



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

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In the Matter of § AGREED  
Vocational Nurse License Number 301926 §  
issued to EDGAR PONCE § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of EDGAR PONCE, Vocational Nurse License Number 301926, 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 January 25, 2017.

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 Galen College of Nursing, San Antonio, Texas on April 19, 2011. Respondent was licensed to practice vocational nursing in the State of Texas on August 11, 2011.
5. Respondent's nursing employment history includes:

08/2011 - 02/2012	LVN	Angelical Home Health La Joya, Texas
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Respondent's nursing employment history continued:

03/2012 - 08/2012	Unknown	
09/2012 - 03/2013	LVN	Healthcare Unlimited McAllen, Texas
03/2013 - 07/2013	LVN	Epic Health Services Weslaco, Texas
08/2013 - 12/2016	Unknown	
01/2017 - Present	LCN	Edinburg Nursing and Rehab Edinburg, Texas

6. On February 14, 2014, Respondent was issued a CONFIDENTIAL AGREED ORDER FOR PEER ASSISTANCE PROGRAM through an Agreed Order by the Texas Board of Nursing. A copy of the Agreed Order, including the Findings of Fact, Conclusions of Law, and Order dated February 14, 2014, is attached and incorporated herein by reference as part of this Order.
7. On October 6, 2014, Respondent was issued an ENFORCED SUSPENSION through an Agreed Order for Discipline and Eligibility by the Texas Board of Nursing. A copy of the Agreed Order for Discipline and Eligibility, including the Findings of Fact, Conclusions of Law, and Order dated October 6, 2014, is attached and incorporated herein by reference as part of this Order.
8. On or about December 22, 2016, Respondent became non-compliant with Agreed Order for Discipline and Eligibility issued to him by the Texas Board of Nursing on October 6, 2014. Non-compliance is the result of his failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract. Stipulation Three (3) of the Order dated October 6, 2015, states in part:

"(3) PETITIONER SHALL comply with all requirements of the TPAPN participation agreement during it's term....."

On December 22, 2016, Respondent missed a fourth drug screen. As a result, his case was closed and returned to the Board on December 29, 2016.

9. In response to Finding of Fact Number Eight (8), Respondent states: "I missed a test while in TPAPN and was referred back to the Board, because I was busy and simply forgot to check in. I was clean on every test that I took in TPAPN, went to AA every week including my 90/90, went to all my counselor and psychiatrist sessions, always turned in monthly reports and three month updates."

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.

### 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(9)&(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 301926, heretofore issued to EDGAR PONCE, 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, subject to ratification by the Texas Board of Nursing, that Vocational Nurse License Number 301926, previously issued to EDGAR PONCE, to practice nursing in Texas is hereby **SUSPENDED** with the suspension **STAYED** and Respondent is hereby placed on **PROBATION**, in accordance with the terms of this Order, for a minimum of three (3) years **AND** until Respondent fulfills the requirements 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. SUPERCEDING ORDER

IT IS FURTHER AGREED and ORDERED that the sanction and conditions of this Order SHALL supercede all previous stipulations required by any Order entered by the Texas Board of Nursing. However, RESPONDENT remains eligible to sit for the National Council Licensure Examination for Registered Nurses (NCLEX-RN Examination), as set forth in the prior October 6, 2014 Order, provided he complies with the terms of this Order.

## III. 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.

## IV. 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](http://www.bon.texas.gov/compliance).*

## **V. 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 twelve (12) quarterly periods [three (3) years] of employment. This requirement will not be satisfied until twelve (12) 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. Direct Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL be directly 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. Direct supervision requires another nurse, as applicable, to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on 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.
- D. No Night or Rotating Shifts, Overtime, or On-Call:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Respondent is regularly assigned.
- E. No Critical Care:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL NOT practice as a nurse in any critical care area. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.
- F. No Administration of Controlled Medications:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, Propofol, or other synthetic opiates.
- G. Indirect Supervision:** For the remainder of the probation period, 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.

- H. **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 twelve (12) quarters [three (3) years] of employment as a nurse.

## VI. DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, RESPONDENT SHALL **abstain from the use of alcohol, nalbuphine, propofol 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, nalbuphine, propofol 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 [1<sup>st</sup> 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 [2<sup>nd</sup> quarter] period, random screens shall be performed at least twice per month.

- For the next six (6) month period [3<sup>rd</sup> & 4<sup>th</sup> quarters], random screens shall be performed at least once per month.
- For the remainder of the 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. 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 any or all of the following substances and/or their metabolites:

Amphetamine	Methamphetamine	MDMA
MDA	Alprazolam	Diazepam
Alpha-o-alprazolam	Alpha-Hydroxytriazolam	Clonazepam
Desmethyldiazepam	Lorazepam	Midazolam
Oxazepam	Temazepam	Amobarbital
Butobarbital	Butalbital	Pentobarbital
Phenobarbital	Secobarbital	Codeine
Hydrocodone	Hydromorphone	Methadone
Morphine	Opiates	Oxycodone
Oxymorphone	Propoxyphene	Cannabinoids
Cocaine	Phencyclidine	Ethanol
Heroin	Fentanyl	Tramadol
Meperidine	Carisoprodol	Butorphanol
Nalbuphine	Ketamine	Propofol

Upon enrollment in the Board's drug and alcohol testing program, **RESPONDENT SHALL, on a daily basis, call or login online to the Board's designated drug and alcohol testing vendor to determine whether or not RESPONDENT has been selected to produce a specimen for screening that day** and SHALL, if selected, produce a specimen for screening that same day at an approved testing location and/or comply with any additional instructions from the vendor or Board staff. Further, **a Board representative may appear** at the RESPONDENT'S place of employment at any time during the probation 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.

