

**In the Matter of
Permanent Registered Nurse
License Number 763373
Issued to RODRIGO MARTINEZ JR,
Respondent**

§ **BEFORE THE TEXAS**
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§ **BOARD OF NURSING**

ORDER OF TEMPORARY SUSPENSION

TO: Rodrigo Martinez Jr
22716 N Sharp Rd
Edinburg, TX 78542

A public meeting of the Texas Board of Nursing was held on June 25, 2026 at 1801 Congress Avenue, Suite 10-102, Austin, Texas, in which the Temporary Suspension of Permanent Registered Nurse License Number 763373, issued to RODRIGO MARTINEZ JR was considered pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE. Staff of the Texas Board of Nursing appeared and presented evidence and information concerning the conduct of RODRIGO MARTINEZ JR and whether his continued practice as a nurse would constitute a continuing and imminent threat to the public welfare.

After review and due consideration of the evidence and information presented, the Board finds that the following charges are substantiated:

CHARGE I.

On or about March 23, 2026, Respondent failed to abstain from the use of alcohol as required by the Agreed Order issued on October 19, 2023, and submitted specimens for screening which tested positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (Ets), which are metabolites of Alcohol (ethanol). Section VI, Stipulation A, of the Agreed Order, dated October 19, 2023. While under the terms of this Order. Petitioner shall abstain from the use of alcohol, nalbuphine, propofol and all controlled substances.

CHARGE II.

On or about April 13, 2026, Respondent was asked to complete a Phosphatidyl a Phosphatidyl ethanol (PEth) test, due to his positive specimen screening on March 23, 2026. Respondent tested positive w/ 222 ng/mL as the results. Peth levels in excess of 20 ng/mL are considered heavy ethanol consumption.

The Texas Board of Nursing further finds that, given the nature of the charges concerning His fitness to practice, the continued practice of nursing by RODRIGO MARTINEZ JR constitutes a continuing and imminent threat to public welfare and that the temporary suspension of Permanent Registered Nurse License Number 763373, is justified pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE.

NOW, THEREFORE, IT IS ORDERED that Permanent Registered Nurse License Number 763373, issued to RODRIGO MARTINEZ JR, to practice nursing in the State of Texas be, and the same is/are, hereby SUSPENDED IMMEDIATELY in accordance with Section 301.4551, TEXAS OCCUPATIONS CODE.

This Order SHALL be applicable to RESPONDENT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas. Further, RESPONDENT'S license(s) will be designated "single state" as applicable and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state using a Texas compact license.

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IT IS FURTHER ORDERED that a probable cause hearing be conducted in accordance with Section 301.455(c) not later than seventeen (17) days following the date of the entry of this order, and a final hearing on the matter be conducted in accordance with 301.455(d) not later than the 61st day following the date of the entry of this order.

Entered this 25 day of June, 2026.

TEXAS BOARD OF NURSING

BY: Kristin K. Benton, DNP, RN

Kristin K. Benton, DNP, RN
EXECUTIVE DIRECTOR

D4551(2026.05.19)

**In the Matter of
Permanent Registered Nurse
License Number 763373
Issued to RODRIGO MARTINEZ JR,
Respondent**

§ **BEFORE THE TEXAS**
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§ **BOARD OF NURSING**
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FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, RODRIGO MARTINEZ JR, is a Registered Nurse holding license number 763373, 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 March 23, 2026, Respondent failed to abstain from the use of alcohol as required by the Agreed Order issued on October 19, 2023, and submitted specimens for screening which tested positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (Ets), which are metabolites of Alcohol (ethanol). Section VI, Stipulation A, of the Agreed Order, dated October 19, 2023.

While under the terms of this Order, Petitioner shall abstain from the use of alcohol, nalbuphine, propofol and all controlled substances.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1),(9)&(10), Texas Occupations Code, and is a violation of 22 Tex. Admin. Code §217.12(11)(B).

CHARGE II.

On or about April 13, 2026, Respondent was asked to complete a Phosphatidyl a Phosphatidyl ethanol (PEth) test, due to his positive specimen screening on March 23, 2026. Respondent tested positive w/ 222 ng/mL as the results. Peth levels in excess of 20 ng/mL are considered heavy ethanol consumption.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1),(9)&(10), Texas Occupations Code, and is a violation of 22 Tex. Admin. Code §217.12(11)(B).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license(s) and/or privilege(s) to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33.

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.

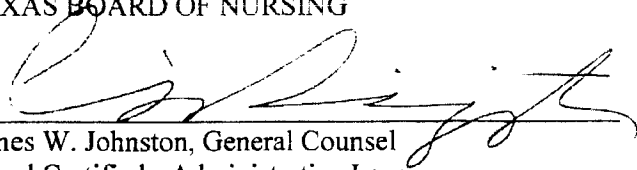
NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on adopted policies related to Substance Use Disorders and Other Alcohol and Drug Related Conduct, which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, www.bon.texas.gov.

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(s) of the Board dated March 8, 2007, August 9, 2016, November 17, 2016, and October 19, 2023.

Filed this 25 day of June, 2026.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
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1801 Congress Avenue, Suite 10-200
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P: (512) 305-8657
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Attachment(s): Order(s) of the Board dated March 8, 2007, August 9, 2016, November 17, 2016, and October 19, 2023.

D(2026.05.19)



I do hereby certify this to be a complete, accurate and true copy of the document which is on file as a record in the office of the Texas Board of Nursing.
Katherine A. Thomas, MN, RN, FAAN
Katherine A. Thomas, MN, RN, FAAN
Executive Director
Texas Board of Nursing

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of
Registered Nurse License Number 763373
issued to RODRIGO MARTINEZ JR

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REINSTATEMENT AGREED ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considers the Petition for Reinstatement, hereinafter referred to as the Petition, of Registered Nurse License Number 763373, held by RODRIGO MARTINEZ JR, hereinafter referred to as Petitioner.

