



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

BEFORE THE TEXAS BOARD OF NURSING

\*\*\*\*\*

In the Matter of § AGREED ORDER  
Vocational Nurse License Number 128792 §  
issued to SAMUEL LEE MARCEL §  
§

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of SAMUEL LEE MARCEL, Vocational Nurse License Number 128792, 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), Texas Occupations Code.

An informal conference was conducted on June 4, 2019, in accordance with Section 301.464, Texas Occupations Code. Respondent appeared in person. Respondent was represented by Kimberly A Norvell, Attorney at Law.

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 Agreed 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 Army Practical Nurse Course, Fort Sam Houston, Texas, on July 7, 1987. Respondent was licensed to practice vocational nursing in the State of Texas on July 23, 1990.
5. Respondent's nursing employment history includes:

9/2001 – Current                      Not employed in nursing

6. On or about November 26, 2018, Respondent submitted a Timely License Renewal Form Registered Nurse to the Texas Board of Nursing in which he answered "Yes" to the question:

Has any licensing authority refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, suspended, place on probation, refused to renew a nursing license, certificate, or multi-state privilege held by you now or previously, or ever fined, censured, reprimanded, or otherwise disciplined you? (you may exclude disciplinary actions previously disclosed to the Texas Board of Nursing on an initial or renewal licensure application.)"

Respondent disclosed that he is a Licensed Professional Counselor and received disciplinary action from the Texas State Board of Examiners of Professional Counselors.

7. On or about August 5, 2014, Respondent failed to maintain professional boundaries when he inappropriately requested client lift her shirt and then placed his hands on said client's ribs, hip bone and under her bra.
8. In response to Findings of Fact Numbers Six (6) through Seven (7), Respondent states Respondent is licensed as both an LVN and a Licensed Professional Counselor ("LPC") in the State of Texas. He was asked to undertake an evaluation of Patient P in his capacity as an LPC in connection with criminal charges pending against her for shoplifting. In the course of his evaluation and assessment, it quickly became apparent that Patient P suffered from a significant eating disorder that was potentially threatening to her health and well-being.

Respondent undertook to assess the extent of her eating disorder to try to assist Patient P both in the resolution of her criminal matter and to seek out the medical help he felt that her condition required. Patient P, consented to the brief physical examination, and Respondent explained to her what he was doing and why. He did not, as allege, palpate or otherwise place his hands under Patient's bra.

Given the circumstances of Patient P's presentation, the apparent severity of her condition, and the opinion that she and her attorney were asking Respondent to render (namely that Patient P's shoplifting was related to her underlying psychological condition and eating disorder), Respondent felt at the time that the brief physical examination was in Patient P's best interest and would lead to her receiving the care and treatment that she needed.

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)(G),(1)(J)&(2)(A) and 22 TEX. ADMIN. CODE §217.12 (1)(B),(1)(C),(1)(D)&(1)(E)
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 128792, heretofore issued to SAMUEL LEE MARCEL.
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 **LIMITED LICENSE WITH STIPULATIONS** in accordance with the terms of this Order.

- A. While under the terms of this Order, **RESPONDENT SHALL NOT provide direct patient care.** For the purposes of this Order, direct patient care involves the formation of a relationship between the nurse and the client, and includes, but is not limited to: teaching, counseling, assessing the client's needs and strengths, and providing skilled nursing care.
- B. This Order SHALL apply to any and all future licenses issued to RESPONDENT to practice nursing in the State of Texas.
- C. This Order SHALL be applicable to RESPONDENT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

- D. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state.

## 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 Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Agreed Order.

## III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) **within one (1) year of the effective date of this Order, unless otherwise specifically indicated:**

**A 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 and video programs will not be approved.

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

**IV. SUBSEQUENT CRIMINAL PROCEEDINGS**

IT IS FURTHER AGREED, should the RESPONDENT'S conduct, as outlined in the findings of fact of this Agreed Order, result in subsequent judicial action, including a deferred disposition, RESPONDENT may be subject to further disciplinary action, up to, and including, revocation of RESPONDENT'S license(s) to practice nursing in the State of Texas.

**V. RESTORATION OF PATIENT CARE PRIVILEGES AND/OR UNENCUMBERED LICENSE(S)**

SHOULD RESPONDENT desire to provide direct patient care, RESPONDENT SHALL petition the Board for such approval, at which time, the RESPONDENT MUST satisfy all then existing requirements for restoration of the privilege to provide direct patient care. Further, the Board may impose reasonable conditions that must be satisfied by the RESPONDENT before restoration of an unencumbered license, which, at a minimum, shall include the remedial education courses, work restrictions, supervised practice, and/or employer reporting which would have been requirements of this Agreed Order had the license(s) not been placed in limited status.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

**RESPONDENT'S CERTIFICATION**

I understand that I have the right to legal counsel prior to signing this Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Texas Board of Nursing and a copy of this Order will be mailed to me once the Order becomes effective. 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) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 2<sup>nd</sup> day of July, 2019

[Signature]  
SAMUEL LEE MARCEL, Respondent

Sworn to and subscribed before me this 2<sup>nd</sup> day of July, 2019.

