



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

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In the Matter of § AGREED  
DAVID HERRERA RODRIGUEZ, §  
Vocational Nurse License Number 173272 and §  
PETITIONER for Eligibility for Licensure § ELIGIBILITY ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the Petition for Declaratory Order and supporting documents filed by DAVID HERRERA RODRIGUEZ, 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 subject to discipline and ineligible for licensure pursuant to Sections 301.452(b)(2),(3)&(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 December 30, 2011, by Katherine A. Thomas, MN, RN, FAAN, Executive Director.

FINDINGS OF FACT

1. On or about January 8, 2011, PETITIONER submitted a Petition for Declaratory Order requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.253, 301.257 and 301.258, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §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 Midland College, Midland, Texas, on August 19, 1999. Petitioner was licensed to practice vocational nursing in the State of Texas, on September 23, 1999. Petitioner was enrolled in an Associate Degree Nursing Program at Midland College, Midland, Texas, at the time of this petition.

4. On or about January 8, 2011, Petitioner completed the Petition for Declaratory Order 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:

A. On or about October 22, 2001, Petitioner was arrested by the Midland Police Department, Midland, Texas, for ASSAULT BODILY INJURY - FAMILY VIOLENCE.

On or about September 4, 2002, Petitioner pled Guilty to ASSAULT BODILY INJURY - FAMILY VIOLENCE, in the County Court at Law of Midland County, Texas, under Cause No. CR93866. As a result of the plea, the proceedings against Petitioner were deferred without entering and adjudication of guilt and Petitioner was placed on probation for a period of ninety (90) days.

B. On or about April 9, 2003, Petitioner was arrested by the Midland Police Department, Midland, Texas, for ASSAULT FAMILY MEMBER - ONE TIME, a Class B misdemeanor offense and EVADING ARREST/DETENTION, a Class B misdemeanor offense.

On or about June 30, 2003, Petitioner pled No Contest and was convicted of ASSAULT BODILY INJURY, a Class A misdemeanor offense committed on April 9, 2003, in the County Court at Law of Midland County, Texas, under Cause No. CR99671. As a result of the conviction, Petitioner was sentenced to confinement in the Midland County Jail for a period of three (3) months; however, imposition of the

sentence of confinement was suspended and Petitioner was placed on probation for a period of one (1) year. On or about July 14, 2004, Petitioner was discharged from probation.

On or about July 8, 2003, the offense of RESISTING ARREST, SEARCH OR TRANSPORT, was dismissed in the County Court at Law of Midland County, Texas, under Cause No. CR99670.

- C. On or about December 13, 2005, Petitioner was arrested by the Midland Police Department, Midland, Texas, for THEFT \$20-\$500 BY CHECK.

On or about August 11, 2008, Petitioner pled Guilty and was convicted of ISSUANCE OF A BAD CHECK, in the County Court at Law of Midland County, Texas, under Cause No. CR110435. As a result of the conviction, Petitioner was ordered to pay a fine and court costs.

6. As a result of the investigation the Board found that on or about December 31, 2003, Petitioner submitted an Online Renewal Document for Licensed Vocational Nurses in which Petitioner provided false, deceptive, and/or misleading information in that Petitioner answered "No" the question: *"Were you convicted of a misdemeanor other than a minor traffic violation since your last renewal?"*

Petitioner failed to disclose that on or about June 30, 2003, Petitioner pled No Contest and was convicted of ASSAULT BODILY INJURY, a Class A misdemeanor offense committed on April 9, 2003, in the County Court at Law of Midland County, Texas, under Cause No. CR99671. As a result of the conviction, you were sentenced to confinement in the Midland County Jail for a period of three (3) months; however, imposition of the sentence of confinement was suspended and you were placed on probation for a period of one (1) year. On or about July 14, 2004, you were discharged from probation.

7. As a result of the investigation the Board found that on or about November 30, 2009, Petitioner submitted an Online Renewal Document for Licensed Vocational Nurses in which Petitioner provided false, deceptive, and/or misleading information in that Petitioner answered "No" the question: *"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appear:*

- 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.)"*

Petitioner failed to disclose that on or about August 11, 2008, Petitioner pled Guilty and was convicted of ISSUANCE OF A BAD CHECK, in the County Court at Law of Midland County, Texas, under Cause No. CR110435.

8. In response to Finding of Fact Numbers Six (6) and Seven (7), Petitioner states he was unaware that he had answered "No" to the criminal question. While completing the Online Renewal Document he thought he answered "Yes." Petitioner further states he was not trying to withhold or provide false information to the Board.
9. There is no evidence of any subsequent criminal conduct.
10. Petitioner has sworn that, with the exception of matters disclosed in connection with the Petition for Declaratory Order, his 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. Licensure 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 the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.
16. 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.
17. 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 January 8, 2011, PETITIONER submitted a Petition for Declaratory Order requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.253, 301.257 and 301.258, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §213.30.
3. Petitioner's history reflects conduct which may constitute grounds for discipline and denial of a license under Section 301.452(b)(2),(3)&(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 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 his conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.
7. 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, upon meeting the requirements for graduation of an appropriate program in nursing education and payment of any required fees, PETITIONER is ELIGIBLE to sit for the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination).

IT IS FURTHER AGREED that PETITIONER SHALL NOT be eligible for temporary authorization to practice as a Graduate Nurse (GN), in the State of Texas.

IT IS FURTHER AGREED that, upon payment of any required fees and upon attaining a passing grade on the appropriate National Council Licensure Examination, 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.

(1) PETITIONER SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and 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. 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. 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 at the following Board website address:* <http://www.bon.texas.gov/disciplinaryaction/stipscourses.html>.

(2) PETITIONER SHALL pay a monetary fine in the amount of five hundred dollars (\$500.00). PETITIONER SHALL pay this fine within forty-five (45) days of entry of this Order. 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, that upon full compliance with the terms of this Order, all encumbrances will be removed from PETITIONER'S license(s) to practice nursing in the State of Texas and PETITIONER shall be eligible for nurse licensure compact privileges, if any.

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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 and/or petition, 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 and/or petition, 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 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.

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.

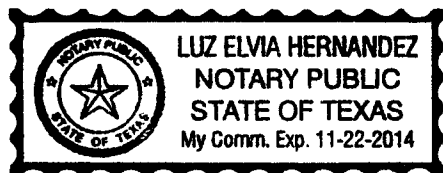
Signed this 13<sup>th</sup> day of March, 2012.

David Herrera Rodriguez  
DAVID HERRERA RODRIGUEZ, PETITIONER

Sworn to and subscribed before me this 13 day of March, 2012.

SEAL

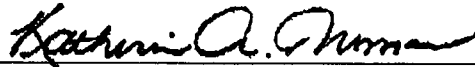
My Elvia Hernandez  
Notary Public in and for the State of Texas





WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby ratify and adopt the Agreed Eligibility Order that was signed on the 13<sup>th</sup> day of March, 2012, by DAVID HERRERA RODRIGUEZ, Vocational Nurse License Number 173272 and PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this 11<sup>th</sup> day of April, 2012.



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