



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 167278	§	
issued to DALE ROSS MCKENZIE	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of DALE ROSS MCKENZIE, Vocational Nurse License Number 167278, 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)(10), Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on October 5, 2016.

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 notice and hearing and agreed to the entry of this Order.
3. Respondent is currently licensed to practice as a vocational nurse in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Schreiner College, Kerrville, Texas on February 20, 1998. Respondent was licensed to practice vocational nursing in the State of Texas on April 22, 1998.
5. Respondent's nursing employment history is unknown.
6. On or about April 28, 2011, Respondent was issued the sanction of WARNING WITH STIPULATIONS by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated April 28, 2011 is attached and incorporated, by reference, as part of this Order.

7. On or about April 19, 2016, Respondent entered a plea of Nolo Contendere to and was convicted of DRIVING WHILE INTOXICATED 2ND, a Class A Misdemeanor offense, committed on December 28, 2014, in the County Court of Gillespie County, Texas, under Cause No. CC17402. As a result of the conviction, Respondent was sentenced to confinement in the Gillespie County Jail for a period of three-hundred sixty-five (365) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of sixteen (16) months and was ordered to pay a fine and court costs.
8. In response to Finding of Fact Number Seven (7), Respondent states on the date of the arrest, he attended a Christmas party with co-workers. Respondent further states he has not drank alcohol in over thirty years, and this was a mistake he will always regret.

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 167278, heretofore issued to DALE ROSS MCKENZIE, 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.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **REPRIMAND WITH STIPULATIONS** in accordance with the terms of this Order.

- A. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- B. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. 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 effective date of this Order, unless otherwise specifically indicated:

- A. 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.
- B. 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/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.*

IV. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse in the State of Texas, providing direct patient care in a clinical healthcare setting, for a minimum of sixty-four (64) hours per month for four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until four (4) quarterly periods of employment as a nurse have elapsed. Any quarterly period without continuous employment with the same employer for all three (3) months will not count towards completion of this requirement. 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 period and will not count towards completion of this requirement.

- A. Notifying Present and Future Employers:** RESPONDENT SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.

- C. **Incident Reporting:** RESPONDENT SHALL CAUSE each employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.
- D. **Nursing Performance Evaluations:** 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 and these reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month quarterly period for four (4) quarters [one (1) year] of employment as a nurse.

V. **DRUG AND ALCOHOL RELATED REQUIREMENTS**

- A. While under the terms of this Order, RESPONDENT SHALL abstain from the use of alcohol, tramadol and all 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.
- B. While working as a nurse under the terms of this Order, RESPONDENT SHALL submit to random periodic screens for alcohol, tramadol, and controlled substances. The Board will provide instructions on how to enroll in the Board's drug and alcohol testing program following the entry of this Order and screening will begin when Respondent obtains employment and submits the Notification of Employment form to the Board.
- For the first three (3) month [1st quarter] period RESPONDENT works as a nurse under the terms of this Order, random screens shall be performed at least once per week.
 - For the next three (3) month [2nd quarter] period, random screens shall be performed at least twice per month.

- For the next six (6) month period [3rd & 4th quarters], random screens shall be performed at least once per month.
- For the remainder of the stipulation/probation period, if any, random screens shall be performed at least once every three (3) month quarterly period.

All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board. Any test result for a period of time in which the RESPONDENT is not working as a nurse under the terms of this Order will not count towards satisfaction of this requirement. 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 stipulation/probation period.

Specimens shall be screened for at least the following substances and their metabolites:

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 stipulation period and require RESPONDENT to produce a specimen for screening.

Consequences of Positive or Missed Screens. Any positive result for which RESPONDENT does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject RESPONDENT to 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. Further, failure to report for a drug screen, excessive dilute specimens, or failure to call in for a drug screen may be considered the same as a positive result or refusal to submit to a drug or alcohol screen.

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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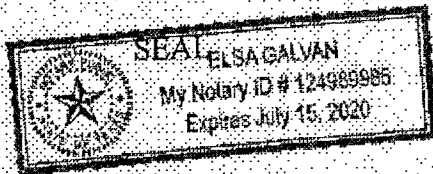
RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this 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 possible revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 9th day of December, 2016.

Dale Ross McKenzie
DALE ROSS MCKENZIE, Respondent

Sworn to and subscribed before me this 9th day of December, 2016.



[Signature]

Notary Public in and for the State of _____


Approved as to form and substance.