Petitioner waived notice and hearing and agreed to the entry of this Reinstatement Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on April 28, 2023.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Petitioner waived notice and hearing, and agreed to the entry of this Reinstatement Agreed Order.
3. Petitioner received an Associate Degree in Nursing from South Texas College, Mc Allen, Texas, on October 28, 2008. Petitioner was licensed to practice professional nursing in the State of Texas on December 30, 2008.

4. Petitioner's nursing employment history includes:

01/2009 – 11/2016	RN	Mission Regional Medical Center Mission, Texas
12/2016 – 10/2017	Unknown	
11/2017 – Present	Not employed as a nurse	

5. On or about March 8, 2007, Petitioner was issued an Agreed Order through an Order of the Board. On or about December 1, 2009, Petitioner successfully completed the terms of the

Order. A copy of the March 8, 2007, Order is attached and incorporated herein by reference as part of this Reinstatement Agreed Order.

6. On or about August 9, 2016, Petitioner was issued the sanction of Reprimand with Stipulations through an Order of the Board. A copy of the August 9, 2016, Order is attached and incorporated herein by reference as part of this Reinstatement Agreed Order.
7. On or about November 17, 2016, the Board accepted the Voluntary Surrender of Petitioner's license to practice nursing in the State of Texas through an Order of the Board. A copy of the November 17, 2016, Order is attached and incorporated herein by reference as part of this Reinstatement Agreed Order.
8. On or about February 4, 2023, Petitioner submitted a Petition for Reinstatement of License to practice nursing in the State of Texas.
9. Petitioner presented the following in support of said petition:
 - Letter dated, February 8, 2022, from Dr. Rafael Rafols, MD Psychiatrist with Department of Veterans Affairs McAllen Outpatient Clinic states, Petitioner is receiving mental health services and medication to help with past use of alcohol.
 - A. Rafols states Petitioner has been consistent with his monthly injection for alcohol abstinence since 4/9/20 and has been stable with his current medication regimen and has maintained sobriety.
 - B. Consecutive monthly alcohol negative test results from January 2022 through March 2023.
 - C. Document of AA Group attendance from November 2019 through February 2023.
 - D. Letter dated, February 27, 2023, from Dr. Silvana Montautti, MD which states Petitioner completed his substance abuse program in October 2020.
 - E. Letter of support dated, February 17, 2023, from Sara de la Fuente, RN, PCCN.
 - F. Letter of support from former supervisor, Alexandra C. Moreno, Hemodialysis Acute Care RN.
 - G. Letter of support from Jose A. Garza, Clinical Manager.
 - H. Letter of support dated, February 24, 2023, from Phyllis Colleen Pinales, RN.
 - I. Letter of support dated, February 23, 2023, from former co-worker, Beth Amador, RN.
 - J. Letter of support dated, February 18, 2023, from Apryle Pelshaw, RN, CMSRN.
 - K. Documentation of the required continuing education contact hours.
10. The Executive Director considered evidence of Petitioner's past behavior in light of the factors set out in 22 TEX. ADMIN. CODE §213.27 and determined that Petitioner currently demonstrates the criteria required for relicensure.
11. There is no evidence of any subsequent criminal conduct.

12. The Executive Director considered evidence of Petitioner's past criminal conduct in light of the considerations and criteria provided in 22 TEX. ADMIN. CODE §§213.28 & 213.33, and, as applicable, Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.
13. The Executive Director considered evidence of Petitioner's substance use disorder, and subsequent rehabilitation as provided in 22 TEX. ADMIN. CODE §213.29 and in accordance with 22 TEX. ADMIN. CODE §213.33.
14. Relicensure 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 Petitioner's eligibility for relicensure has been made on the basis of Petitioner's disclosures.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. This reinstatement is made pursuant to Sections 301.453(c) and 301.467, Texas Occupations Code and 22 TEX. ADMIN. CODE §213.26.
3. The Board may relicense an individual upon evaluation of the factors in 22 TEX. ADMIN. CODE §213.27, and pursuant to 22 TEX. ADMIN. CODE §213.33, if 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.
4. The Board may license an individual who has been previously convicted, adjudged guilty by a court, pled guilty or pled nolo contendere to any crime whether or not a sentence was imposed upon consideration of the factors set out in 22 TEX. ADMIN. CODE §213.28 and evaluating the direct relationship to nursing according to 22 TEX. ADMIN. CODE §213.28 and, as applicable, Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.
5. The Board may license an individual who has a history of substance use disorder 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. 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).

7. 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. REINSTATEMENT OF LICENSURE AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that the petition of RODRIGO MARTINEZ JR for reinstatement of license to practice nursing in the State of Texas be **GRANTED** and Registered Nurse License Number 763373 is/are hereby **REINSTATED** in accordance with the terms of this Order.

- A. Until successfully completed, this Order SHALL apply to any and all future licenses issued to PETITIONER to practice nursing in the State of Texas.
- B. Until successfully completed, this Order SHALL be applicable to PETITIONER'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. Until successfully completed, PETITIONER may not practice nursing in the State of Texas except in accordance with the terms of this Order.
- D. As a result of this Order, PETITIONER'S license(s) will be designated "single state" as applicable and PETITIONER may not work outside the State of Texas in another nurse licensure compact party state using a Texas compact license.

II. COMPLIANCE WITH LAW

While under the terms of this Order, PETITIONER 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 Reinstatement Agreed Order.

