



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 ORDER FOR
EDGAR PONCE, §
Vocational Nurse License Number 301926 and §
PETITIONER for Eligibility for Licensure § DISCIPLINE & ELIGIBILI

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered Vocational Nurse License Number 301926, and the Petition for Declaratory Order and supporting documents filed by EDGAR PONCE, hereinafter referred to as PETITIONER, together with any documents and information gathered by staff and Petitioner's Certification contained herein.

Information received by the Board produced evidence that PETITIONER may be subject to discipline and ineligible for licensure pursuant to Sections 301.452(b)(1)&(10) and 301.453, Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on September 17, 2014, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about April 14, 2014, PETITIONER submitted a Petition for Declaratory Order requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.253, 301.257 and 301.258, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §213.30.
2. Petitioner waived representation by counsel, informal proceedings, notice and hearing, and consented to the entry of this Order.
3. Respondent received a Certificate in Vocational Nursing from Galen College of Nursing, San Antonio, Texas, on April 19, 2011. Respondent was licensed to practice vocational nursing in the State of Texas on August 11, 2011.

4. Respondent's nursing employment history includes:

08/2011 - 02/2012	LVN	Angelica Home Health La Joya, Texas
03/2012 - 08/2012	Unknown	
09/2012 - 03/2013	LVN	Healthcare Unlimited McAllen, Texas
03/2013 - 07/2013	LVN	Epic Health Services Weslaco, Texas
08/2013 - Present	Unknown	

5. Petitioner is currently enrolled in a Associate Degree in Nursing Program at South Texas College, McAllen, Texas, with an anticipated graduation date in May of 2015.
6. On February 14, 2014, Petitioner was issued a Confidential Agreed Order for Peer Assistance Program by the Board of Nursing. A copy of the February 14, 2014 Order is attached and incorporated by reference as part of this Order.
7. Petitioner completed the Petition for Declaratory Order and answered "Yes" to the question which reads: *"Within the past five (5) years have you been diagnosed with, treated, or hospitalized for schizophrenia and/or psychotic disorders, bipolar disorder, paranoid personality disorder, antisocial personality disorder, or borderline personality disorder?"*
8. On or about June 17, 2014, Respondent became non-compliant with the Confidential Agreed Order issued to him by the Texas Board of Nursing on February 14, 2014. Non-compliance is the result of his failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract. Stipulation number Three (3) of the Order dated February 14, 2014, states in part:

"(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term..."

On or about April 11, 2014, Respondent signed a TPAPN participation agreement. Respondent's assessment indicated a Polysubstance Dependence diagnosis in addition to the known psychiatric diagnosis. Respondent contested the diagnosis and due to his inability to financially participate in TPAPN, but declined to submit to an additional assessment to determine his participation requirements. As a result of Respondent's failure to comply with TPAPN requirements, his case was dismissed to the Board on June 17, 2014.

9. Formal Charges were filed on August 19, 2014.
10. Formal Charges were mailed to Respondent on August 20, 2014.
11. The safety of patients and the public requires that all persons licensed to practice nursing be fit, sober, and able to consistently practice nursing in autonomous roles under demanding and stressful conditions.
12. Petitioner has sworn that, with the exception of matters disclosed in connection with the Petition for Declaratory Order, his past behavior conforms to the Board's professional character requirements at 22 TEX. ADMIN. CODE §213.27.
13. The Executive Director considered evidence of Petitioner's mental illness and subsequent treatment as provided in 22 TEX. ADMIN. CODE §213.29 and in accordance with 22 TEX. ADMIN. CODE §213.33.
14. Licensure of Petitioner poses no direct threat to the health and safety of patients or the public provided Petitioner complies with the stipulations outlined in this Order.
15. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.
16. Petitioner has been advised by the Board that any information found to be incomplete, incorrect or misleading to the Board or a subsequent discovery of a basis of ineligibility will be considered by the Board and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through fraud or deceit.
17. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452(b), Texas Occupations Code.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Sections 301.452 and 301.453, Texas Occupations Code.
2. On or about April 14, 2014, PETITIONER submitted a Petition for Declaratory Order requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.253, 301.257 and 301.258, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §213.30.
3. Petitioner's history reflects conduct which may constitute grounds for discipline and denial of a license under Section 301.452(b)(1)&(10), Texas Occupations Code.

