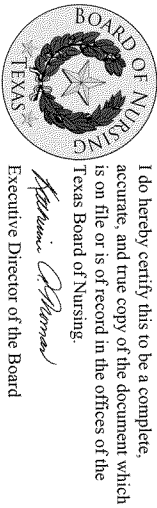


IN THE MATTER OF PERMANENT
VOCATIONAL NURSE
LICENSE NUMBER 186419
ISSUED TO
JAMES DEAN DUFNER,
RESPONDENT

§ BEFORE THE TEXAS
§ BOARD OF NURSING
§ ELIGIBILITY AND
§ DISCIPLINARY COMMITTEE



ORDER OF THE BOARD

TO: JAMES DEAN DUFNER
415 WATERFORD DRIVE
VICTORIA, TX 77901

During open meeting held in Austin, Texas, on February 14, 2017, the Texas Board of Nursing Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's license(s) to practice nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by

reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing [22 TEX. ADMIN.CODE § 213.16(j)]. All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Vocational Nurse License Number 186419, previously issued to JAMES DEAN DUFNER, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.

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

Entered this 14th day of February, 2017.

TEXAS BOARD OF NURSING



BY:

KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Attachment: Formal Charge filed November 21, 2016.

d17r(lvn)(2016.05.11)

Re: Permanent Vocational Nurse License Number 186419
Issued to JAMES DEAN DUFNER
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of February, 2017, a true and correct copy of the foregoing DEFAULT ORDER was served and addressed to the following person(s), as follows:

Via USPS Certified Mail, Return Receipt Requested

JAMES DEAN DUFNER
415 WATERFORD DRIVE
VICTORIA, TX 77901

Via USPS First Class Mail

JAMES DEAN DUFNER
415 WATERFORD DRIVE
VICTORIA, TX 77901

BY:



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

**In the Matter of
Permanent Vocational Nurse
License Number 186419
Issued to JAMES DEAN DUFNER,
Respondent**

§
§
§
§
§

**BEFORE THE TEXAS
BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, JAMES DEAN DUFNER, is a Vocational Nurse holding License Number 186419, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about May 16, 2016, Respondent failed to comply with the REPRIMAND WITH STIPULATIONS AND A FINE issued to Respondent on September 8, 2015, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with the Roman Numeral Four (IV) of the Order which states, in pertinent part:

The Order of the Board issued to RESPONDENT on August 6, 2013, is still in effect in its entirety and RESPONDENT SHALL be responsible for completing the terms of that Order.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

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CHARGE II.

On or about May 16, 2016, Respondent failed to comply with the REPRIMAND WITH STIPULATIONS AND A FINE issued to Respondent on September 8, 2015, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with the Roman Numeral Four (IV) of the Order which states, in pertinent part:

The Order of the Board issued to RESPONDENT on August 6, 2013, is still in effect in its entirety and RESPONDENT SHALL be responsible for completing the terms of that Order.

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in "Detecting and Preventing Abuse and Neglect...".

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on adopted Disciplinary Guidelines for Criminal Conduct; on adopted Disciplinary Sanction Policies for Sexual Misconduct; and on adopted policies related to Substance Use Disorders and Other Alcohol and Drug Related Conduct; related to Behavior Involving Lying and Falsification; and related to Behavior Involving Fraud, Theft, and Deception, which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, www.bon.texas.gov.

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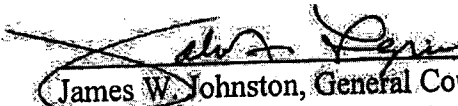
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NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, located at 22 TEX. ADMIN. CODE §213.33(b), which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, www.bon.texas.gov.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order dated August 6, 2013, Order dated September 8, 2015, and Nunc Pro Tunc Order dated October 16, 2015.

Filed this 21st day of November, 2016.