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

Prior to practicing as a registered nurse in the State of Texas, PETITIONER SHALL:

- A. **Apply for a Six Month Temporary Permit to Complete Refresher Course, Extensive Orientation, or Nursing Program of Study in Professional Registered Nursing** for the limited purpose of completing a refresher course, extensive orientation, or nursing program of study in professional registered nursing. The application for the Six Month Temporary Permit is available via the Nurse Portal on the Board's website (www.bon.texas.gov). PETITIONER SHALL NOT, in any way, attempt to use the temporary permit for any purpose other than completing the refresher course, extensive orientation, or nursing program of study in professional registered nursing.
- B. **Successfully complete a Board approved refresher course, extensive orientation, or nursing program of study for professional registered nursing. Petitioner MUST obtain Board approval of the nursing refresher course, extensive orientation, or nursing program, as applicable, prior to enrollment.** In order for the course to be approved, the target audience shall include registered nurses and the course's content shall, at a minimum, include: 1) Review of NPA. Rules, Position Statements; 2) Determination of Individual Scope of Practice and role in patient safety; 3) Review of the nursing process to include assessment, planning, implementation, and evaluation; 4) Pharmacology review; 5) Medication administration; 6) Documentation, quality assurance, and legal implication for nursing practice; and, 7) Documentation of current CPR certification prior to beginning precepted clinical learning experience. The course must contain no less than a total of 80 hours of clinical practice providing direct patient care supervised by a qualified registered nurse instructor who meets or exceeds the Board's minimum criteria for eligibility as an instructor. Home study courses and video programs will not be approved.
- C. **Upon completion of the refresher course, extensive orientation, or nursing program of study for professional registered nursing,** PETITIONER SHALL return the temporary permit to the Board's office and PETITIONER SHALL CAUSE the sponsoring institution to notify the Board, on a form provided by the Board, of Petitioner's successful completion of the refresher course, including the required 80 hours of supervised practice.
- D. **Upon verification of successful completion of the conditions** as set out in Paragraphs A through C of this Section, PETITIONER SHALL submit a completed License Reactivation Form for Registered Nurses, which is available via the Nurse Portal on the Board's website (www.bon.texas.gov). PETITIONER shall pay all re-registration fees and, subject to meeting all other requirements for

licensure in Texas, shall be issued the applicable license to practice registered nursing in the State of Texas, which shall be subject to the terms of this Order.

IV. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, PETITIONER SHALL successfully complete the following remedial education course(s) **within one (1) year of relicensure, 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 and video programs will not be approved.
- B. **The course "Righting a Wrong,"** a 3.0 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) International Center for Regulatory Scholarship (ICRS).

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

V. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, PETITIONER must work as a nurse in the State of Texas, providing direct patient care in a clinical healthcare setting, for a minimum of sixty-four (64) hours per month for eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) quarterly periods of

employment as a nurse 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 period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** PETITIONER SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, PETITIONER SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** PETITIONER SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. PETITIONER SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.
- C. **Direct Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this order, PETITIONER 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 PETITIONER and immediately available to provide assistance and intervention. PETITIONER SHALL work only on regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- D. **Indirect Supervision:** For the remainder of the stipulation/probation period, PETITIONER 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 PETITIONER, 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 of experience in the same or similar practice setting to which the PETITIONER is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be

employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

- E. **Nursing Performance Evaluations:** PETITIONER SHALL CAUSE each employer to submit, on forms provided to the PETITIONER by the Board, periodic reports as to PETITIONER'S capability to practice nursing. These reports shall be completed by the individual who supervises the PETITIONER and these reports shall be submitted by the supervising individual to the office of the Board at the end of each three (3) month quarterly period for eight (8) quarters [two (2) years] of employment as a nurse.

VI. DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, PETITIONER SHALL **abstain from the use of alcohol, nalbuphine, propofol and all controlled substances**, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, PETITIONER SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. In the event that the prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and PETITIONER SHALL submit to a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.
- B. While working as a nurse under the terms of this Order, PETITIONER SHALL **submit to random periodic screens for alcohol, nalbuphine, propofol and all controlled substances**. The Board will provide instructions on how to enroll in the Board's drug and alcohol testing program following the entry of this Order and screening will begin when PETITIONER obtains employment and submits the Notification of Employment form to the Board.
- For the first three (3) month [1st quarter] period PETITIONER works as a nurse under the terms of this Order, random screens shall be performed at least once per week.
 - For the next three (3) month [2nd quarter] period, random screens shall be performed at least twice per month.
 - For the next six (6) month period [3rd & 4th quarters], random screens shall be performed at least once per month.

- For the remainder of the probation period, if any, random screens shall be performed at least once every three (3) month quarterly period.

All random screens SHALL BE initially conducted through urinalysis, and subsequent testing or required re-tests, when applicable, may be obtained through blood, hair/nail, and/or breathalyzer, as directed by the Board's drug and alcohol testing program. Any test result for a period of time in which the PETITIONER is not working as a nurse under the terms of this Order will not count towards satisfaction of this requirement. All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. PETITIONER SHALL be responsible for the costs of all random drug screening during the stipulation/probation period.

Specimens shall be screened for 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
Butabarbital	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, **PETITIONER SHALL, on a daily basis, call or login online to the Board's designated drug and alcohol testing vendor to determine whether or not PETITIONER 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 PETITIONER'S place of employment at any time during the probation period and require PETITIONER to produce a specimen for screening.

Consequences of Positive or Missed Screens. Any positive result for which PETITIONER does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject PETITIONER to further disciplinary action, including TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations

Code, or REVOCATION of Petitioner's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas. Further, failure to report for a drug screen, excessive dilute specimens, or failure to call in for a drug screen may be considered the same as a positive result or refusal to submit to a drug or alcohol screen.

- C. While under the terms of this Order, PETITIONER 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. PETITIONER 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 PETITIONER. PETITIONER 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. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Reinstatement Agreed Order, all encumbrances will be removed from PETITIONER'S license(s) and/or privilege(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, PETITIONER may be eligible for nurse licensure compact privileges, if any.

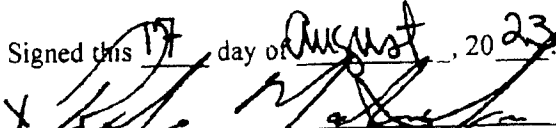
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PETITIONER'S CERTIFICATION

I understand this Order is conditioned upon the accuracy and completeness of my petition and disclosures. I further understand that subsequently discovered discrepancies in my petition and/or disclosures will result in investigation and possible disciplinary action, up to revocation of my license(s).

