BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED
ALICE MUHINDURA,	§	
PETITIONER for Eligibility for Licensure	§	ELIGIBILITY ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board considered the Endorsement Application, which has been processed as a Petition for Declaratory Order pursuant to 22 TEX. ADMIN. CODE §217.5(e) and §213.30, and supporting documents filed by ALICE MUHINDURA, hereinafter referred to as PETITIONER, together with any documents and information gathered by staff and Petitioner's Certification contained herein.

Information received by the Board produced evidence that PETITIONER may be ineligible for licensure pursuant to Sections 301.452(b)(9)&(10) and 301.453, Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on January 12, 2012, by Katherine A. Thomas, MN, RN, FAAN, Executive Director.

FINDINGS OF FACT

1. On or about May 11, 2011, PETITIONER submitted an Endorsement Application requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.257, and 301.260, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §217.5(e) and §213.30.

2. Petitioner waived representation by counsel, informal proceedings, notice and hearing, and consented to the entry of this Order.

3. Petitioner received a Certificate in Vocational Nursing from Kansas City Kansas Area Technical School, Kansas City, Kansas, on July 1, 2006.

4. Petitioner completed the Endorsement Application and answered "Yes" to the question which reads 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 have 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?*

    (You may only exclude Class C misdemeanor traffic violations.)"

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

    On or about August 20, 2009, Petitioner was arrested by the Roeland Park Police Department, Roeland Park, Kansas, for OBTAINING A PRESCRIPTION ONLY DRUG BY FRAUDULENT MEANS, a Class A misdemeanor offense.

    On or about February 20, 2010, Petitioner was granted entry into the Pre-Trial Diversion Program for the offense of PRESCRIPTION FRAUD, in the District Court of Johnson County, Kansas, under Cause No. 09-CR-02151.

    On or about March 10, 2011, the Pre-Trial Diversion Program agreement granted Petitioner under Cause No. 09-CR-02151, was Revoked, in the District Court of Johnson County, Kansas. As a result, Petitioner was adjudged Guilty of the Class A misdemeanor offense of PRESCRIPTION FRAUD, committed by Petitioner on August 20, 2009. As a result, Petitioner was sentenced to confinement in the Johnson County Jail for a period of three hundred sixty-five (365) days; however, the imposition of the sentence of confinement was suspended and Petitioner was placed on probation for a period of twelve (12) months.

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

7. Petitioner completed the Endorsement Application and answered "Yes" to the question which reads as follows: *"Within the past five (5) years have you been addicted to and/or treated for the use of alcohol or any other drug?"*

8. On or about January 30, 2010, Petitioner completed treatment at Addiction Treatment Services.

9. The safety of patients and the public requires that all persons licensed to practice nursing be fit, sober, and able to consistently practice nursing in autonomous roles under demanding and stressful conditions.

10. Petitioner has sworn that, with the exception of matters disclosed in connection with the Endorsement Application, her past behavior conforms to the Board's professional character requirements at 22 TEX. ADMIN. CODE §213.27.

11. Petitioner presented no evidence of behavior which is inconsistent with good professional character.

12. The Executive Director considered evidence of Petitioner's past behavior in light of the character factors set out in 22 TEX. ADMIN. CODE §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character.

13. 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, if applicable, Chapter 53, Section 53.001 et seq., Texas Occupations Code.

14. The Executive Director considered evidence of Petitioner's substance abuse/chemical dependency, and subsequent rehabilitation as provided in 22 TEX. ADMIN. CODE §213.29 and in accordance with 22 TEX. ADMIN. CODE §213.33.

15. Petitioner's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

16. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.

17. Petitioner has been advised by the Board that any information found to be incomplete, incorrect or misleading to the Board or a subsequent discovery of a basis of ineligibility will be considered by the Board and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through fraud or deceit.

18. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452(b), Texas Occupations Code.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Sections 301.452 and 301.453, Texas Occupations Code.

2. On or about May 11, 2011, PETITIONER submitted an Endorsement Application requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.257, and 301.260, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §217.5(e) and §213.30.

3. Petitioner's history reflects conduct which may constitute grounds for denial of a license under Section 301.452(b)(9)&(10), Texas Occupations Code.

4. The Board may probate the denial of a license under conditions for a specified term pursuant to Section 301.453, Texas Occupations Code.

5. The Board may license an individual who has 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, if applicable, Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.

6. The Board may license an individual who has a history of substance abuse and/or chemical dependency after consideration of the criteria set out in 22 TEX. ADMIN. CODE §213.29 if the Board determines the individual does not pose a direct threat to the health and safety of patients or the public.

7. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 TEX. ADMIN. CODE §213.27, and pursuant to 22 TEX. ADMIN. CODE §213.33, the Board is satisfied that the individual is able to consistently conform her conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

8. 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.

9. This Order is conditioned upon the accuracy and completeness of Petitioner's disclosures. Any subsequently discovered discrepancies will result in investigation and possible disciplinary action, up to revocation of Petitioner's license(s).

ORDER

NOW, THEREFORE, IT IS AGREED that the application of PETITIONER is hereby GRANTED, and upon payment of any required fees, PETITIONER SHALL be issued the applicable license to practice nursing in the State of Texas, and while under the terms of this Order all licenses issued to PETITIONER shall be subject to the following stipulations:

PETITIONER SHALL obtain and read the Texas Nursing Practice Act and the Rules and Regulations Relating to Nurse Education, Licensure, and Practice.

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

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

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

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

(1) PETITIONER SHALL, within forty-five (45) days of licensure, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars ($350.00) payable to TPAPN.

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

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

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

IT IS FURTHER AGREED, SHOULD PETITIONER fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or revocation of PETITIONER'S license(s) and nurse compact licensure privileges, if any, to practice 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 conduct which could constitute grounds for licensure ineligibility, and I have caused a complete and accurate criminal history to be submitted to the Texas Board of Nursing from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. I certify that my past behavior, except as disclosed in my application, has been in conformity with the Board's character rule. I have provided the Board with complete and accurate documentation of my past conduct in violation of the penal law of any jurisdiction which was disposed of through any procedure short of conviction, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

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

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

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

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

Signed this 15th day of Jan , 2012 .

_____
ALICE MUHINDURA, PETITIONER

Sworn to and subscribed before me this 15th day of June , 2012 .

SEAL

_____
Notary Public in and for the State of Texas

CHRISTOPHER LEE DOTSON
MY COMMISSION EXPIRES
December 8, 2015

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby ratify and adopt the Agreed Eligibility Order that was signed on the 15th day of ___June___, _2012_, by ALICE MUHINDURA, PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this _9th_ day of ___July___, _2012_.

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