



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or its of record in the offices of the Texas Board of Nursing.
Patricia A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Registered Nurse License Number 571577 §
& Vocational Nurse License Number 129403 §
issued to SAMUEL DEAVILA, § ORDER
PETITIONER for Exception

A public meeting of the Eligibility and Disciplinary Committee of the Board, hereinafter referred to as the Committee, was held on December 13, 2016, at 333 Guadalupe, Tower 3, Suite 460, Austin, Texas, to consider the Petition for Exception and supporting documents filed by SAMUEL DEAVILA, hereinafter referred to as PETITIONER.

PETITIONER appeared in person. Petitioner was represented by Jonathan Wu, Attorney at Law.

Board Members in attendance were: Deborah Hughes Bell, CLU, ChFC and Kathy Shipp, MSN, RN, FNP. Staff present were: Katherine A. Thomas, MN, RN, FAAN; Jena Able, Assistant General Counsel; Anthony L. Diggs, Director, Enforcement Division; Kristen Benton, MSN, RN, Director of Nursing; John DeLaRosa, Program Specialist; Kathy Hoffman, Legal Assistant Supervisor; Krystal Mendoza, Legal Assistant; Diane E. Burell, Compliance Supervisor; and Ashley Moehnke, Investigator.

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 Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Petitioner notice and hearing, and consented to the entry of this Order.

3. Petitioner is currently licensed to practice professional nursing in the State of Texas. Petitioner's license to practice vocational nursing is currently in delinquent status.
4. Petitioner received a Certificate in Vocational Nursing from El Paso Community College, El Paso, Texas, on August 10, 1990, and a Baccalaureate Degree in Nursing from the University of Texas, El Paso, Texas, on May 1, 1991. Petitioner was licensed to practice vocational nursing in the State of Texas on September 28, 1990, and was licensed to practice professional nursing in the State of Texas on August 26, 1991.
5. Petitioner's nursing employment history is unknown.
6. On August 14, 2012, Petitioner was issued the sanction of a Limited License with Stipulations through an Agreed Order of the Board. A copy of the Agreed Order, including the Findings of Fact, Conclusions of Law, and Order, dated August 14, 2012, is attached and incorporated herein by reference as part of this Order.
7. Petitioner has not been permitted to provide direct patient care since August 2012, pursuant to the terms of the Order issued to him by the Board on August 14, 2012. As a result, Petitioner has not been able to adequately demonstrate that his conduct, as described in the Findings of Fact in the Agreed Order dated August 14, 2012, does not continue to pose serious risks to public health and safety due to intemperate use of controlled substances or chemical dependency.

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(s) of 22 TEX. ADMIN. CODE §217.13(15)(effective 9/1/1987); and 22 TEX. ADMIN. CODE §217.12(6)(I)&(13).
4. The evidence received is sufficient cause pursuant to Section 4525(b)(2)&(9)(effective 9/1/1989), and Section 301.452(b)(2)&(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 571577, and Vocational Nurse License Number 129403, heretofore issued to SAMUEL DEAVILA, including revocation of Petitioner's license(s) to practice nursing in the State of Texas.

TERMS OF ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that the sanction of **LIMITED LICENSE WITH STIPULATIONS** previously issued to PETITIONER is hereby **LIFTED** in accordance with the terms of this Order.

I. SUPERCEDING ORDER

IT IS FURTHER AGREED and ORDERED that the stipulations, conditions, and requirements of this Order SHALL SUPERCEDE those of any Order previously entered by the Texas Board of Nursing.

II. COMPLIANCE WITH LAW AND APPLICABILITY

While under the terms of this Order, PETITIONER agrees to obtain, read, and 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.

- A. Until successfully completed, any and all licenses issued to Petitioner shall be subject to the terms of this Order.
- B. This Order SHALL be applicable to PETITIONER'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. As a result of this Order, PETITIONER'S license will be designated "single state" and PETITIONER 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 PETITIONER wishes to work.

III. REQUIREMENTS FOR REFRESHER COURSE, EXTENSIVE ORIENTATION, OR NURSING PROGRAM OF STUDY IN PROFESSIONAL REGISTERED NURSING

Prior to providing patient care as a professional nurse in the State of Texas,

~~PETITIONER SHALL successfully complete a Board approved refresher course, extensive~~
orientation, or nursing program of study for professional registered nursing.