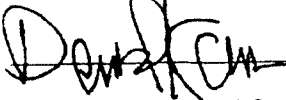
I have reviewed this Order. I understand that I have the right to legal counsel prior to signing this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. I waive judicial review of this Order. I understand that this Order 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 agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to reinstating my license(s) to practice nursing in the state of Texas. 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 TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, and/or REVOCATION of my license(s) and/or nurse licensure compact privileges, if any, to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 17 day of August, 2023.

RODRIGO MARTINEZ JR, PETITIONER

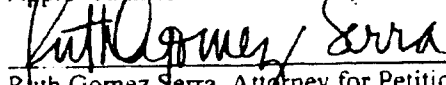
Sworn to and subscribed before me this 17th day of AUGUST, 2023.

SEAL




Notary Public in and for the State of TEXAS

Approved as to form and substance.


Ruth Gomez Serra, Attorney for Petitioner

Signed this 17 day of August, 2023.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 17th day of August, 2023, by RODRIGO MARTINEZ JR, Registered Nurse License Number 763373, and said Reinstatement Agreed Order is final.

Effective this 19th day of October, 2023.

Kristin K. Benton, DNP, RN

Kristin K. Benton, DNP, RN
Executive Director on behalf
of said Board



Texas Board of Nursing

333 Guadalupe Street, Ste. 3-460, Austin, Texas 78701
Phone: (512) 305-7400 Fax: (512) 305-7401 www.bon.texas.gov
Katherine A. Thomas, MN, RN, FAAN
Executive Director

BOARD OF NURSING
TEXAS
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

September 6, 2019

Certified Mail No. 9171999991703752321736.
Return Receipt Requested
Copy Via USPS First Class Mail

Rodrigo Martinez Jr
22716 N Sharp Rd
Edinburg, TX 78539

Dear Mr. Martinez Jr:

Upon review of the information introduced at the Reinstatement Conference held on September 3, 2019, the decision was to deny your petition for reinstatement of your license(s) to practice nursing in the State of Texas due to:

Petitioner was denied based on lack of proof of one (1) year sobriety and/or working a substance abuse program consistently. 22 Tex. Admin. Code § 213.26(d)&(e)(4) and 22 Tex. Admin Code § 217.12 (5).

You will not be allowed to petition for reinstatement until at least one (1) year from the date of your hearing and you have satisfied any conditions outlined in your order and any requirements required by law at the time of your application.

The Texas Nursing Practice Act provides, in pertinent part, that the Board may refuse to issue a license pursuant to Texas Occupations Code, Sections 301.452(b) and 301.467, and 22 TEX. ADMIN. CODE §§213.26 - 213.29.

If you do not agree with this decision, you have a right to request that this matter be set for a public hearing at the State Office of Administrative Hearings. If you want to have this matter heard at a public hearing, please send a written request for a hearing to our office. We will inform you of the date and time set for your hearing.

If you have any questions, please contact the Department of Enforcement at (512) 305-6838.

Sincerely,

Katherine A. Thomas

Katherine A. Thomas, MN, RN, FAAN
Executive Director

KAT/230

Members of the Board

Kathleen Shipp, MSN, RN, FNP
Lubbock, President

Nina Almasy, MSN, RN
Austin

Deborah Bell, CLU, ChFC
Abilene

Patricia Clapp, BA
Dallas

Laura Disque, MN, RN
Edinburg

Allison Edwards, DrPH, MS, RN
Bellaire

Diana Flores, MN, RN
Hidalgo

Monica Hamby, LVN
Amarillo

Doris Jackson, DHA, (ABD), MSN, RN
Pearland

Kathy Leader-Horn, LVN
Granbury

Beverly Jean Notall, LVN
Weatherford

David Saucedo, II
El Paso

Francis Stokes
Port Aransas



Texas Board of Nursing

333 Guadalupe Street, Ste. 3-460, Austin, Texas 78701
Phone: (512) 305-7400 Fax: (512) 305-7401 www.bon.texas.gov

Katherine A. Thomas, MN, RN, FAAN
Executive Director

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

October 25, 2021

Certified Mail No. 9214 8901 9403 8300 0057 1636 10

Return Receipt Requested

Copy Via USPS First Class Mail

Rodrigo Martinez, Jr.
c/o Ruth Gomez Serra, Attorney at Law
950 East Van Buren
Brownsville, TX 78520

Dear Mr. Martinez, Jr.:

Your Petition for Licensure Reinstatement and the supporting information related to your potential ineligibility for relicensure was considered by the Executive Director.

Pursuant to the Occupations Code §§301.257, 301.452, and 301.453, you have been found to be ineligible for reinstatement of licensure as a nurse in the State of Texas based upon the grounds discussed below. **This is a final determination of licensure reinstatement denial.**

Our records indicate the following:

On or about March 8, 2008, you were issued an Order of Conditional Eligibility to practice nursing in the State of Texas. According to the Findings of Fact from that Order:

- A. On May 3, 1985, Petitioner was arrested for Driving While Intoxicated. On November 6, 1985, Petitioner was convicted of the misdemeanor offense of Driving Under the Influence in the County Court at Law No. 3 of Hidalgo County, Texas. Petitioner was placed on probation for 2 years and assessed a fine in the amount of two hundred dollars (\$200.00). On March 26, 1987, Petitioner was granted early termination from probation.
- B. On October 8, 1994, Petitioner was charged with the felony offense of Burning Insured Property in the 36th Circuit Court for the County of Van Buren, Michigan. On April 3, 1996, a guilty verdict was returned and Petitioner was sentenced to seventy (70) days confinement in jail.
- C. On April 24, 1996, Petitioner was charged with the felony offense of Welfare Fraud in the 36th Circuit Court for the County of Van Buren, Michigan. On September 3, 1996, Petitioner was found guilty and was sentenced to ninety (90) days confinement in jail.