SEAL

[Signature]  
Notary Public in and for the State of 2-116-23




Approved as to form and substance.

[Signature]  
Kimberly A. Norvell, Attorney for Respondent

Signed this 1<sup>st</sup> day of July, 2019.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 2nd day of July, 2019, by SAMUEL LEE MARCEL, Vocational Nurse License Number 128792, and said Agreed Order is final.

Effective this 13th day of August, 2019.

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

IN THE MATTER OF

SAMUEL MARCEL

EL PASO, TEXAS

§  
§  
§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS STATE BOARD OF  
EXAMINERS OF  
PROFESSIONAL COUNSELORS

AUSTIN, TEXAS

AGREED ORDER

I. JURISDICTION

The Texas State Board of Examiners of Licensed Professional Counselors (Board) is authorized to enforce Texas Occupations Code (TOC) Chapter 503 ("Act") and the rules found at Texas Administrative Code (TAC) Title 22, Chapter 681 ("Rules"), relating to the license of a person as a Licensed Professional Counselor (LPC) in Texas.

II. RESPONDENT

Samuel Marcel (referenced herein, "Respondent") is a Licensed Professional Counselor (LPC) and is therefore subject to the aforementioned Act and Rules.

III. FACTS

The Board reviewed evidence related to Respondent's practice as an LPC. The Board determined that on or about August 5, 2014, the Respondent, while practicing as an LPC, failed to maintain appropriate and accurate records and failed to maintain professional boundaries. This is a violation of 22 TAC §§ 681.41(e)(2), (l), (p), and (q). The violations are more specifically described in the Board's October 17, 2017 Notice of Violation ("Notice"), which is adopted and incorporated in this Agreed Order ("Order") by reference.

IV. NOTICES

Through delivery of the Notice, the Board informed Respondent of its proposal to revoke the Respondent's LPC license, #18932.

V. RESPONSE

On October 25, 2017, the Respondent signed a statement indicating he did not accept the proposed action and requested an Informal Conference.

VI. INFORMAL CONFERENCE

An Informal Conference was held on December 5, 2017, between the Board representatives and Respondent.

VII. ENFORCEMENT



The Board and the Respondent have agreed that:

1. Respondent is hereby issued a two (2) year probated suspension with stipulations.
2. During the two (2) year probated suspension, the Respondent is required to be supervised bi-weekly by a supervisor, who must be approved by the board, and who shall submit quarterly reports to the board regarding the Respondent's performance as a professional counselor, including, but not limited to Respondent's compliance with the statutes and rules governing professional counselors.
3. Respondent shall comply with this Order and with all applicable laws, rules, and regulations.

In the event Respondent fails to comply with or chooses not to abide by the terms and conditions of this Agreed Order or violates any provision of the Act or Rules, the Board may immediately seek to take disciplinary action as allowed by law, including license revocation.

### VIII. COMPLETE AGREEMENT

This Order is made pursuant to Chapter 2001 of the Texas Government Code, § 2001.056(2), and the procedural rules adopted by the Board. This Order represents the complete settlement of all violations contained in the Notices, as they are described in sections, "III. Facts" and "IV. Notices" of this Order.

#### A. WAIVER OF APPEAL AND AGREEMENT REGARDING SIGNATURE

In exchange for the execution of this Order, Respondent waives the right to an administrative appeal hearing and a judicial review by a state district court. Respondent has no objection to this Order being signed by either the Board Chair or her designee.

#### B. NO WAIVER WITH REGARD TO FUTURE VIOLATIONS

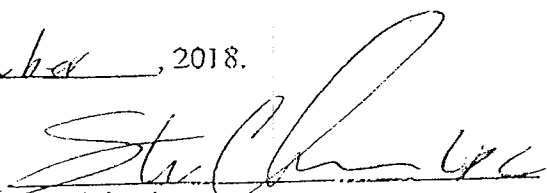
The Board does not waive the right to enforce this Order or to prosecute any future violations Respondent may commit and may consider the findings contained in this Order in assessment of any future enforcement actions.

#### C. COMPLETE UNDERSTANDING

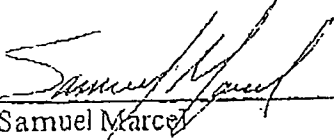
The Respondent acknowledges his understanding of the terms of this agreement, enters into the agreement freely, and agrees to the terms of this Order.

NOW THEREFORE, IT IS ORDERED that: Samuel Marcel shall comply with all terms and conditions set out above. Mr. Marcel shall henceforth comply with this Agreed Order and with all applicable laws, rules and regulations.

Ordered this 14<sup>th</sup> day of September, 2018.