4. The Board may probate the denial of a license under conditions for a specified term pursuant to Section 301.453, Texas Occupations Code.
5. The Board may license an individual who has a history of mental illness and substance abuse and/or chemical dependency after consideration of the criteria set out in 22 TEX. ADMIN. CODE §213.29 if the Board determines the individual does not pose a direct threat to the health and safety of patients or the public.
6. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 TEX. ADMIN. CODE §213.27, and pursuant to 22 TEX. ADMIN. CODE §213.33, the Board is satisfied that the individual is able to consistently conform his conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.
7. This Order is conditioned upon the accuracy and completeness of Petitioner's disclosures. Any subsequently discovered discrepancies will result in investigation and possible disciplinary action, up to revocation of Petitioner's license(s).

ORDER

NOW, THEREFORE, IT IS AGREED that, upon meeting the requirements for graduation of an appropriate program in nursing education and payment of any required fees, PETITIONER is ELIGIBLE to sit for the National Council Licensure Examination for Practical Nurses (NCLEX-PN® Examination) and/or the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination), as applicable.

IT IS FURTHER AGREED that PETITIONER SHALL NOT be eligible for temporary authorization to practice as a Graduate Vocational Nurse (GVN) and/or as a Graduate Nurse (GN), as applicable, in the State of Texas.

IT IS FURTHER AGREED that, upon payment of any required fees and upon attaining a passing grade on the appropriate National Council Licensure Examination, PETITIONER shall be issued the applicable license(s) to practice nursing in the State of Texas, and while under the terms of this Order all licenses issued to PETITIONER shall be subject to the terms of this Order

and said license(s) SHALL BE immediately SUSPENDED and said suspension is ENFORCED until PETITIONER complies with Stipulation Numbers One (1) and Two (2) of this Order:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to PETITIONER'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while PETITIONER'S license is encumbered by this Order, PETITIONER 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 PETITIONER wishes to work.

(1) PETITIONER SHALL apply to and be accepted into the TPAPN and complete the enrollment process, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00) payable to TPAPN.

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

IT IS FURTHER AGREED, upon verification of compliance with Stipulation Numbers One (1) and Two (2), the SUSPENSION will be stayed, and PETITIONER SHALL comply with the following conditions for such a time as is required for PETITIONER to successfully complete the TPAPN:

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

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

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

PETITIONER 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, SHOULD PETITIONER 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 PETITIONER'S license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from PETITIONER'S license(s) to practice nursing in the State of Texas and PETITIONER may be eligible for nurse licensure compact privileges, if any.

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PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past conduct which could constitute grounds for licensure ineligibility, and I have caused a complete and accurate criminal history to be submitted to the Texas Board of Nursing from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. I certify that my past behavior, except as disclosed in my application, has been in conformity with the Board's character rule. I have provided the Board with complete and accurate documentation of my past conduct in violation of the penal law of any jurisdiction which was disposed of through any procedure short of conviction, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

In connection with my application, I acknowledge that I have read and I understand Sections 301.157(d), 301.252, 301.253, 301.257, 301.258, 301.260, 301.452, and 301.453, Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and 22 TEX. ADMIN. CODE §§213.27, 213.28, 213.29, and 213.30. I agree with all terms of this Order, including the Findings of Fact and Conclusions of Law and all stipulations as set out in this Order. I acknowledge that this Order is stipulated and I understand that I am not eligible to receive a Temporary Permit to practice nursing. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to accepting any license from the Texas Board of Nursing.

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 my potential ineligibility for licensure through peer assistance.