On or about August 9, 2019, you received a Reprimand with Stipulations on your license to practice nursing in the State of Texas. According to the Findings of Fact from that Order:

Kathleen Shipp, MSN, RN, FNP
Lubbock, *President*

Allison Porter-Edwards, DrPH, MS, RN, CNE
Bellaire, *Vice-President*

On or about June 8, 2015, Petitioner entered a plea of Guilty to and was convicted of Driving While Intoxicated BAC $\geq$ 0.15, a Class a Misdemeanor offense, committed on October 13, 2014, in the County Court at Law No. Seven of Hidalgo County, Texas, under Cause No. CR-15-02073-G. As a result of the conviction, Petitioner was sentenced to confinement in the Hidalgo County Jail for a period of one-hundred eighty (180) days; however, imposition of the sentence of confinement was suspended, and Petitioner was placed on community supervision for a period of one (1) year, and ordered to pay a fine and court costs.

On or about November 17, 2016, you voluntarily surrendered your license to practice nursing in the State of Texas. According to the Findings of Fact from that Order:

On or about October 7, 2016, October 20, 2016, October 26, 2016, and November 1, 2016, Petitioner was non-compliant with the Agreed Order issued to him by the Texas Board of Nursing on August 9, 2016. Noncompliance is the result of Petitioner's failure to abstain from the consumption of alcohol. Petitioner produced a urine specimen for a random drug screen that resulted positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), which are metabolites of Alcohol (ethanol). Section V, Stipulation A, of the Agreed Order, dated August 9, 2016, states in pertinent part:

"PETITIONER SHALL abstain from the use of alcohol, tramadol, and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose..."

On or about September 3, 2019 your Petition for Reinstatement of licensure was denied based on lack of proof of one (1) year sobriety and/or working a substance abuse program consistently.

On or about April 20, 2021, you completed a forensic evaluation performed by Dr. John K. Reid Ph.D., P.C. The results of the evaluation indicate the following:

Psychological testing did indicate, that Petitioner responses were consistent with those of individuals commonly diagnosed with an alcoholic substance disorder. Petitioner admitted to the polygraph operator that he had drunk three glasses of champagne on 5/9/2021. Petitioner later reported that he believed it was non-alcoholic cider at the time Petitioner drank it, and said he had not detected the alcohol when he drank each of the 3 glasses he consumed that day. Petitioner indicated he has not complied with the standards set for him by the Board in 2019 of being abstinent. Since no randomized testing has been completed in approximately six months, there is no data to disclaim or support Petitioner's claim that Petitioner was a one-time slip.

You are subject to denial of licensure for this conduct pursuant to the following subsections of the Occupations Code §301.452(b):

- §301.452(b)(12): "lack of fitness to practice because of a mental or physical health condition that could result in injury to a patient or the public;"

The Board also requires petitioners to demonstrate their ability to consistently conform to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice; to possess good professional character; and to pose no threat to the health and safety of patients and the public. The Board has adopted a rule, located at 22 Tex. Admin. Code §213.27, that sets forth the factors and disciplinary and eligibility policies and guidelines that must be used in evaluating good professional

Rodrigo Martinez Jr
October 25, 2021
Page 3

character in eligibility and disciplinary matters. Based upon the factors specified in §213.27, you have failed to provide sufficient evidence of good professional character required by §213.27.

The Board has also adopted a rule, located at 22 Tex. Admin. Code §213.29(d)(1), regarding "Substance Use Disorders and Abuse/Misuse of Alcohol or Drugs" related to fitness to practice, which states: "Individuals who have been diagnosed, treated, or hospitalized for a substance use disorder that may impair their ability to practice nursing safely, will, at a minimum, be required to demonstrate sobriety and abstinence from drugs and alcohol for a minimum of twelve consecutive months, through verifiable and reliable evidence, in order to obtain or retain licensure. Verifiable and reliable evidence of sobriety and abstinence from drugs and alcohol may include evidence of the completion of inpatient, outpatient, or aftercare treatment, random drug screens, individual or group therapy, and/or support group attendance." You have failed to provide proof of sobriety in accordance with the requirements of 22 Tex. Admin. Code §213.29(d)(1).

Texas Occupations Code Chapter 301, as well as the Board's rules, 22 Tex. Admin. Code §213.27; §213.29-§213.33, and the Board's Disciplinary Sanction Policies are hereby incorporated by reference herein and may be located on the Board's website at www.bon.texas.gov.

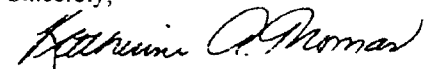
You will not be allowed to petition for reinstatement until at least one (1) year from the date of this denial and until you have satisfied any conditions outlined in your order and any requirements required by law at the time of your application.

Due to this denial, you have the right to a public hearing before an Administrative Law Judge with the State Office of Administrative Hearings. Should you decide to appeal the decision to deny you licensure, please submit a written request for a public hearing, to the attention of Office of General Counsel, 333 Guadalupe, Suite 3-460, Austin, Texas, 78701. Your written request to appeal this decision must be received in our office within sixty (60) days of the date of this letter. Further, if this office receives information regarding additional criminal conduct or behavior that has not been previously disclosed to or discovered by this office, please be advised that evidence of such additional criminal conduct or behavior may be used against you during the public hearing in this matter to show that you lack the good professional character and other requirements for licensure.

Further, should the decision to deny your licensure be upheld by the State Office of Administrative Hearings, you will be entitled to judicial review by filing an action in the district court of Travis County, Texas. A petition for such an action must be filed not later than the 30th day after the date the licensing authority's decision is final and appealable.

If you have any questions, please contact Enforcement at (512) 305-6838.