TEXAS BOARD OF NURSING


James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Abel, Assistant General Counsel
State Bar No. 24036103

John R. Griffith, Assistant General Counsel
State Bar No. 24079751

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

John F. Legris, Assistant General Counsel
State Bar No. 00785533

Jacqueline A. Strashun, Assistant General Counsel
State Bar No. 19358600

John Vanderford, Assistant General Counsel
State Bar No. 24086670

333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-8657
F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Board dated August 6, 2013
Order of the Board dated September 8, 2015
Nunc Pro Tunc Order of the Board dated October 16, 2015

D(2016.10.03)



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.
 Executive Director of the Board
 Katherine A. Thomas

IN THE MATTER OF § BEFORE THE TEXAS
 PERMANENT VOCATIONAL NURSE §
 LICENSE NUMBER 186419 §

 ISSUED TO JAMES DEAN DUFNER §
 RESPONDENT § BOARD OF NURSING

NUNC PRO TUNC ORDER OF THE BOARD

TO: JAMES DEAN DUFNER
 PO BOX 91
 VANDERBILT, TX 77991

An Agreed Order of the Board was entered for James Dean Dufner on September 8, 2015. The Order, however, contained a typographical error on page 4 regarding the time period in which the Respondent must complete remedial education courses. Upon notice and hearing, administrative agencies, like the Courts, have the power to enter nunc pro tunc orders where it can be seen by reference to a record that what was intended to be entered, but was omitted by inadvertence or mistake, can be corrected upon satisfactory proof of its rendition provided that no intervening rights will be prejudiced. *Railroad Comm'n v. McClain*, 356 S.W.2d 330, 334 (Tex. App.--Austin 1962, no writ) (citing *Frankfort Ky. Nat. Gas Co. v. City of Frankfort*, 276 Ky. 199, 123 S.W.2d 270, 272).

The Executive Director, as agent of the Texas Board of Nursing, after review and due consideration of the record and the facts therein submits and enters the corrected Order, which contains the corrected time frame in which the Respondent must complete remedial education courses. Respondent received due process regarding his license; therefore, his rights have not been prejudiced.

NOW, THEREFORE, IT IS ORDERED that the corrected Order of the Board is hereby approved and entered on the dates set forth below.

Order effective September 8, 2015.

Entered this 2nd day of October, 2015.

BY: Katherine A. Thomas
 KATHERINE A. THOMAS, MN, RN, FAAN
 EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Vocational Nurse License Number 186419 §
issued to JAMES DEAN DUFNER § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JAMES DEAN DUFNER, Vocational Nurse License Number 186419, 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)(1)&(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 June 19, 2015.

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's license to practice as a vocational nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Victoria College, Victoria, Texas, on August 9, 2002. Respondent was licensed to practice vocational nursing in the State of Texas on October 31, 2002.
5. Respondent's vocational nursing employment history is unknown.

6. On or about August 6, 2013, Respondent was issued the sanction of a WARNING WITH STIPULATIONS by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law and Agreed Order dated August 6, 2013, is attached and incorporated herein, by reference, as part of this Order.
7. On or about August 6, 2014, Respondent failed to comply with the Agreed Order issued to Respondent on August 6, 2013, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Stipulation Number One (1) of the order which reads, in pertinent part:
 - (1) "RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics..."
8. On or about August 6, 2014, Respondent failed to comply with the Agreed Order issued to Respondent on August 6, 2013, by the Texas Board of Nursing. Noncompliance is the result of Respondent failure to comply with Stipulation Number Two (2) of the order which reads, in pertinent part:
 - (2) "RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment..."
9. On or about August 6, 2014, Respondent failed to comply with the Agreed Order issued to Respondent on August 6, 2013, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Stipulation Number Three (3) of the order which reads, in pertinent part:
 - (3) "RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation..."
10. On or about August 6, 2014, Respondent failed to comply with the Agreed Order issued to Respondent on August 6, 2013, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Stipulation Number Four (4) of the order which reads, in pertinent part:
 - (4) "RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in "Detecting and Preventing Abuse and Neglect..."
11. In response to Findings of Fact Numbers Six (6) through Ten (10), Respondent states he has made numerous attempts to contact the board as to how and where he could take these courses and never received any responses.

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. MONETARY FINE

RESPONDENT SHALL pay a monetary fine in the amount of one thousand dollars (\$1,000.00) within ninety (90) 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.