Petitioner MUST obtain Board approval of the nursing refresher course, extensive orientation, or nursing program, as applicable, prior to enrollment. In order for the course to be approved, the target audience shall include registered nurses and the course's content shall, at a minimum, include: 1) Review of NPA, Rules, Position Statements; 2) Determination of Individual Scope of Practice and role in patient safety; 3) Review of the nursing process to include assessment, planning, implementation, and evaluation; 4) Pharmacology review; 5) Medication administration; 6) Documentation, quality assurance, and legal implication for nursing practice; and, 7) Documentation of current CPR certification prior to beginning precepted clinical learning experience. The course must contain no less than a total of 80 hours of clinical practice providing direct patient care supervised by a qualified registered nurse instructor who meets or exceeds the Board's minimum criteria for eligibility as an instructor. Home study courses and video programs will not be approved.

IV. **REMEDIAL EDUCATION COURSE(S)**

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

V. **EMPLOYMENT REQUIREMENTS**

In order to complete the terms of this Order, Petitioner 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:** Petitioner 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, Petitioner 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:** Petitioner 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. Petitioner 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:** Petitioner SHALL CAUSE each employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving Petitioner, as well as documentation of any internal investigations regarding action by Petitioner, to the attention of Monitoring at the Board's office.
- D. **Nursing Performance Evaluations:** Petitioner SHALL CAUSE each employer to submit, on forms provided to the Petitioner by the Board, periodic reports as to Petitioner'S capability to practice nursing. ~~These reports shall be completed by the nurse who supervises the Petitioner 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.~~

VI. DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, PETITIONER 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, PETITIONER 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 PETITIONER 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, PETITIONER 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 PETITIONER obtains employment and submits the Notification of Employment form to the Board.

For the duration of the stipulation, 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. Any test result for a period of time in which the PETITIONER 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. PETITIONER 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
<u>tramadol hydrochloride (Ultram)</u>	

A Board representative may appear at the PETITIONER'S place of employment at any time during the stipulation period and require PETITIONER to produce a specimen for screening.

Consequences of Positive or Missed Screens. Any positive result for which PETITIONER does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject PETITIONER to further disciplinary action, including TEMPORARY 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. 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.

VII. RESTORATION OF UNENCUMBERED LICENSE(S)

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.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

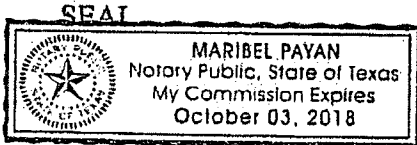
PETITIONER'S CERTIFICATION

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 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 23rd day of January, 2017.

[Signature]
SAMUEL DEAVILA, Petitioner

Sworn to and subscribed before me this 23rd day of January, 2017.



[Signature]
Notary Public in and for the State of Texas

Approved as to form and substance.

[Signature]
Jonathan Wu, Attorney for Respondent

Signed this 23rd day of January, 2017.

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 23rd day of January, 2017, by SAMUEL DEAVILA, Registered Nurse License Number 571577 and Vocational Nurse License Number 129403, and said Order is final.

Effective this 24th day of January, 2017.



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



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 Registered Nurse License Number 571577 § AGREED
and Vocational Nurse License Number 129403 § ORDER
issued to SAMUEL DEAVILA §

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of SAMUEL DEAVILA, Registered Nurse License Number 571577 and Vocational Nurse License Number 129403, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated TEX. REV. CIV. STAT. ANN. 4525(b)(2)&(9)(effective 9/1/1989), and Section 301.452(b)(2)&(10) Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on April 29, 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 informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from El Paso Community College, El Paso, Texas, on August 10, 1990, and a Baccalaureate Degree in Nursing from University of Texas, El Paso, El Paso, Texas, on May 1, 1991. Respondent was licensed to practice vocational nursing in the State of Texas on November 28, 1990 and Respondent was licensed to practice professional nursing in the State of Texas on August 26, 1991.
5. Respondent's nursing employment history is unknown.

6. On or about May 11, 1991, Respondent submitted a Registration by Examination to the Board of 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 crime other than minor traffic violations?"

Respondent failed to disclose the following:

On or about July 27, 1984, Respondent pled Guilty and was convicted of DRIVING WHILE INTOXICATED, a Class A Misdemeanor offense committed on July 21, 1984, in the County Criminal Court at Law No. 12 of Harris County, Texas, under Cause No. 0780569. As a result of the conviction, Respondent was sentenced to confinement in the Harris County Jail for a period of ninety (90) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of two (2) months, and ordered to pay a fine and court costs.

7. On or about October 8, 2009, Respondent was arrested by the El Paso Police Department, El Paso, Texas, and subsequently charged under Cause No. 20090C11290 with DRIVING WHILE INTOXICATED (a Class B misdemeanor offense). On or about November 18, 2010, Cause No. 20090C11290 was dismissed in the County Court at Law No. 4 of El Paso County, Texas, due to Respondent's successful completion of the Pre-Trial Diversion Program.
8. On or about January 17, 2010, Respondent submitted a Online Renewal Document Registered Nurse to the Texas Board of Nursing in which Respondent provided false, deceptive, and/or misleading information in that Respondent 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 judgement/punishment/action?"