  
Board Chair  
Texas State Board of Examiners for Professional  
Counselors

Agreed As to Form and Substance:

  
\_\_\_\_\_  
Samuel Marcel

4/5/18  
\_\_\_\_\_  
Date



**TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS**

P.O. Box 149347  
Austin, TX 78714-9347  
Phone: 512-834-6658 ■ Fax: (512) 834-6677  
E-mail: [lpc@dshs.state.tx.us](mailto:lpc@dshs.state.tx.us)

October 24, 2017

Kimberly A. Norvell Miller, Attorney  
124 W. Castellano Dr., Suite 100  
El Paso, Texas 79912

Certified Mail Number 7014 3490 0000 3385 6768  
- and First Class Mail Service.

**RE: Notice of Violation (NOV) – Samuel Marcel, Licensed Professional Counselor, #18932– Case #1061-15-0123**

Attorney Norvell Miller:

The Complaints Committee (Committee) of the Texas State Board of Examiners of Professional Counselors (Board) has reviewed documents and evidence related to an investigation of your client’s practice as a licensed Professional Counselor (LPC). As a result of the investigation, the Department found deficiencies under Chapter 503 in the Texas Occupations Code, (TOC) and Title 22 of the Texas Administrative Code, (TAC) Chapter 681. The Committee considered the aforementioned documents and evidence at its meeting held on or about February 17, 2017.

The Committee proposes revocation of your LPC License #18932, in accordance with the following criteria:

- Texas Occupations Code (TOC) §503.401(a)(1), which states, “A person licensed under this chapter is subject to disciplinary action...if the person: violates this chapter or a rule or code of ethics adopted by the board.”
- TOC §503.401(b)(1), which states, “If a person is subject to disciplinary action under this section, the board shall: ...revoke the person’s license...”
- 22 Texas Administrative Code (TAC) §681.162(a)(2), which states, “The Board may...revoke...a license... to a person who: violates a rule adopted by the Board.”

The proposed action is based upon the following allegation:

1. On or about August 5, 2014, Samuel Marcel failed to maintain professional boundaries when he inappropriately requested client YP to lift her shirt and then placed his hands on said client’s ribs, hip bone, and under her bra.

This is in violation of 22 TAC §681.41(l), and 22 TAC §681.41(p) (See bullets on next page).

## Notice of Violation

Samuel Marcel

Page Two

- 22 TAC §681.41(l) states, "A licensee shall set and maintain professional boundaries."
- 22 TAC §681.41(p) states, "In individual and group counseling settings, the licensee shall take reasonable precautions to protect individuals from physical or emotional harm resulting from interaction within a group or from individual counseling."

2. On or about May 12, 2016, Samuel Marcel faxed client YP's file to the department which included all therapy session notes and/or documents from on or about July 24, 2014 to on or about August 12, 2014. After review of said clients file documents, the department found incomplete and/or inaccurate record keeping by Mr. Marcel to include but not limited to: (a) failing to inform client in writing of counseling purposes, goals, techniques (b) failing to give said client the name, address and telephone number of the board for the purpose of reporting violations of the Act or violations of §681.41 General Ethical Requirements (c) failed to established the plan for the custody and control of the client's mental health records in the event of the licensee's death or incapacity, or the termination of the licensee's counseling practice (d) failed to provide client intake assessment, the dates of counseling treatment intervention, principal treatment methods, progress notes, treatment plan, and billing information.

This is in violation of 22 TAC §681.41(e)(2), (7), (8), and 22 TAC §681.41(q) (See bullets below).

- 22 TAC §681.41(e)(2), (7), (8) states. "(e) Regardless of setting, a licensee shall provide counseling only in the context of a professional relationship. Prior to providing services a licensee shall inform an individual in writing of the following: (2) counseling purposes, goals, and techniques; (7) the name, address and telephone number of the board for the purpose of reporting violations of the Act or this chapter; and (8) the established plan for the custody and control of the client's mental health records in the event of the licensee's death or incapacity, or the termination of the licensee's counseling practice."
- 22 TAC §681.41(q) states. "For each client, a licensee shall keep accurate records of the intake assessment, the dates of counseling treatment intervention, principal treatment methods, progress notes, treatment plan, and billing information."

In accordance with Government Code § 2001.054(c), you have the right to show compliance with all requirements of law prior to final action by the Board. Within Fifteen (15) calendar days following receipt of this notice, you may:

- 1) Accept the Board's proposed actions in the NOV for the following: Revocation of your L.P.C license #18932. Respondent admits the allegations in the Board's NOV and accepts the actions proposed. The Respondent has elected to accept the revocation of Respondent's license, #18932, finding that Respondent engaged in the conduct and committed the violations in the NOV. Respondent waives the right to hearing or an appeal regarding the Board's findings, the proposed action and the Board's disposition of this case through the Board's issuance of an Order.
- 2) Make a written request for an informal conference and a hearing (if necessary), regarding the alleged violation; or,
- 3) Make a written request for a hearing regarding the alleged violation.