IV. COMPLIANCE WITH PRIOR ORDER

The Order of the Board issued to RESPONDENT on August 6, 2013, is still in effect in its entirety and RESPONDENT SHALL be responsible for completing the terms of that Order within six (6) months from the date of this Order.

V. 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. 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 03 day of August, 2015.

James Dean Dufner
JAMES DEAN DUFNER, Respondent

Sworn to and subscribed before me this 03 day of August, 2015.

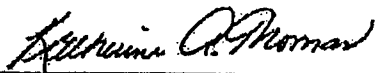
SEAL

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



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does
hereby ratify and adopt the Agreed Order that was signed on the 3rd day of August, 2015, by
JAMES DEAN DUFNER, Vocational Nurse License Number 186419, and said Order is final.

Effective this 8th day of September, 2015.


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 § AGREED
Vocational Nurse License Number 186419 §
issued to JAMES DEAN DUFNER § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JAMES DEAN DUFNER, Vocational Nurse License Number 186419, 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) & (13) and 301.453, 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 June 20, 2013, 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 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 Victoria College, Victoria, Texas, on August 9, 2002. Respondent was licensed to practice vocational nursing in the State of Texas on October 31, 2002.
5. Respondent's vocational nursing employment history includes:

2002 - 2004	LVN	Twin Pines Nursing and Rehabilitation Victoria, Texas
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Respondent's vocational nursing employment history continued:

2004 - 2007	LVN	Windcrest Nursing and Rehabilitation Fredericksburg, Texas
2007 - 2010	LVN	Northwood Nursing and Rehabilitation Marble Falls, Texas
2010 - 2011	LVN	Oaks Nursing Center Burnet, Texas
2011 - 2011	LVN	Northwood Nursing and Rehabilitation Marble Falls, Texas
2011 - 2011	LVN	Llano Nursing and Rehabilitation Llano, Texas
2012 - present	LVN	Regal Nursing and Rehabilitation Unknown

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with Llano Nursing and Rehabilitation, Llano, Texas, and had been in this position for approximately three (3) months.
7. On or about November 18, 2011, while employed with Llano Nursing and Rehabilitation Center, Llano, Texas, Respondent failed to assess and/or document the assessment of Patient AH who had fallen. Instead, Respondent falsely reported to the incoming shift that said patient had not fallen, contrary to what was reported to Respondent by a nurse's aide. Subsequently, Patient AH was transported to a hospital and found to have a fractured hip. Respondent's conduct resulted in an inaccurate medical record which was likely to deceive subsequent care givers who relied on the documentation while providing care to the patient and was likely to expose the patient unnecessarily to a risk of harm from complications due to undiagnosed and, consequently, untreated disease processes.
8. In response to the incident in Findings of Fact Number Seven (7), Respondent states that the am CNA walked down the hall with him and they observed the resident at the foot of her recliner and that no one had reported anything to him. Respondent states that from what he had observed the resident had slid out of the recliner and had not fallen. Respondent states that his error in judgement was not filling out an incident report but adds that this has happened several times in several of other cases. Respondent states that it was a nursing judgement and at no time did he think the resident was injured or had fallen. Respondent states that it was twelve hours when he was notified that she was being sent out for an evaluation. Respondent states that if he had to do it again he would have gladly filled out a report. Respondent states that he didn't falsely report anything and that he had observed what he had seen and reported it.

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 §217.11(1)(A), (1)(B), (1)(D), (1)(M) & (1)(P), and 22 TEX. ADMIN. CODE §217.12(1)(B), (1)(C), (4) & (6)(C).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10) & (13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 186419, heretofore issued to JAMES DEAN DUFNER, 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 WARNING WITH STEPLATIONS, 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 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, 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 licensure. Board-approved courses may be found at the following Board website address: <http://www.bon.texas.gov/disciplinaryaction/stipsourses.html>.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include Nurses. The didactic portion of this course shall be a minimum of six (6) hours in length. RESPONDENT SHALL perform physical

assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The clinical component SHALL focus on tasks of physical assessment only and shall be provided by the same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. Performing assessments on mock patients or mannequins WILL NOT be accepted. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor 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.ncnurses.gov/directories/continuingeducationcourses.html>~~

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. 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. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office 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/disciplinaryaction/stipscourses.html>.