[Signature]
Dan Lype, Attorney for Respondent

Signed this 9 day of December, 2016.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 9th day of December, 2016, by DALE ROSS MCKENZIE, Vocational Nurse License Number 167278, and said Order is final.

Effective this 19th day of January, 2017.

A handwritten signature in cursive script, appearing to read "Katherine A. Thomas", written in dark ink.

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

The seal of the Texas Board of Nursing is a circular emblem. It features a five-pointed star in the center, surrounded by a wreath. The words "TEXAS BOARD OF NURSING" are inscribed around the perimeter of the seal.

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.

Stephanie A. Palmer
Executive Director of the Board

§ AGREED
§
§
§ ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Bo

Information received by the Board produced evidence that Respondent may have

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 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 Schreiner College, Kerrville, Texas, on February 20, 1998. Respondent was licensed to practice nursing in the State of Texas on April 22, 1998.
5. Respondent's nursing employment history is unknown.
6. On or about January 20, 1998, Respondent submitted an Application for Licensure by Examination 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 ever been convicted of a felony?"

- A. Respondent failed to disclose that on or about October 14, 1982, Respondent entered a plea of Guilty and was convicted of UNAUTHORIZED USE OF A VEHICLE (a 3rd Degree felony offense committed on April 24, 1982), in the 290th Judicial District Court, Bexar County, Texas, under Cause No. 82-CR-1765. As a result of the conviction, Respondent was sentenced to confinement in the Texas Department of Corrections for a period of two (2) years; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay court costs.
7. In response to Finding of Fact Number Six (6), Respondent states that he should have disclosed his 1982 conviction for the unauthorized use of a motor vehicle; however, he was under the mistaken belief that it had been removed from his record upon his completion of community supervision.
8. On or about January 20, 1998, Respondent submitted an Application for Licensure by Examination 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 ever been convicted of a misdemeanor?"
- A. Respondent failed to disclose that on or about March 3, 1981, Respondent was convicted of THEFT (a Class B misdemeanor offense committed on October 6, 1980), in the County Court at Law No. 4, Bexar County, Texas, under Cause No. 278,483. As a result of the conviction, Respondent was sentenced to confinement in the Bexar County Jail for a period of ten (10) days; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of one hundred eighty (180) days. Additionally, Respondent was ordered to pay a fine and court costs.
- B. Respondent failed to disclose that on or about August 12, 1987, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED (a misdemeanor offense committed on June 20, 1987), in the County Court at Law of Kerr County, Texas, under Cause No. CR87-824. As a result of the conviction, Respondent was sentenced to confinement in the Kerr County Jail for a period of one (1) year; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay a fine and court costs.
9. In response to Finding of Fact Number Eight (8), Respondent states he does not recall being convicted of the 1981 misdemeanor Theft charge. Respondent admits he was responsible for disclosing his 1987 DWI on his original application. He was under the mistaken belief that it had been removed from his criminal record when he completed probation.

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 TEX. REV. CIV. STAT 4528c. Sec. 10(2)&(9), (eff. 9/1/1997), TEX. REV. CIV. STAT. ANN. and 22 TEX. ADMIN. CODE §239.11(8)&(29).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 167278, heretofore issued to DALE ROSS MCKENZIE, 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 RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, 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 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 Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL pay a monetary fine 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.

(2) 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) contact 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, 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 STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION 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 VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(3) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S license. 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 stipulations on RESPONDENT'S license. 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.

(4) 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.

(5) RESPONDENT SHALL CAUSE each employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.

(6) 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 Registered Nurse or Licensed Vocational 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.

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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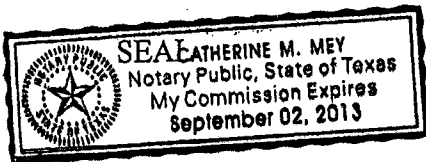
RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I 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 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 18th day of March, 2011.

Dale Ross McKenzie
DALE ROSS MCKENZIE, Respondent

Sworn to and subscribed before me this 18th day of March, 2011.



Catherine M. Mey
Notary Public in and for the State of Texas

Approved as to form and substance.

Louis Leichter
Louis Leichter, Attorney for Respondent

Signed this 21 day of March, 2011.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 18th day of March, 2011, by DALE ROSS MCKENZIE, Vocational Nurse License Number 167278, and said Order is final.

Effective this 28th day of April, 2011.



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