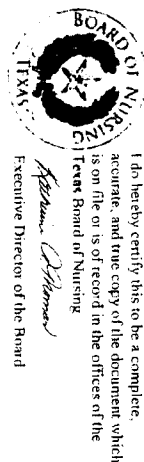
Sincerely,



Katherine A. Thomas, MN, RN, FAAN
Executive Director

KAT/230

J5(2021.10.05)



In the Matter of
Permanent Registered Nurse
License Number 763373
Issued to RODRIGO MARTINEZ JR,
Respondent

§ BEFORE THE TEXAS
§
§
§
§ BOARD OF NURSING

ORDER OF TEMPORARY SUSPENSION

TO: RODRIGO MARTINEZ JR
P O BOX 4173
EDINBURG, TX 78540

A public meeting of the Texas Board of Nursing was held on November 14, 2016 at 333 Guadalupe, Room 3-460, Austin, Texas, in which the Temporary Suspension of Permanent Registered Nurse License Number 763373, issued to RODRIGO MARTINEZ JR was considered pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE. Staff of the Texas Board of Nursing appeared and presented evidence and information concerning the conduct of RODRIGO MARTINEZ JR and whether his continued practice as a nurse would constitute a continuing and imminent threat to the public welfare.

After review and due consideration of the evidence and information presented, the Board finds that the following charges are substantiated:

CHARGE I.

On or about October 7, 2016, Respondent was non-compliant with the Agreed Order issued to him by the Texas Board of Nursing on August 9, 2016. Noncompliance is the result of Respondent's failure to abstain from the consumption of alcohol. Respondent produced a urine specimen for a random drug screen that resulted positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), which are metabolites of Alcohol (ethanol). Section V, Stipulation A, of the Agreed Order, dated August 9, 2016, states in pertinent part:

"RESPONDENT SHALL abstain from the use of alcohol, tramadol, and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose..."

CHARGE II.

On or about October 20, 2016, Respondent was non-compliant with the Agreed Order issued to him by the Texas Board of Nursing on August 9, 2016. Noncompliance is the result of Respondent's failure to abstain from the consumption of alcohol. Respondent produced a urine specimen for a random drug screen that resulted positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), which are metabolites of Alcohol (ethanol). Section V, Stipulation A, of the Agreed Order, dated August 9, 2016, states in pertinent part:

"RESPONDENT SHALL abstain from the use of alcohol, tramadol, and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose..."

CHARGE III.

On or about October 26, 2016, Respondent was non-compliant with the Agreed Order issued to her by the Texas Board of Nursing on August 9, 2016. Noncompliance is the result of Respondent's failure to abstain from the consumption of alcohol. Respondent produced a urine specimen for a random drug screen that resulted positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), which are metabolites of Alcohol (ethanol). Section V, Stipulation A, of the Agreed Order, dated August 9, 2016, states in pertinent part:

"RESPONDENT SHALL abstain from the use of alcohol, tramadol, and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose..."

CHARGE IV

On or about November 1, 2016, Respondent was non-compliant with the Agreed Order issued to him by the Texas Board of Nursing on August 9, 2016. Noncompliance is the result of Respondent's failure to abstain from the consumption of alcohol. Respondent produced a urine specimen for a random drug screen that resulted positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), which are metabolites of Alcohol (ethanol). Section V, Stipulation A, of the Agreed

Order, dated August 9, 2016, states in pertinent part:

"RESPONDENT SHALL abstain from the use of alcohol, tramadol, and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose..."

The Texas Board of Nursing further finds that, given the nature of the charges concerning his fitness to practice, the continued practice of nursing by RODRIGO MARTINEZ JR constitutes a continuing and imminent threat to public welfare and that the temporary suspension of Permanent Registered Nurse License Number 763373, is justified pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE.

NOW, THEREFORE, IT IS ORDERED that Permanent Registered Nurse License Number 763373, issued to RODRIGO MARTINEZ JR, to practice nursing in the State of Texas be, and the same is/are, hereby SUSPENDED IMMEDIATELY in accordance with Section 301.4551, TEXAS OCCUPATIONS CODE.

IT IS FURTHER ORDERED that a probable cause hearing be conducted in accordance with Section 301.455(c) not later than seventeen (17) days following the date of the entry of this order, and a final hearing on the matter be conducted in accordance with 301.455(d) not later than the 61st day following the date of the entry of this order.

Entered this 14th day of November, 2016.

TEXAS BOARD OF NURSING

BY:


KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR

In the Matter of	§	BEFORE THE TEXAS
Permanent Registered Nurse	§	
License Number 763373	§	
Issued to RODRIGO MARTINEZ JR,	§	
Respondent	§	BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, RODRIGO MARTINEZ JR, is a Registered Nurse holding License Number 763373, 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 October 7, 2016, Respondent was non-compliant with the Agreed Order issued to him by the Texas Board of Nursing on August 9, 2016. Noncompliance is the result of Respondent's failure to abstain from the consumption of alcohol. Respondent produced a urine specimen for a random drug screen that resulted positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), which are metabolites of Alcohol (ethanol). Section V, Stipulation A, of the Agreed Order, dated August 9, 2016, states in pertinent part:

"RESPONDENT SHALL abstain from the use of alcohol, tramadol, and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose..."

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(4),(5)&(10)(A).

CHARGE II.

On or about October 20, 2016, Respondent was non-compliant with the Agreed Order issued to him by the Texas Board of Nursing on August 9, 2016. Noncompliance is the result of Respondent's failure to abstain from the consumption of alcohol. Respondent produced a urine specimen for a random drug screen that resulted positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), which are metabolites of Alcohol (ethanol). Section V, Stipulation A, of the Agreed Order, dated August 9, 2016, states in pertinent part:

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The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(4),(5)&(10)(A).

CHARGE III.

On or about October 26, 2016, Respondent was non-compliant with the Agreed Order issued to her by the Texas Board of Nursing on August 9, 2016. Noncompliance is the result of Respondent's failure to abstain from the consumption of alcohol. Respondent produced a urine specimen for a random drug screen that resulted positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), which are metabolites of Alcohol (ethanol). Section V, Stipulation A, of the Agreed Order, dated August 9, 2016, states in pertinent part:

"RESPONDENT SHALL abstain from the use of alcohol, tramadol, and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose..."

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(4),(5)&(10)(A).

CHARGE IV.