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in "Detecting and Preventing Abuse and Neglect ..." a five (5) contact hour workshop presented in various locations by the Texas Department of Aging and Disability Services. In order to receive credit for completion of this workshop, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this workshop 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. Information regarding Board-approved courses may be found at the following Board website address:
<http://www.bon.texas.gov/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(S) 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 REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:

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

(6) 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.

(7) RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse, who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(8) 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. 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(s) 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 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. 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 sanctions, including revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 14 day of July, 2013


JAMES DEAN BERNIER, RESPONDENT

Sworn to and subscribed before me this 14 day of July, 2013

SEAL




Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 19th day of July, 2013, by JAMES DEAN DUFNER, Vocational Nurse License Number 186419, and said Order is final.

Effective this 6th day of August, 2013.

Katherine A. Thomas

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

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Vocational Nurse License Number 186419 §
issued to JAMES DEAN DUFNER § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JAMES DEAN DUFNER, Vocational Nurse License Number 186419, 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)(1)&(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 June 19, 2015.

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's license to practice as a vocational nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Victoria College, Victoria, Texas, on August 9, 2002. Respondent was licensed to practice vocational nursing in the State of Texas on October 31, 2002.
5. Respondent's vocational nursing employment history is unknown.

6. On or about August 6, 2013, Respondent was issued the sanction of a WARNING WITH STIPULATIONS by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law and Agreed Order dated August 6, 2013, is attached and incorporated herein, by reference, as part of this Order.
7. On or about August 6, 2014, Respondent failed to comply with the Agreed Order issued to Respondent on August 6, 2013, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Stipulation Number One (1) of the order which reads, in pertinent part:
 - (1) "RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics..."
8. On or about August 6, 2014, Respondent failed to comply with the Agreed Order issued to Respondent on August 6, 2013, by the Texas Board of Nursing. Noncompliance is the result of Respondent failure to comply with Stipulation Number Two (2) of the order which reads, in pertinent part:
 - (2) "RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment..."
9. On or about August 6, 2014, Respondent failed to comply with the Agreed Order issued to Respondent on August 6, 2013, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Stipulation Number Three (3) of the order which reads, in pertinent part:
 - (3) "RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation..."
10. On or about August 6, 2014, Respondent failed to comply with the Agreed Order issued to Respondent on August 6, 2013, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Stipulation Number Four (4) of the order which reads, in pertinent part:
 - (4) "RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in "Detecting and Preventing Abuse and Neglect..."
11. In response to Findings of Fact Numbers Six (6) through Ten (10), Respondent states he has made numerous attempts to contact the board as to how and where he could take these courses and never received any responses.

12. Formal Charges were filed on April 1, 2015.

13. Formal Charges were mailed to Respondent on April 2, 2015.

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(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1)&(10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 186419, heretofore issued to JAMES DEAN DUFNER, 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 AND FINE** 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. MONETARY FINE

RESPONDENT SHALL pay a monetary fine in the amount of one thousand dollars (\$1,000.00) within ninety (90) 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.

IV. COMPLIANCE WITH PRIOR ORDER

The Order of the Board issued to RESPONDENT on August 6, 2013, is still in effect in its entirety and RESPONDENT SHALL be responsible for completing the terms of that Order.

V. 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. 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 03 day of August, 2015.
James Dean Dufner
JAMES DEAN DUFNER, Respondent

Sworn to and subscribed before me this 03 day of August, 2015.

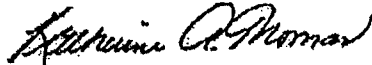
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[Signature]
Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does
hereby ratify and adopt the Agreed Order that was signed on the 3rd day of August, 2015, by
JAMES DEAN DUFNER, Vocational Nurse License Number 186419, and said Order is final.

