

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 768406
ISSUED TO
WAYNE ANTHONY LEE

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



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.
Patricia R. Plummer
Executive Director of the Board

ORDER OF THE BOARD

TO: Wayne Anthony Lee
295 Jackson Avenue
Syosset, NY 11791

During open meeting held in Austin, Texas, on June 12, 2012, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

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

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

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

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

The Eligibility and Disciplinary Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing [22 TEX. ADMIN.CODE § 213.16(j)]. All parties have a right to judicial review of this Order.

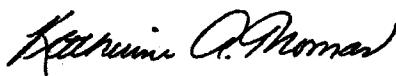
All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 768406, previously issued to WAYNE ANTHONY LEE, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

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

Entered this 12th day of June, 2012.

TEXAS BOARD OF NURSING

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

Attachment: Formal Charge filed November 30, 2010.

In the Matter of Permanent License § BEFORE THE TEXAS
Number 768406, Issued to §
WAYNE ANTHONY LEE, Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, WAYNE ANTHONY LEE, is a Registered Nurse holding license number 768406, which is in current status at the time of this pleading.

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

CHARGE I.

On or about May 28, 2010, Respondent failed to comply with the Eligibility Agreed Order issued to him on May 18, 2009, by the Texas Board of Nursing. Noncompliance is the result of his failure to comply with Stipulation Number Six (6) of the Eligibility Agreed Order, which states in pertinent part:

APPLICANT SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in Texas nursing jurisprudence and ethics....

A copy of the May 18, 2009, Eligibility Agreed Order, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) and (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 revocation of Respondent's license to practice nursing in the State of Texas pursuant to 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.state.tx.us.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.state.tx.us/disciplinaryaction/discp-matrix.html.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order dated May 18, 2009.

Filed this 30th day of November, 2010.



TEXAS BOARD OF NURSING

James W. Johnston

James W. Johnston, General Counsel

Board Certified - Administrative Law

Texas Board of Legal Specialization

State Bar No. 10838300

Jena Renee Koslan Abel, Assistant General Counsel

State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel

State Bar No. 24066924

Robert Kyle Hensley, Assistant General Counsel

State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel

State Bar No. 24052269

John F. Legris, Assistant General Counsel

State Bar No. 00785533

TEXAS BOARD OF NURSING

333 Guadalupe, Tower III, Suite 460

Austin, Texas 78701

P: (512) 305-6824

F: (512) 305-8101 or (512)305-7401

Attachments: Eligibility Agreed Order dated May 18, 2009.

0999/D

BEFORE THE BOARD OF NURSING
FOR THE STATE OF TEXAS

In the Matter of	§	ELIGIBILITY
WAYNE ANTHONY LEE	§	
APPLICANT for Eligibility for Licensure	§	AGREED ORDER

On the date entered below, the Texas Board of Nursing, hereinafter referred to as the Board, considered the Temporary License/Endorsement Application and supporting documents filed by WAYNE ANTHONY LEE, hereinafter referred to as APPLICANT, together with any documents and information gathered by staff and APPLICANT's Certificate contained herein. Information received by the Board produced evidence that APPLICANT may have violated Section 301.452(b)(3), Texas Occupations Code and 4525(b)(9), Tex. Rev. Civ. Stat.

APPLICANT waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on October 24, 2008, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about July 17, 2008, Applicant submitted an Application for Licensure by Endorsement requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.257, and 301.260, of the Texas Occupations Code and the Board Rule's at 22 Texas Administrative Code Section 213.30 and 217.5.
2. Applicant waived representation by counsel, informal conference, notice and hearing, and consented to the entry of this Order.
3. Applicant received an Associate Degree in Nursing from Miami-Dade Community College, Miami, Florida, in April 2000.
4. Applicant completed the Application for Licensure by Endorsement and answered "yes" to the question which reads in part as follows: *"For any criminal offense, including those pending appeal, have you:*

- A. *been convicted of a misdemeanor?*
- B. *been convicted of a felony?*
- C. *pled nolo contendere, no contest, or guilty?*
- D. *received deferred adjudication?*
- E. *been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?*
- F. *been sentenced to serve jail or prison time? court-ordered confinement?*
- G. *been granted pre-trial diversion?*
- H. *been arrested or any pending criminal charges?*
- I. *been cited or charged with any violation of the law?*
- J. *been subject of a court-martial; Article 15 violation, or received any form of military judgment/punishment/action?*

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

On December 1, 1988, Applicant entered a plea of nolo contendere to the second degree felony offense of Possession of a Controlled Substance with Intent to Distribute in the Circuit court of Bay County, State of Florida. Proceedings were deferred without adjudication of guilt and applicant was placed on five (5) years probation. On November 21, 1993, Applicant completed all terms of probation.

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

7. In a written statement to the Board, Applicant stated that having entered college at the age of 16, he was very naive, and tried to fit in. His ignorance and poor judgment combined with new influences placed him in a position on the wrong side of the law.

