



01/2010 - 07/2010      Employment history unknown.

Respondent's vocational nursing employment history continued:

07/2010 - 12/2010              LVN              Sienna Nursing and Rehabilitation  
Midland, Texas

12/2010 - Present      Employment history unknown.

6.      On April 3, 2009, 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 April 3, 2009 Conditional Order of Eligibility is attached and incorporated, by reference, as part of this Order.
  
7.      On or about December 15, 2010, while employed as a Licensed Vocational Nurse with Sienna Nursing Home and Rehabilitation, Midland, Texas, Respondent engaged in the intemperate use of Tramadol, in that she produced a specimen for a random drug screen requested by the Texas Peer Assistance Program for Nurses (TPAPN), which resulted positive for Tramadol. Possession of Tramadol, without a valid prescription, is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Tramadol by a Vocational Nurse, while subject to call or duty, 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.
  
8.      In response to Finding of Fact Number Seven (7), Respondent states: "I went to the ER once for abdominal pain. Phenergan and Bentyl were prescribed. I requested a non-narcotic medication and was released. I notified my case manager and advocate. I was medically released from work for three days and never filled the prescription. I dealt with the pain using over the counter medication. Late November, I went to the ER for left sided weakness and was admitted to the PCU, but was later told that nothing was wrong with me and no medication was given besides normal saline. The following day I was released. Later that evening, I received a telephone call stating that I had several lesions on my brain, possible MS, and would like further testing. I had not sent in documentation at this time because I had not yet been diagnosed. I was stressed and depressed about my health situation. The only medications that I take are vitamins, Tylenol PM, Benadryl, and Ibuprofen. I have in the past been diagnosed with chronic pelvic pain, and the only thing that helps is Vicoprofen. TPAPN informed me that this was not acceptable in the program, so I have been taking large amounts of Ibuprofen. In December I was ordered to take a series of drug tests to be later notified that I had a positive for Tramadol. I have not taken Tramadol at all. It is ineffective for my situation. I do not own, have access to, or have been prescribed this drug in any way."

9. On or about December 15, 2010, Respondent became non-compliant with the Order of Conditional Eligibility issued to her by the Texas Board of Nursing on April 3, 2009. Non-compliance is the result of her failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract. Stipulation number three (3) of the Order dated April 3, 2009, states:  
"(3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term."

Additionally, Respondent failed to submit to drug screens on July 27, 2010, September 1, 2010, and December 13, 2010. Respondent was dismissed from the TPAPN program on December 23, 2010.

10. In response to Finding of Fact Number Nine (9), Respondent states: "When the order was presented to me in order to take the State Boards, I accepted the order without asking any questions. Completing the nursing program was the first thing I accomplished without discretion, therefore, I did not hesitate to accept the program as a stipulation. After signing up, I learned it was for nurses with drug and alcohol problems. My order was for stress management. My case manager stated "there was not a curriculum set up for stress, therefore, we would work our way around it, yet follow the rules". I have been to outpatient clinics whose evaluations have stated that I am not a candidate for their program under alcohol, drugs, or stress therapy. I have visited a therapist whose first thought of me was being stressed due to this program. Her method was to prescribe me long term antidepressants. I refused. However, I continued with the treatments until she went on vacation. AA and NA were the next step, 90 in 90 were difficult. Due to my situation, my case manager was understanding and allowed me time to find a stress management class or group I could join. Unable to turn up any results, I attended several classes for abusers and family members of abusers. I am not an alcoholic or a drug abuser, nor have I ever been. There is a history of drug abuse in my family. I had a job change and I did not turn in the proper contract to work at the facility. All other documents continued to be turned in on time. I was later suspended from work by TPAPN for failure to comply with the handbook. Later, returning to work, the program was restarted."
11. 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.

#### 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 a violation of Section 301.452(b)(1),(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(B) and 22 TEX. ADMIN. CODE §217.12(1)(A)&(E),(4),(5),(9),(10)(A),(D)and(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 226118, heretofore issued to TANYA ELISE ARNOLD BARRON, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Registered Nurse License Number 226118, previously issued to TAYNA ARNOLD BARRON, to practice professional nursing in Texas is hereby SUSPENDED for a period of three (3) years with the suspension STAYED and Respondent is hereby placed on PROBATION for three (3) years with the following agreed terms of probation:

IT IS FURTHER AGREED and ORDERED that, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

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

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this order the Respondent 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 Respondent wishes to work.