Effective this 8th day of September, 2015.



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 § AGREE
Vocational Nurse License Number 186419 §
issued to JAMES DEAN DUFNER § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JAMES DEAN DUFNER, Vocational Nurse License Number 186419, 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) & (19) and 301.453, 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 June 20, 2013, 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 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 Victoria College, Victoria, Texas, on August 9, 2002. Respondent was licensed to practice vocational nursing in the State of Texas on October 31, 2002.
5. Respondent's vocational nursing employment history includes:

2002 - 2004	LVN	Twin Pines Nursing and Rehabilitation Victoria, Texas
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Respondent's vocational nursing employment history continued:

2004 - 2007	LVN	Windcrest Nursing and Rehabilitation Fredericksburg, Texas
2007 - 2010	LVN	Northwood Nursing and Rehabilitation Marble Falls, Texas
2010 - 2011	LVN	Oaks Nursing Center Burnet, Texas
2011 - 2011	LVN	Northwood Nursing and Rehabilitation Marble Falls, Texas
2011 - 2011	LVN	Llano Nursing and Rehabilitation Llano, Texas
2012 - present	LVN	Regal Nursing and Rehabilitation Unknown

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with Llano Nursing and Rehabilitation, Llano, Texas, and had been in this position for approximately three (3) months.
7. On or about November 18, 2011, while employed with Llano Nursing and Rehabilitation Center, Llano, Texas, Respondent failed to assess and/or document the assessment of Patient AFI who had fallen. Instead, Respondent falsely reported to the incoming shift that said patient had not fallen, contrary to what was reported to Respondent by a nurse's aide. Subsequently, Patient AFI was transported to a hospital and found to have a fractured hip. Respondent's conduct resulted in an inaccurate medical record which was likely to deceive subsequent care givers who relied on the documentation while providing care to the patient and was likely to expose the patient unnecessarily to a risk of harm from complications due to undiagnosed and, consequently, untreated disease processes.
8. In response to the incident in Findings of Fact Number Seven (7), Respondent states that the am CNA walked down the hall with him and they observed the resident at the foot of her recliner and that no one had reported anything to him. Respondent states that from what he had observed the resident had slid out of the recliner and had not fallen. Respondent states that his error in judgement, was not filling out an incident report but adds that this has happened several times in several of other cases. Respondent states that it was a nursing judgement and at no time did he think the resident was injured or had fallen. Respondent states that it was twelve hours when he was notified that she was being sent out for an evaluation. Respondent states that if he had to do it again he would have gladly filled out a report. Respondent states that he didn't falsely report anything and that he had observed what he had seen and reported it.

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 §217.11(1)(A), (1)(B), (1)(D), (1)(M) & (1)(P) and 22 TEX. ADMIN. CODE §217.12(1)(B), (1)(C), (4) & (6)(C).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10) & (13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 186419, heretofore issued to JAMES DEAN DUFNER, 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 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, 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 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, 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/disciplinaryaction/stipscourses.html>

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include Nurses. The didactic portion of this course shall be a minimum of six (6) hours in length. RESPONDENT SHALL perform physical

assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The clinical component SHALL focus on tasks of physical assessment only and shall be provided by the same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. Performing assessments on mock patients or mannequins WILL NOT be accepted. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor 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.nursing.texas.gov/divisions/continuingeducation/courses.html>

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. 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. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office to verify RESPONDENT'S successful completion of

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

(6) 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.

(7) RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse, who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(8) 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. 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(s) 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 may be eligible for nurse licensure compact privileges, if any.

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RESPONDENT'S CERTIFICATION

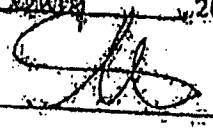
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and 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 14 day of July, 2013


JAMES DEAN TURNER, RESPONDENT

Sworn to and subscribed before me this 14 day of July, 2013




Notary Public in and for the State of TEXAS

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 19th day of July, 2013, by JAMES DEAN DUFNER, Vocational Nurse License Number 186419, and said Order is final.

Effective this 6th day of August, 2013.

Katherine A. Thomas

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