- C. **While under the terms of this Order, RESPONDENT SHALL attend at least two (2) support group meetings each week,** one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. RESPONDENT SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by RESPONDENT. RESPONDENT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) month quarterly period. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

## VII. THERAPY

**While working as a nurse under the terms of this Order, RESPONDENT SHALL participate in therapy with a professional counselor approved by the Board.** RESPONDENT SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT'S progress in therapy, rehabilitation and capability to safely practice nursing. The report must indicate whether or not the RESPONDENT'S stability is sufficient to provide direct patient care safely. For the first three (3) month quarterly period RESPONDENT works as a nurse under the terms of this Order, reports are to be submitted to the Board each and every month. If therapy is recommended by the counselor for an additional period of time, the reports shall then be submitted to the Board at the end of each three (3) month quarterly period in which the RESPONDENT is working as a nurse under the terms of this Order, for the remainder of the term of the Order, or until RESPONDENT is dismissed from therapy, whichever is earlier.

## VIII. FURTHER COMPLAINTS

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and

shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

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

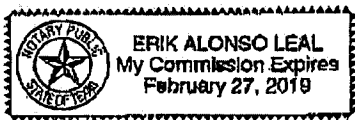
Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

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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 3 day of April, 2017.

[Signature]  
EDGAR PONCE, Respondent

Sworn to and subscribed before me this 3<sup>rd</sup> day of APRIL, 2017.

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 April, 2017, by EDGAR PONCE, Vocational Nurse License Number 301926, and said Order is final.

Effective this 9th day of May, 2017.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas". The signature is written in a cursive style with a horizontal line underneath it.

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

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED ORDER FOR
EDGAR PONCE,	§	
Vocational Nurse License Number 301926 and	§	
PETITIONER for Eligibility for Licensure	§	DISCIPLINE & ELIGIBILITY

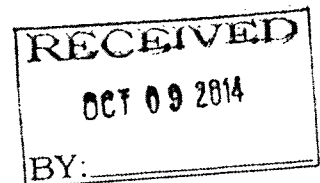
On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered Vocational Nurse License Number 301926, and the Petition for Declaratory Order and supporting documents filed by EDGAR PONCE, hereinafter referred to as PETITIONER, together with any documents and information gathered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

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

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

FINDINGS OF FACT

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



4. Respondent's nursing employment history includes:

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

5. Petitioner is currently enrolled in a Associate Degree in Nursing Program at South Texas College, McAllen, Texas, with an anticipated graduation date in May of 2015.

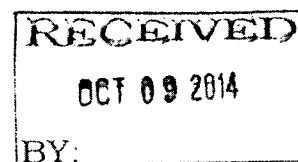
6. On February 14, 2014, Petitioner was issued a Confidential Agreed Order for Peer Assistance Program by the Board of Nursing. A copy of the February 14, 2014 Order is attached and incorporated by reference as part of this Order.

7. Petitioner completed the Petition for Declaratory Order and answered "Yes" to the question which reads: *"Within the past five (5) years have you been diagnosed with, treated, or hospitalized for schizophrenia and/or psychotic disorders, bipolar disorder, paranoid personality disorder, antisocial personality disorder, or borderline personality disorder?"*

8. On or about June 17, 2014, Respondent became non-compliant with the Confidential Agreed Order issued to him by the Texas Board of Nursing on February 14, 2014. Non-compliance is the result of his failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract. Stipulation number Three (3) of the Order dated February 14, 2014, states in part:

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

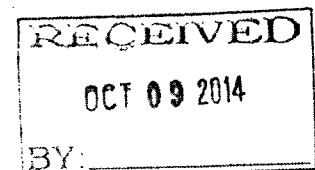
On or about April 11, 2014, Respondent signed a TPAPN participation agreement. Respondent's assessment indicated a Polysubstance Dependence diagnosis in addition to the known psychiatric diagnosis. Respondent contested the diagnosis and due to his inability to financially participate in TPAPN, but declined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



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

#### CONCLUSIONS OF LAW

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



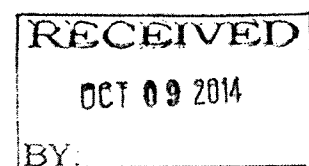
4. The Board may probate the denial of a license under conditions for a specified term pursuant to Section 301.453, Texas Occupations Code.
5. The Board may license an individual who has a history of mental illness and substance abuse and/or chemical dependency after consideration of the criteria set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

ORDER

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

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

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





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

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

IT IS FURTHER AGREED and ORDERED that while PETITIONER'S license is encumbered by this Order, PETITIONER may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where PETITIONER wishes to work.