(1) RESPONDENT 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.

(2) RESPONDENT SHALL, undergo a neuropsychological evaluation within thirty (30) days of the suspension being stayed. The evaluation shall be performed by a Board approved licensed psychologist, who is certified in a relevant field of practice by the American Board of Professional Psychology or a licensed psychiatrist who is certified in a relevant field of practice by the American Board of Psychiatry and Neurology. RESPONDENT SHALL CAUSE the performing psychologist to send a report of the evaluation to the Board office. The report shall include:

1. The diagnoses and clinical indications, if any, including the effect of the given diagnosis on the RESPONDENT'S cognitive and behavioral functions.
2. A statement as to the RESPONDENT'S fitness to safely practice nursing;  
and
3. Recommendations for treatment and/or other follow-up(s).

If the evaluation states that Respondent lacks fitness to practice nursing, RESPONDENT SHALL cease to provide direct patient care until such time that the same evaluator deems Respondent safe to return to direct patient care. Direct patient care involves a personal relationship between the Nurse and the client, and includes, but is not limited to: teaching; counseling; assessing the client's needs and strengths; and providing skilled nursing care. If the results of the evaluation

reveal further violations of the Nursing Practice Act, further disciplinary action may be taken, including revocation of Respondent's license to practice nursing in the State of Texas.

RESPONDENT SHALL comply with the recommendations for neuropsychological treatment and/or other follow-ups. If follow-up treatment is recommended, RESPONDENT SHALL participate in treatment with a Board approved provider. RESPONDENT SHALL CAUSE the provider to submit written reports to the Board, which shall include, at a minimum, the clinical indications, RESPONDENT'S progress and compliance with treatment, and a prognosis as to RESPONDENT'S ability to safely practice nursing in a direct patient care setting. Such reports are to be furnished each and every month for three (3) months. If treatment is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the probation period, or until RESPONDENT no longer requires treatment.

(3) RESPONDENT SHALL pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.

(4) RESPONDENT SHALL, within one (1) year of the suspension being stayed, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT 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) 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. RESPONDENT 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 RESPONDENT'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>.

(5) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete 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 program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address:*

<http://www.learningext.com/products/generalce/critical/ctabout.asp>.

(6) RESPONDENT SHALL pay a monetary fine in the amount of six hundred

dollars (\$600). RESPONDENT SHALL pay this fine within forty-five (45) days of the suspension being stayed. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

**IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) MONTHS 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 STIPULATION PERIOD:**

(7) RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the probation conditions on RESPONDENT'S license(s). RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(8) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the



Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(9) For the first year of employment as a nurse under this Order, RESPONDENT 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 to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). The 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.

(10) For the remainder of the probation period, 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.

(11) RESPONDENT SHALL NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Respondent is regularly assigned for one (1) year of employment as a nurse.

(12) RESPONDENT SHALL NOT practice as a nurse in any critical care area for one (1) year of employment as a nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(13) RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a nurse.

(14) 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. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) months for three (3) years of employment as a nurse.

(15) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of 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 an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.**

(16) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the probation period, random screens shall be performed at least once every three (3) months. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

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 probation period and require RESPONDENT to produce a specimen for screening.

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 probation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY 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.

(17) RESPONDENT SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. RESPONDENT SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT'S progress in therapy, rehabilitation and capability to safely practice professional nursing. The report must indicate whether or not the RESPONDENT'S stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the probation period, or until

RESPONDENT is dismissed from therapy.