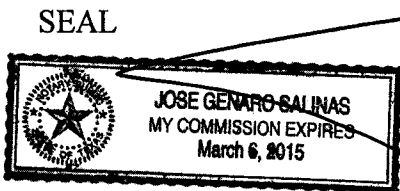
I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including EMERGENCY SUSPENSION pursuant to Section 301.453, Texas Occupations Code, or REVOCATION of my license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas, as a consequence of my noncompliance.

I understand that I can be represented by an attorney in this matter. I waive representation, notice of an administrative hearing, and judicial review of this Order and request that the Texas Board of Nursing ratify this Order.

Signed this 29 day of Sept., 2014

Edgar Ponce
EDGAR PONCE, PETITIONER

Sworn to and subscribed before me this 29 day of Sept., 2014.



J. Salinas
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 ratify and adopt the Agreed Order for Discipline and Eligibility that was signed on the 29th day of September, 2014, by EDGAR PONCE, Vocational Nurse License Number 301926, and PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this 6th day of October, 2014.



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

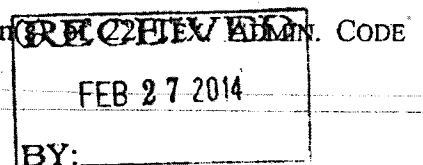
5. Respondent's nursing employment history includes:

08/2011 - 02/2012	LVN	Angelica Home Health La Joya, Texas
03/2012 - 08/2012	Unknown	
09/2012 - 03/2013	LVN	Healthcare Unlimited McAllen, Texas
03/2013 - 07/2013	LVN	Epic Health Services Weslaco, Texas
08/2013 - Present	Unknown	

6. On or about June 4, 2013, while licensed as a Vocational Nurse in the State of Texas, Respondent lacked fitness to practice vocational nursing, in that he was treated for a mental health diagnosis. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
7. The Respondent's conduct as described in the preceding Finding(s) of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
8. Formal Charges were filed on December 4, 2013.
9. Formal Charges were mailed to Respondent on December 5, 2013.
10. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's mental illness.
11. 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 violation of TEX. OCC. CODE §217.12(1)(A),(1)(E),(4)&(5).



4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(12), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 301926, heretofore issued to EDGAR PONCE, up to, and 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 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):

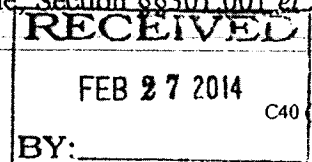
(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement and complete the enrollment process, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00) 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 all applicable 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.

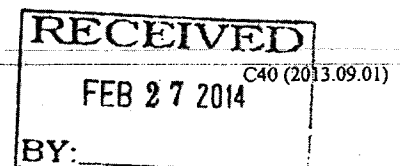
IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that, while RESPONDENT remains in compliance with the terms of this Order, this Order shall remain confidential in accordance with the authority outlined in Section 301.466(d), Texas Occupations Code. However, should Respondent fail to successfully complete the terms of this Order or should Respondent commit a subsequent violation of the Nursing Practice Act or Board Rules, this Order shall be treated as prior disciplinary action and will become public information.

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.

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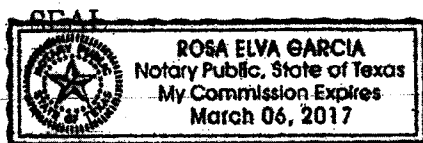
RESPONDENT'S CERTIFICATION

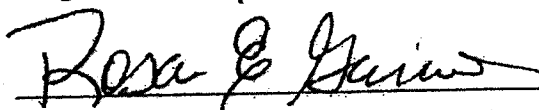
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer 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.

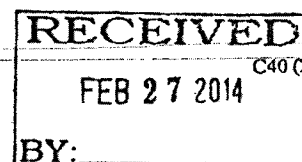
Signed this 5 day of Feb, 2014.


EDGAR PONCE, RESPONDENT

Sworn to and subscribed before me this 5 day of Feb, 2014.




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 Confidential Agreed Order for Peer Assistance Program that was signed on the 5th day of February, 2014, by EDGAR PONCE, Vocational Nurse License Number 301926, and said Order is final.

Entered and effective this 14th day of February, 2014.



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

