



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

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse License § AGREED
Number 534572 and Vocational §
Nurse License Number 102315 §
issued to FRANCISCO J. RODRIGUEZ § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of FRANCISCO J. RODRIGUEZ, Registered Nurse License Number 534572 and Vocational Nurse License Number 102315, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9) & (10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on October 12, 2007, by Katherine A. Thomas, MN, RN, Executive Director.

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.
2. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas. Respondent's license to practice vocational nursing is currently in delinquent status.
4. Respondent received a Certificate in Vocational Nursing from Knapp Memorial Methodist Hospital, Weslaco, Texas, on August 14, 1983. Respondent received an Associate Degree in Nursing from the University of Texas-Pan American, Edinburg, Texas on August 15, 1986. Respondent was licensed to practice vocational nursing in the State of Texas on November 30, 1983. Respondent was licensed to practice professional nursing in the State of Texas on August 22, 1986.
5. Respondent's vocational and professional nursing employment history is unknown.

6. On or about April 4, 2006, while seeking employment with McAllen Medical Center, McAllen, Texas, Respondent engaged in the intemperate use of Cocaine, in that Respondent submitted a specimen for a pre-employment drug screen which resulted positive for Cocaine. Possession of Cocaine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Cocaine by a nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
7. On or about August 21, 2006, Respondent was arrested and charged with the offense, "Driving While Intoxicated," a Class B Misdemeanor in Hidalgo County, Edinburg, Texas. This case is currently pending.
8. On August 10, 2007, Respondent underwent a forensic psychological evaluation for chemical dependency with Dr. Troy Martinez, including a polygraph exam administered by Larry Serna, Licensed Polygraph Examiner. Incorporating the results of the polygraph which yielded a finding of "No Deception Indicated," Dr. Martinez concludes that Respondent has a history of cocaine and alcohol abuse and continues to use cocaine and alcohol. Dr. Martinez states that objective psychological test findings indicate that Respondent has "a high probability of substance dependence." Presuming the Board determines that Respondent is eligible for continued licensure, Dr. Martinez "strongly" recommends that Respondent be referred to Texas Peer Association Program for Nurses (TPAPN). Contingent upon Respondent's ability to abstain from alcohol and cocaine, Dr. Martinez believes that he is capable of conducting himself in accordance with Rules 213.27 - 213.29 at 22 Texas Administrative Code (TAC) and with the minimal standards set by the Board's Rules 217.11 at 22 TAC, and would be able to consistently behave in accordance with generally accepted nursing standards and consistently be able to avoid behaviors identified as constituting unprofessional conduct.
9. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
10. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.
11. Respondent's conduct described in Findings of Fact Numbers Six (6) and Seven (7) resulted from Respondent's impairment by dependency on chemicals.
12. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation of Section 301.452(b)(9)&(10), Texas Occupations Code and 22 TEX. ADMIN. CODE §217.12(5)&(10)(A)(D)& (11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 534572 and Vocational License Number 102315, heretofore issued to FRANCISCO J. RODRIGUEZ, including revocation of Respondent's licenses to practice vocational and professional nursing in the State of Texas.
5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

RESPONDENT SHALL deliver the wallet-sized license issued to FRANCISCO J. RODRIGUEZ, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order for appropriate notation.

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality

and provide a copy of the executed TPAPN contract to the Texas Board of Nursing.

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

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

(5) IT IS FURTHER AGREED, SHOULD RESPONDENT be convicted of the offense as outlined in Finding of Fact Number Seven (7), said judicial action may result in further disciplinary action including Revocation of Respondent's licenses to practice professional and vocational nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§301.001 *et seq.*, the Rules and Regulations Relating to 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 Respondent's multistate licensure privileges, if any, to practice nursing in the State of Texas.

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

IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including revocation of Respondent's licenses and multistate licensure privileges, if any, to practice vocational and professional nursing in the State of Texas.

RESPONDENT'S CERTIFICATION

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

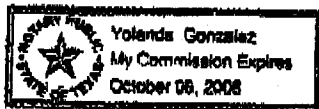
Signed this 1 day of Dec, 2007.

Francisco J. Rodriguez
FRANCISCO J. RODRIGUEZ, Respondent

Sworn to and subscribed before me this 1 day of Dec, 2007.


SEAL

Volanda Gonzalez
Notary Public in and for the State of Texas



WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Agreed Order that was signed on the ___ day of _____, 20___, by FRANCISCO J. RODRIGUEZ, Registered Nurse License Number 534572 and Vocational Nurse License Number 102315, and said Order is final.

Entered and effective this 16th day of January, 2008.


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