(18) RESPONDENT 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. RESPONDENT 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 RESPONDENT. RESPONDENT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) months. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

IT IS FURTHER AGREED, that 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 shall be eligible for nurse licensure compact privileges, if any.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

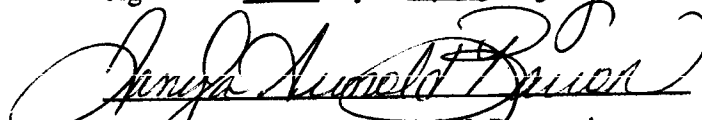
BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

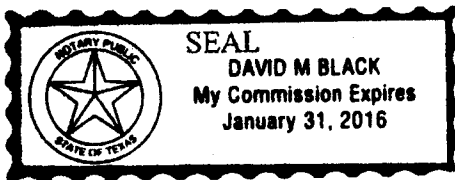
RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, 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 license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 6 day of February 2012.

  
TANYA ARNOLD BARRON, Respondent

Sworn to and subscribed before me this 6 day of February, 2012.



David Black

Notary Public in and for the State of Texas

Approved as to form and substance.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 6<sup>th</sup> day of February, 2012, by TANYA ARNOLD BARRON, License Number 226118, and said Order is final.

Effective this 20<sup>th</sup> day of March, 2012.



---

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



BEFORE THE  
TEXAS BOARD OF NURSING

\*\*\*\*\*

In the Matter of	§	
TANYA ARNOLD BARRON	§	ORDER OF
PETITIONER for Eligibility for	§	CONDITIONAL ELIGIBILITY
Licensure	§	

On the date entered below, the Texas Board of Nursing, hereinafter referred to as the Board, considered the Petition for Declaratory Order and supporting documents filed by TANYA ARNOLD BARRON, 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 Article 4528c, Section 10(a)(3)&(9) and Section 301.452(b)(9)&(10), Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on December 8, 2008, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about December 6, 2007, Petitioner submitted a Petition for Declaratory Order requesting a determination of eligibility for licensure in compliance with Section 301.257 of the Texas Occupations Code and the Board's Rule at 22 Texas Administrative Code Section 213.30.
2. Petitioner waived representation, notice, administrative hearing, and judicial review.
3. Petitioner was enrolled in a Vocational Nursing Program at Odessa College - Andrews, Odessa, Texas.
4. On or about November 24, 2007, Petitioner completed the Petition for Declaratory Order and answered "yes" to the question which reads in part as follows: *"Have you ever been convicted, placed on community supervision whether or not adjudicated guilty, sentenced*

*to serve jail or prison time or granted pre-trial diversion, or plead guilty, no contest, or nolo contendere to any crime in any state, territory or country, or received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests whether or not on appeal? This includes expunged offenses and deferred adjudication with or without a finding of guilt."*

5. Petitioner disclosed the following criminal history, to wit:
  - A. On March 4, 1993, Petitioner was charged with the misdemeanor offense of Failure to Identify, Cause No. CR-62068, in the County Court at Law of Midland County, Texas. Petitioner was assessed a fine in the amount of three hundred dollars (\$300.00).
  - B. On March 10, 1994, Petitioner entered a plea of no contest and was convicted of the Class B Misdemeanor offense of Theft  $\geq$  \$20 but  $<$  \$200, Cause No. CR-65488, in the County Court at Law of Midland County, Texas. Petitioner was assessed a fine and court costs in the amount of three hundred five dollars (\$305.00).
  - C. On May 12, 1994, Petitioner entered a plea of no contest and was convicted of the Class B Misdemeanor offense of Theft  $\geq$  \$20 but  $<$  \$200, Cause No. CR-66041, in the County Court at Law of Midland County, Texas. Petitioner was assessed a fine and court costs in the amount of eight hundred seventy-five dollars (\$875.00).
  - D. On May 18, 1995, Petitioner entered a plea of guilty and was convicted of the third degree felony offense of Forgery of a Financial Instrument, Cause No. CRA-21,744, in the 142<sup>nd</sup> Judicial District Court of Midland County, Texas. Petitioner was sentenced to ten (10) years probation. On May 25, 2000, Petitioner completed all terms of probation and was discharged.
6. There is no evidence of any subsequent criminal conduct.
7. On November 1, 2008, Petitioner was seen by John Gonzalez, EdD., Psychologist, to undergo a forensic psychological evaluation. With considerable investigation into the cases of illegal conduct of Petitioner, several key issues have become more clearly defined in order to consider this matter. To begin, psychometric testing and a clinical interview reveal no indication of a mental disorder. Moreover, drug and alcohol testing suggest no current addiction, but past drug use may pose future issues. Depression and anxiety instruments indicate inadequate emotional resources to always deal with daily life tasks. General mental health appears to be generally a stable condition; however, she needs to develop better coping mechanisms to control stressful conditions to succeed in a demanding career such as nursing. To help petitioner gain control of these critical areas, Dr. Gonzalez recommended that Petitioner successfully complete an approved, outpatient Drug and Alcohol Counseling Program that promotes stress management and life coping skills.