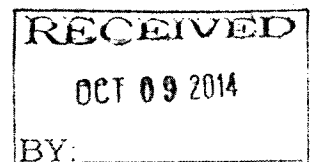
(1) PETITIONER SHALL apply to and be accepted into the TPAPN and complete the enrollment process, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00) payable to TPAPN.

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

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

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

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



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

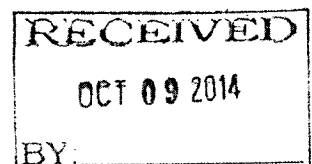
PETITIONER SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

IT IS FURTHER AGREED, SHOULD PETITIONER fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of PETITIONER'S license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

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

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PETITIONER'S CERTIFICATION

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

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

I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of my potential ineligibility for licensure through peer assistance.

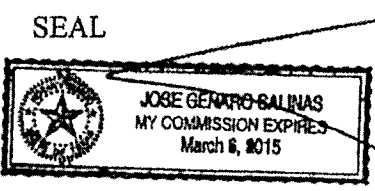
I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of my license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas, as a consequence of my noncompliance.

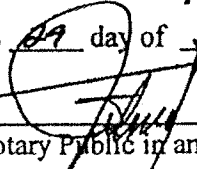
I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Texas Board of Nursing ratify this Order.

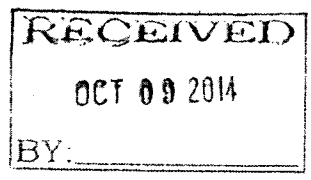
Signed this 29 day of Sept., 2014

  
EDGAR PONCE, PETITIONER

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



  
Notary Public in and for the State of TEXAS

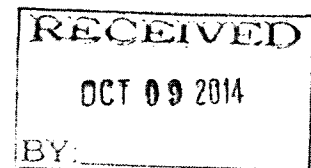


WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby ratify and adopt the Agreed Order for Discipline and Eligibility that was signed on the 29<sup>th</sup> day of September, 2014, by EDGAR PONCE, Vocational Nurse License Number 301926, and PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this 6<sup>th</sup> day of October, 2014.



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



BEFORE THE TEXAS BOARD OF NURSING

\*\*\*\*\*

In the Matter of § CONFIDENTIAL AGREED ORDER  
Vocational Nurse License Number 301926 § FOR  
issued to EDGAR PONCE § PEER ASSISTANCE PROGRAM

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of EDGAR PONCE, Vocational Nurse License Number 301926, 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)&(12) and 301.453, Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered under the authority of Section 301.466(d), Texas Occupations Code, and approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on January 7, 2014.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Galen College of Nursing, San Antonio, Texas, on April 19, 2011. Respondent was licensed to practice vocational nursing in the State of Texas on August 11, 2011.

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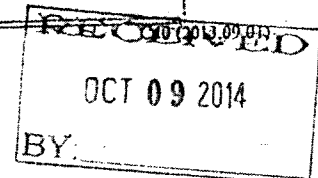
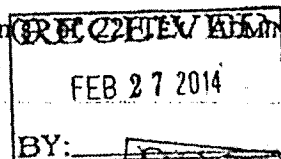
5. Respondent's nursing employment history includes:

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

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

#### CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation of ~~TEX OCCUPATIONS CODE~~ CODE §217.12(1)(A),(1)(E),(4)&(5).



4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(12), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 301926, heretofore issued to EDGAR PONCE, up to, and including, revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

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

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

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

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

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section 301.001 et seq., the

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Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

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

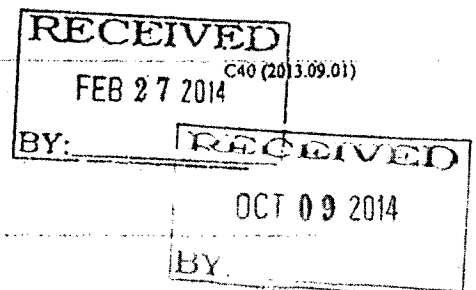
IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state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

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

IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

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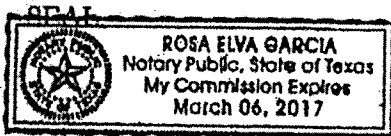
RESPONDENT'S CERTIFICATION

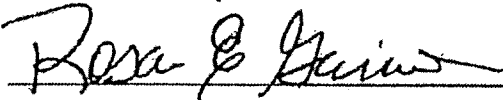
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 5 day of Feb, 2014.

  
EDGAR PONCE, RESPONDENT

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

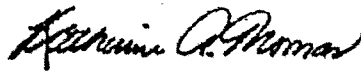


  
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WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Confidential Agreed Order for Peer Assistance Program that was signed on the 5th day of February, 2014, by EDGAR PONCE, Vocational Nurse License Number 301926, and said Order is final.

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



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

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