On or about November 1, 2016, Respondent was non-compliant with the Agreed Order issued to him by the Texas Board of Nursing on August 9, 2016. Noncompliance is the result of Respondent's failure to abstain from the consumption of alcohol. Respondent produced a urine specimen for a random drug screen that resulted positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), which are metabolites of Alcohol (ethanol). Section V, Stipulation A, of the Agreed Order, dated August 9, 2016, states in pertinent part:

"RESPONDENT SHALL abstain from the use of alcohol, tramadol, and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose..."

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(4),(5)&(10)(A).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

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.

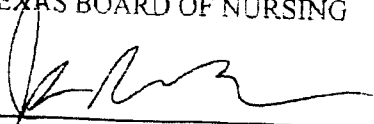
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on adopted Disciplinary Sanction Policies related to Substance Use Disorders and Other Alcohol and Drug Related Conduct, which can be found under the "Discipline & Complaints; Board Policies & Guidelines"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

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 9, 2016 and Order dated March 8, 2008.

Filed this 14th 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 9, 2016
Order of the Board dated March 8, 2008

D:\2016 10-03\

6. On or about March 8, 2008, Respondent was issued an ORDER OF CONDITIONAL ELIGIBILITY by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated March 8, 2008 is attached and incorporated, by reference, as part of this Order.
7. On or about June 8, 2015, Respondent entered a plea of Guilty to and was convicted of Driving While Intoxicated BAC $\geq$ 0.15, a Class A Misdemeanor offense, committed on October 13, 2014, in the County Court At Law No. Seven of Hidalgo County, Texas, under Cause No. CR-15-02073-G. As a result of the conviction, Respondent was sentenced to confinement in the Hidalgo County Jail for a period of one-hundred eighty (180) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on community supervision for a period of one (1) year, and ordered to pay a fine and court costs.
8. Respondent admits to the conviction. Respondent states he is currently compliant with all terms of probation and had attended court-appointed drug and alcohol classes.
9. 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(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 763373, heretofore issued to RODRIGO MARTINEZ JR, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

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

- A. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- B. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

II. COMPLIANCE WITH LAW

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

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III. REMEDIAL EDUCATION COURSE(S)

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

- A. A Board-approved course in Texas nursing jurisprudence and ethics that shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. Home study courses and video programs will not be approved.
- B. The course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension.

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

IV. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse in the State of Texas, providing direct patient care in a clinical healthcare setting, for a minimum of sixty-four (64) hours per month for eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) 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. **Indirect Supervision:** 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.
- D. **Nursing Performance Evaluations:** RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT'S capability to practice nursing. These reports shall be completed by the nurse who supervises the RESPONDENT and these reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month quarterly period for eight (8) quarters [two (2) years] of employment as a nurse.

V. DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, RESPONDENT SHALL abstain from the use of alcohol, tramadol and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT SHALL submit to a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.
- B. While working as a nurse under the terms of this Order, RESPONDENT SHALL submit to random periodic screens for alcohol, tramadol, and controlled substances. The Board will provide instructions on how to enroll in the Board's drug and alcohol testing program following the entry of this Order and screening will begin when Respondent obtains employment and submits the Notification of Employment form to the Board.
- For the first three (3) month [1st quarter] period RESPONDENT works as a nurse under the terms of this Order, random screens shall be performed at least once per week.
 - For the next three (3) month [2nd quarter] period, random screens shall be performed at least twice per month.
 - For the next six (6) month period [3rd & 4th quarters], random screens shall be performed at least once per month.
 - For the remainder of the stipulation/probation period, if any, random screens shall be performed at least once every three (3) month quarterly period.

All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board. Any test result for a period of time in which the RESPONDENT is not working as a nurse under the terms of this Order will not count towards satisfaction of this requirement. All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the stipulation/probation period.

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

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

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

Consequences of Positive or Missed Screens. Any positive result for which RESPONDENT does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject RESPONDENT to further disciplinary action, including TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas. Further, failure to report for a drug screen, excessive dilute specimens, or failure to call in for a drug screen may be considered the same as a positive result or refusal to submit to a drug or alcohol screen.

VI. RESTORATION OF UNENCUMBERED LICENSE(S)

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

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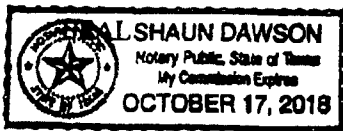
RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I 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 14 day of JUNE, 2016

Rodrigo Martinez Jr.
RODRIGO MARTINEZ JR, Respondent

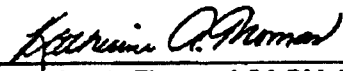
Sworn to and subscribed before me this 14 day of June, 2016.



Shaun Dawson
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 14th day of June, 2016, by RODRIGO MARTINEZ JR, Registered Nurse License Number 763373, and said Order is final.

Effective this 9th day of August, 2016.



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 office of the Texas Board of Nursing.
Stephanie C. Thomas
Executive Director of the Board

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of
RODRIGO MARTINEZ, JR.
PETITIONER for Eligibility for
Licensure

§
§
§
§

ORDER OF
CONDITIONAL ELIGIBILITY

On the date entered below, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the Petition for Declaratory Order and supporting documents filed by RODRIGO MARTINEZ, JR., hereinafter referred to as PETITIONER, together with any documents and information gathered by staff and PETITIONER's Certificate contained herein. Information received by the Board produced evidence that PETITIONER may have violated Section 301.452 *et seq.*, Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on January 5, 2007, by Katherine A. Thomas, MN, RN, Executive Director

FINDINGS OF FACT

1. On or about June 13, 2006, Petitioner submitted a Petition for Declaratory Order requesting a determination of eligibility for licensure in compliance with Section 301.257 *et seq.*, Texas Occupations Code.
2. Petitioner waived representation, notice, administrative hearing, and judicial review.
3. Petitioner is currently enrolled in an Associate Degree Nursing Program at South Texas College, McAllen, Texas.
4. Petitioner completed the Petition for Declaratory Order and answered "yes" to Question Number Two (2), which reads in part as follows: *"Have you been convicted, adjudged guilty by a court, pled guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests? This includes expunged offenses and deferred adjudication with or without prejudice of guilt."*