Finally, after careful examining the nature of the evidence regarding Petitioner's improper conduct and various arrests, she appears to still require some help with stress and healthy methods for relief. When she successfully completes therapy and the aforementioned issues are no longer problems for her, the probability is high that Petitioner would consistently behave in accordance with Rules 213.27-213.29 at 22 TAC as well as the minimum requirements of Board's Rules 217.11 at 22 TAC and generally accepted nursing standards. The probability is also high that Petitioner would consistently avoid behaviors identified by the Board as constituting unprofessional conduct, Rules 217.12 at 22 TAC.

8. Petitioner presented evidence of current fitness to practice vocational nursing.
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. The Executive Director considered evidence of Petitioner's substance abuse as provided in §213.29, 22 Texas Administrative Code .
11. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Petitioner.
12. Petitioner has sworn that, with the exception of matters disclosed in connection with the Petition for Declaratory Order, her past behavior conforms to the Board's professional character requirements. Petitioner presented no evidence of behavior which is inconsistent with the Board's character requirements in 22 Texas Administrative Code §213.27.
13. On December 8, 2008, 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.
14. In consideration of Petitioner's past conduct and subsequent evidence of rehabilitation, the Executive Director finds that Petitioner should be declared conditionally eligible to take the National Council Licensure Examination for Vocational Nurses.
15. Petitioner'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. The Texas Board of Nursing has jurisdiction over this matter pursuant to Section 301.453, Texas Occupations Code.

2. Petitioner has submitted a Petition for Declaratory Order requesting a determination of eligibility for licensure in compliance with Section 301.257 of the Texas Occupations Code and the Board's Rule at 22 Texas Administrative Code Section 213.30.
3. 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.
4. The Texas Board of Nursing may license an individual who has a history of substance abuse, after consideration of the criteria set out in 22 Texas Administrative Code §213.29, the Board determines the Petitioner does not currently pose a direct threat to the health and safety of patients or the public.
5. The Board may, in its discretion, order a Petitioner, upon initial licensure as a vocational 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

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of any required fees, TANYA ARNOLD BARRON, PETITIONER, is CONDITIONALLY ELIGIBLE to sit for the National Council Licensure Examination for Practical Nurses (NCLEX-PN<sup>®</sup> 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, 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 ORDERED that PETITIONER, upon attaining a passing grade on the NCLEX-PN<sup>®</sup>, shall be issued a license to practice nursing in the State of Texas.

IN ADDITION, IT IS THEREFORE FURTHER AGREED and ORDERED that PETITIONER, upon initial licensure, 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 initial 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 and ORDERED that this Order SHALL be applicable to Petitioner's multistate licensure privileges, if any, to practice vocational nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Petitioner's license is encumbered by this Order, 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 AGREED, SHOULD PETITIONER 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 a PETITIONER's license to practice vocational nursing in the State of Texas.

PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all relevant information in conformity with Rule 213.29 at Texas Administrative Code. 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 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-PN® Examination or 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 vocational 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 25 day of March, 2009

Tanya Arnold-Barron  
TANYA ARNOLD BARRON, PETITIONER

Sworn to and subscribed before me this 25 day of March, 2009

SEAL


Maria H. Moreno

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 ratify and adopt the Order of Conditional Eligibility that was signed on the 25<sup>th</sup> day of March, 2009, by TANYA ARNOLD BARRON, PETITIONER, for Declaratory Order, and said Order is final.

Entered and effective this 3<sup>rd</sup> day of April, 2009.

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