



(nurse employment history continued)

08/2012 - 01/2014	LVN-Charge Nurse	Sunrise Nursing and Rehab San Antonio, TX
01/2014 - 02/2014	unemployed/unknown	
02/2014 - 08/2014	LVN-Charge Nurse	Morningside Ministries San Antonio, TX
08/2014 - 09/2014	unemployed/unknown	
09/2014 - 05/2016	LVN-Charge Nurse	Sundance Inn Health Care New Braunfels, Tx

6. On or about August 19, 2014, Respondent was issued the sanction of a REMEDIAL EDUCATION AND A FINE by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated August 19, 2014, is attached and incorporated, by reference, as part of this Order.
7. At the time of the initial incident, Respondent was employed as a LVN-Charge Nurse with Morningside Ministries, San Antonio, Texas, and had been in that position for approximately seven (7) months.
8. On or about August 18, 2014, Respondent entered a plea of Nolo Contendere to and was convicted of DRIVING WHILE INTOXICATED 2D, a Misdemeanor offense, committed on April 24, 2014, in the County Court at Law No. CC6, Bexar County, Texas, under Cause No. 457588. As a result of the conviction, Respondent was sentenced to confinement in the Adult Detention Center of Bexar County for a period of one (1) year; however, imposition of confinement was suspended and Respondent was placed on probation for a period of one (1) year, and ordered to pay a fine and court costs. Respondent's community supervision expired on August 17, 2015.
9. On or about July 3, 2016, Respondent submitted a Timely License Renewal Form to the Texas Board of Nursing in which he answered "Yes" to the question: "In the past 5 years, have you been addicted to or treated for the use of alcohol or any other drug?"

Respondent provided the following information: Respondent was diagnosed on September 4, 2014 with Alcohol use Disorder, Mild. Respondent engaged in a Substance Abuse Outpatient Program September 2014-March 2015 with Dave Larson, LCDC. Respondent was under the treatment of Tommy J. Doster, PA-C for six (6) months. Dr. Doster found that Respondent is current with treatment/aftercare recommendations and does not pose a current

or potential direct threat to the health and safety of patients/clients, their family or significant other, or the public.

10. In response to Findings of Fact Numbers Eight (8) and Nine (9), Respondent acknowledges having a few beers which he found out had a high alcohol content. He blew just over 0.09 under 0.10; later he enrolled himself in the Veterans Treatment Court and has been sober since 2015. He states he did not think at the time he had an alcohol problem but after not having an alcoholic beverage for over a year, he realized that alcohol wasn't for him anymore and he has been sober since 2015. Respondent completed the outpatient VA treatment course in 2015.
11. Respondent states 2015 as his date of sobriety.
12. Respondent's last known date of sobriety is 2015 as indicated in Findings of Fact Numbers Eight (8) and Nine (9).
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.
14. 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.
15. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use disorder.
16. 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 substance use disorder.
17. 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 301.451-301.555 , 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 308414, heretofore issued to SETH BURKE GILISTRO, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.
6. 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.

### TERMS OF ORDER

#### I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Vocational Nurse License Number 308414, previously issued to SETH BURKE GILISTRO, to practice nursing in Texas is hereby **SUSPENDED** and said suspension is **ENFORCED** until Respondent:

- A. Applies to, is accepted into, and completes enrollment in the Texas Peer Assistance Program for Nurses (TPAPN), including payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00); and
- B. Waives confidentiality and provides a copy of the fully executed TPAPN participation agreement to the Board.

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 such a time as is required for RESPONDENT to successfully complete the TPAPN **AND** until Respondent fulfills the additional requirements of this Order.

- C. 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.

- D. 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.
- E. RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.
- F. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- G. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- H. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

## II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to 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.

## III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) **within one (1) year of the suspension being stayed:**

**A Board-approved course in Texas nursing jurisprudence and ethics** that 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. Home study courses and video programs will not be approved.

In order to receive credit for completion of this/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at [www.bon.texas.gov/compliance](http://www.bon.texas.gov/compliance).*

**IV. FURTHER COMPLAINTS**

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.

