. Evergreen S.D. TX 78212.

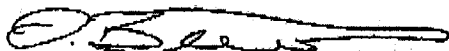
(210) 290 6776.

December 10, 2013

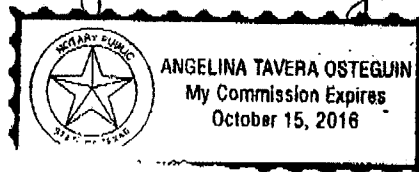
To Texas Board of Nursing:

I Omar Betancourt LVN SS#: 157-74-7088, DOB 03-15-1972, hereby voluntarily surrender my LVN license #165959.

Omar Betancourt



Angelina T. Osteguin



I certify that the above
Statement dated 12-10-2013
is true and correct.