Respondent failed to disclose that on or about October 8, 2009, Respondent was arrested by the El Paso Police Department, El Paso, Texas, for DRIVING WHILE INTOXICATED (a Class B misdemeanor offense).

9. On February 24, 2012, Respondent was seen by Sean G. Connolly, Ph.D., to undergo a Chemical Dependency Evaluation. Dr. Connolly stated the following: Samuel DeAvila is a 49 year-old man whose psychological testing presents him as a well-defended individual who is very guarded in dealing with his emotional world and who tends to present an emphatic refusal to admit to any fault or impropriety that might be held against him. Such an approach to the questionnaires administered may result in some under-reporting of any difficulties. He apparently has had four DWT's over a span of fifteen years, but denies any ongoing abuse of alcohol, and relates that he uses alcohol at business or social gatherings. However, having had four DWI's, for a professional, would indicate some poor judgment, lack of recognition of the significant consequences of his behavior, a certain carelessness or lack of internal controls to manage his behavior in a more responsible way, and the need to address his drinking behavior through counseling. Even though these charges, apparently, were dismissed, the repetitiveness and lack of self-protection and prudent responsibility in these situations does raise questions about his judgment. This in conjunction with his considerable defensiveness and guardedness in responding to the questionnaires, does indicate some lack of psychological insight. He does meet the criteria of "borderline" addictive personality the configurations would indicate the absence of any emotional distress, as well as the psychological resources to manage his behavior in a responsible way. However, the pattern of DWT's does indicate a need to manage his behavior more responsibly. Psychotherapeutic treatment is recommended for more responsible management of his emotions and behavior control addictive tendencies to learn about how to manage hostility and resentment in a healthier way, control impulses, and meet his professional responsibilities. In addition to traditional psychological counseling, chemical dependency counseling from and Licensed Chemical Dependency Counselor (LCDC) would seem appropriate.
10. 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.
11. Formal Charges were filed on December 6, 2011.
12. Formal Charges were mailed to Respondent on December 8, 2011.

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 violations of TEX. REV. CIV. STAT. ANN. 4525(b)(2)&(9)(effective 9/1/1989), and Section 301.452(b)(2)&(10), Texas Occupations Code. and 22 TEX. ADMIN. CODE §217.13(15)(effective 9/1/1987), and 22 TEX. ADMIN. CODE §217.12(6)(I)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 571577 and Vocational Nurse License Number 129403, heretofore issued to SAMUEL DEAVILA, 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 LIMITED LICENSE 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) While under the terms of this Order, RESPONDENT SHALL NOT provide direct patient care. For the purposes of this Order, direct patient care involves a personal relationship

between the Nurse and the client, and includes, but is not limited to: teaching, counseling, assessing the client's needs and strengths, and providing skilled nursing care.

(2) SHOULD RESPONDENT desire to return to a clinical practice setting, which would require her to provide direct patient care, RESPONDENT SHALL petition the Board for such approval.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

RESPONDENT'S CERTIFICATION

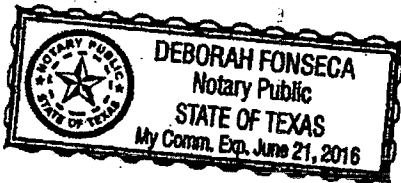
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and 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 16 day of July, 2012.

[Signature]
SAMUEL DEAVILA, Respondent

Sworn to and subscribed before me this 16th day of July, 2012.

SEAL



DEBORAH FONSECA [Signature]

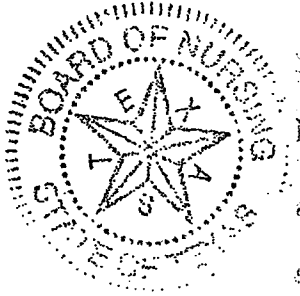
Notary Public in and for the State of TEXAS.

Approved as to form and substance.

[Signature]
Victor R. Parra, Attorney for Respondent

Signed this 16 day of July, 2012.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 16th day of July, 2012, by SAMUEL DEAVILA, Registered Nurse License Number 571577 and Vocational Nurse License Number 129403, and said Order is final.



Effective this 14th day of August, 2012.

Katherine A. Thomas

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

I certify this to be a true copy of the records on file with the Texas Board of Nursing.

Date: 8/07/12
Signed: [Signature]