**V. EFFECT OF NONCOMPLIANCE**

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 TEMPORARY 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.

**VI. RESTORATION OF UNENCUMBERED LICENSE(S)**

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 may be eligible for nurse licensure compact privileges, if any.

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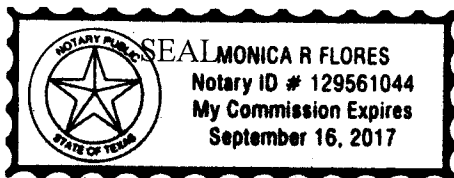
RESPONDENT'S CERTIFICATION


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. 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 entry of this Order and all conditions of said 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 30 day of August, 2016.

  
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SETH BURKE GILISTRO, Respondent

Sworn to and subscribed before me this 30 day of AUGUST, 2016.



  
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Notary Public in and for the State of TX

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 30th day of August, 2016, by SETH BURKE GILISTRO, Vocational Nurse License Number 308414, and said Order is final.

Effective this 2nd day of September, 2016.



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





Executive Director of the Board  
Katherine A. Thomas  
is on file or is of record in the offices of the  
Texas Board of Nursing.

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of § AGREED  
Vocational Nurse License Number 308414 §  
issued to SETH BURKE GILISTRO § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board considered the matter of SETH BURKE GILISTRO, Vocational Nurse License Number 308414, 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)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on July 11, 2014.

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 Kaplan College, San Antonio, Texas, on February 22, 2012. Respondent was licensed to practice vocational nursing in the State of Texas on July 31, 2012.
5. Respondent's vocational nursing employment history is unknown.
6. On or about March 15, 2002, Respondent entered a plea of No Contest or Nolo Contendere and was convicted of DRIVING WHILE INTOXICATED, a Class B misdemeanor offense committed on or about November 10, 2001, in the County Court at Law No. 1, Bexar County, Texas, under Cause No. 801140. As a result of the conviction, Respondent was sentenced to confinement in the Bexar County Jail for a period of one (1) year; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of one (1) year, and ordered to pay a fine and court costs.

7. On or about June 1, 2014, Respondent submitted an Online License Renewal Document Licensed Vocational Nurse to the Texas Board of Nursing in which he answered "No" 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 failed to disclose that on or about April 24, 2014, Respondent was arrested by the University of Texas Health Science Center Police Department, San Antonio, Texas, for DRIVING WHILE INTOXICATED 2ND, a Class A misdemeanor offense, and that the case was pending at the time of renewal.

8. In response to Finding of Fact Number Seven (7), Respondent states he renewed his license using his mobile phone. The small print on his phone caused him to miss the renewal's disclosure requirements. Respondent was also unaware he had to disclose a pending charge.

#### 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)(I).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2)&(10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 308414, heretofore issued to SETH BURKE GILISTRO.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of REMEDIAL EDUCATION AND 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, 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, Respondent may not work outside the State of Texas pursuant to a nurse licensure compact 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, 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.texas.gov/compliance>.*

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bon.texas.gov/compliance>.*

(3) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars (\$250). RESPONDENT SHALL pay this fine within forty-five 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.

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 may be eligible for nurse licensure compact privileges, if any.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT may be eligible for nurse licensure compact privileges, if any.

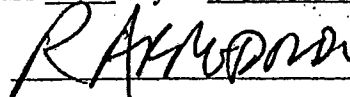
RESPONDENT'S CERTIFICATION

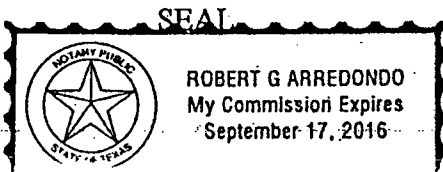
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 15 day of August, 2014.

  
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SETH BURKE GILISTRO, Respondent

Sworn to and subscribed before me this 15 day of AUGUST, 2014.

  
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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 that was signed on the 15th day of August, 2014, by SETH BURKE GILISTRO, Vocational Nurse License Number 308414, and said Order is final.

Effective this 19th day of August, 2014.



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