8. Applicant has sworn that with the exception of matters disclosed in connection with the Temporary License/Endorsement Application, his past behavior conforms to the Board's professional character requirements.

9. Applicant presented no evidence of behavior since his criminal offense which is inconsistent with good professional character.

10. On October 24, 2008, the Executive Director considered the evidence of the charge and evaluated its direct relationship to nursing according to Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and 22 Texas Administrative Code, §213.28, including the nature and circumstance of the offenses, and the absence of any subsequent conviction.

11. On October 24, 2008, the Executive Director considered evidence of Applicant's post criminal behavior in light of the character factors set out in 22 Texas Administrative Code §213.27 and determined that Applicant currently demonstrates the criteria required for good professional character.

12. Licensure of Applicant poses no direct threat to the health and safety of patients or the public.
13. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Applicant's disclosures.
14. Applicant has been advised by the Board that any information found to be incomplete, incorrect or misleading to the Board or a subsequent discovery of a basis of ineligibility will be considered by the Board and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through fraud or deceit.

CONCLUSIONS OF LAW

1. The Texas Board of Nursing (Board) has jurisdiction over this matter pursuant to Section 301.453 *et seq.*, Texas Occupations Code.
2. Applicant has submitted an Application for Licensure by Endorsement requesting a determination of eligibility for licensure in compliance with Section 301.252, 301.257. And 301.260, of the Texas Occupations Code and the Board Rule's at 22 Texas Administrative Code Section 213.30 and 217.5.
3. The evidence in Finding of Fact Number Five (5) is sufficient cause to take disciplinary action under Section 301.452 *et seq.*, Texas Occupations Code, and, therefore, sufficient cause to deny licensure.
4. The Board may probate the denial of a license under conditions for a specified term pursuant to Section 301.453, Texas Occupations Code.
5. This Order is conditioned upon the accuracy and completeness of Applicant's disclosures. Any subsequently discovered discrepancies will result in investigation and disciplinary action.
6. The Board may license individuals who have been previously convicted of a crime upon consideration of the factors set out in 22 Texas Administrative Code §§213.27 and 213.28 and evaluating the direct relationship to nursing according to Chapter 53, Sec. 53.001 *et seq.*, Texas Occupations Code.
7. Applicant shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452 *et seq.*, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED that the application of WAYNE ANTHONY LEE, APPLICANT, is hereby conditionally GRANTED and shall be subject to the following conditions:

- (1) APPLICANT SHALL obtain and read the Texas Nursing Practice Act, and the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice.
- (2) Upon payment of the necessary fees, APPLICANT SHALL be issued a license to practice professional nursing in the State of Texas, which shall bear the appropriate notation.
- (3) APPLICANT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.
- (4) IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to APPLICANT's multistate licensure privilege, if any, to practice professional nursing in the State of Texas.
- (5) IT IS FURTHER AGREED and ORDERED that while APPLICANT's license is encumbered by this Order the APPLICANT 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 APPLICANT wishes to work.
- (6) APPLICANT SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in Texas nursing jurisprudence and ethics. APPLICANT 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, 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. APPLICANT 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 APPLICANT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.*

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, APPLICANT 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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CONTINUED ON NEXT PAGE.

APPLICANT'S CERTIFICATION

I am the Applicant in this matter. I have fully and truthfully disclosed all of my past convictions and I have caused a complete and accurate criminal history to be submitted to the Texas Board of Nursing from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. I certify that my past behavior, except as disclosed in my Temporary License/Endorsement Application 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 application, I acknowledge that I have read and I understand Sections 301.157(d), 301.252, 301.253, 301.260, and 301.452(b) of the Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, and Board Rules at 213.27, 213.28, and 213.29 at 22 Texas Administrative Code which are incorporated by reference as a part of this Order. I agree with all terms of this Order and any stipulations. I agree to inform the Board of any other grounds for denial of licensure prior to accepting any permit or license from the Texas Board of Nursing.

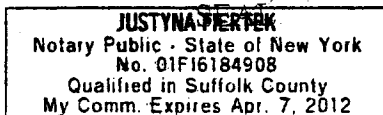
I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

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 Texas Board of Nursing enter this Order.

Signed this 30 day of March, 2009.

Wayne A Lee
WAYNE ANTHONY LEE, APPLICANT


Sworn to and subscribed before me this 30th day of MARCH, 2009.



Justyna Pietek
Notary Public in and for the State of New York

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby ratify and adopt the Eligibility Agreed Order that was signed on the 30th day of March, 2009, by WAYNE ANTHONY LEE, APPLICANT, for Temporary License/Endorsement, and said Order is final.

Effective this 18th day of May, 2009.



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

Re: Permanent Certificate Number 768406
Issued to WAYNE ANTHONY LEE
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of June, 2012, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

WAYNE ANTHONY LEE
295 Jackson Avenue
Syosset, NY 11791

BY:



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