5. Petitioner disclosed the following criminal history, to wit:

- A. On May 3, 1985, Petitioner was arrested for Driving While Intoxicated. On November 6, 1985, Petitioner was convicted of the misdemeanor offense of Driving Under the Influence in the County Court at Law No. 3 of Hidalgo County, Texas. Petitioner was placed on probation for 2 years and assessed a fine in the amount of two hundred dollars (\$200.00). On March 26, 1987, Petitioner was granted early termination from probation.
- B. On October 8, 1994, Petitioner was charged with the felony offense of Burning Insured Property in the 36th Circuit Court for the County of Van Buren, Michigan. On April 3, 1996, a guilty verdict was returned and Petitioner was sentenced to seventy (70) days confinement in jail.
- C. On April 24, 1996, Petitioner was charged with the felony offense of Welfare Fraud in the 36th Circuit Court for the County of Van Buren, Michigan. On September 3, 1996, Petitioner was found guilty and was sentenced to ninety (90) days confinement in jail.

6. There is no evidence of any subsequent criminal conduct.

7. On November 3, 2006, Petitioner was seen by Troy Martinez, Psy.D., Corpus Christi, Texas, to undergo a forensic psychological evaluation and a polygraph examination. The results of the evaluation indicates that Petitioner does not show evidence of clinically significant psycho-pathology. There is no indication of substance use problems, personality dysfunction, mood/affective instability, anger management problems, or more severe forms of pathology. Thus, based on assessment of psychological functioning and after reviewing the Boards Rules in detail, Dr. Martinez, feels that Petitioner is capable of conducting himself in accordance with the requirements of the Board.

8. Licensure of Petitioner poses no direct threat to the health and safety of patients or the public, provided Petitioner comply with the stipulations as outlined in this Order.

9. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Petitioner.

10. Petitioner has sworn that his past behavior conforms to the Board's professional character requirements. Petitioner presented no evidence of behavior which is inconsistent with good professional character.

11. Petitioner has been advised that any information found to be incomplete, incorrect, or misleading will be considered and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through misrepresentation.

12. On January 5, 2007, the Executive Director considered evidence of Petitioner's past behavior in light of the character factors set out in 22 Texas Administrative Code §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character.

CONCLUSIONS OF LAW

1. The Board of Nurse Examiners has jurisdiction over this matter pursuant to Section 301.453, Texas Occupations Code.
2. Petitioner has submitted a petition in compliance with Section 301.257 *et seq.*, Texas Occupations Code.
3. Petitioner's criminal history reflects criminal conduct which is grounds for denial of a license under Section 301.452 *et seq.*, Texas Occupations Code.
4. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452, Texas Occupations Code.
5. The Board may license an individual who has been previously convicted, adjudged guilty by a court, pled guilty or pled nolo contendere to any crime whether or not a sentence was imposed upon consideration of the factors set out in 22 Texas Administrative Code §213.28 and evaluating the direct relationship to nursing according to Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.
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 Texas Administrative Code §213.27, 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.

ORDER

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of any required fees, RODRIGO MARTINEZ, JR., PETITIONER, is CONDITIONALLY ELIGIBLE to sit for the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination). PETITIONER SHALL NOT be eligible for temporary authorization to practice as a Graduate Nurse in the State of Texas.

IT IS FURTHER ORDERED that PETITIONER SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.*, and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to PETITIONER's multistate licensure privilege, if any, to practice professional nursing in the State of Texas.

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

IT IS FURTHER ORDERED that PETITIONER, upon attaining a passing grade on the NCLEX-RN®, shall be issued a license to practice nursing in the State of Texas which shall bear the appropriate notation and PETITIONER SHALL be subject to the following stipulations.

(1) PETITIONER SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in Texas nursing jurisprudence. PETITIONER SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, and documentation of care. Courses focusing on malpractice issues will not be accepted. PETITIONER 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 PETITIONER'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 on the Board's website, www.bne.state.tx.us (under BNE events).*

(2) PETITIONER SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in nursing ethics. PETITIONER 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) contact hours in length. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. PETITIONER SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify PETITIONER's successful completion of the course. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Board approved courses may be found on the Board's website, www.bne.state.tx.us (under BNE events).*

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, PETITIONER SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

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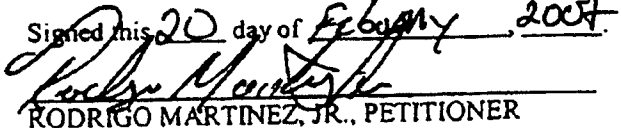
PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past criminal conduct, and I have caused a complete and accurate criminal history to be submitted to the Board of Nurse Examiners 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 Petition for Declaratory Order, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior 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 petition, I acknowledge that I have read and I understand Section 301.257, Texas Occupations Code, Section 301.452(a), (b) and (c), Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and Board Rules 213.27, 213.28, and 213.29 at 22 Texas Administrative Code. 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 Graduate Nurse Permit to practice. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to registering for the NCLEX-RN® Examination or accepting any permit or license from the Board of Nurse Examiners.

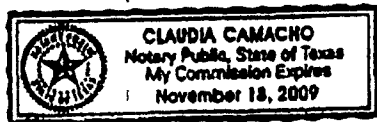
I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

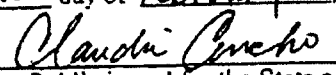
I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Executive Director of the Board of Nurse Examiners enter this Order.

Signed this 20 day of February, 2007.

RODRIGO MARTINEZ, JR., PETITIONER

Sworn to and subscribed before me this 20th day of February, 2007.

SEAL




Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Order of Conditional Eligibility that was signed on the 20th day of February, 2007, by RODRIGO MARTINEZ, JR., PETITIONER, for Petition for Declaratory Order, and said Order is final.

Entered this 8th day of March, 2008.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

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