



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

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Registered Nurse License Number 779217 §
issued to JAMES BYRON GASS § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JAMES BYRON GASS, Registered Nurse License Number 779217, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Respondent waived informal proceedings, 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.
4. Respondent received an Associate Degree in Nursing from Vernon Regional Junior College, Vernon, Texas on May 16, 2009. Respondent was licensed to practice professional nursing in the State of Texas on January 19, 2010.
5. Respondent's professional nursing employment history includes:

01/10 - 02/12	RN	Kell West Regional Hospital Wichita Falls, Texas
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12. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
13. 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.

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 violation(s) of 22 TEX. ADMIN. CODE §217.11(1)(D), 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)(9), (10) & (13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 779217, heretofore issued to JAMES BYRON GASS, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Registered Nurse License Number 779217, heretofore issued to JAMES BYRON GASS, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing. In

connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying himself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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.

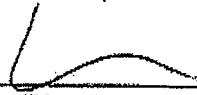
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RESPONDENT'S CERTIFICATION

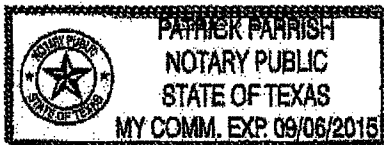
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

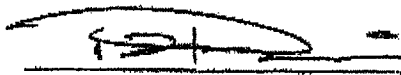
Signed this 25 day of September, 2012



JAMES BYRON GASS, Respondent

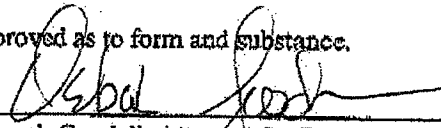
Sworn to and subscribed before me this 25 day of September, 2012.





Notary Public in and for the State of TEXAS

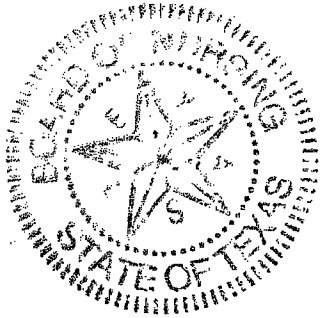
Approved as to form and substance.



Deborah Goodall, Attorney for Respondent

Signed this 25 day of September, 2012.

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Registered Nurse License Number 779217, previously issued to JAMES BYRON GASS.



Effective this 26th day of September, 20 12.

Katherine A. Thomas

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



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 § AGREED
Registered Nurse License Number 779217 §
issued to JAMES BYRON GASS § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JAMES BYRON GASS, Registered Nurse License Number 779217, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(1), (10), (12) & (13) and 301.453, Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on July 16, 2012, by Katherine A. Thomas, MN, RN, FAAN, Executive Director, subject to ratification by the Board.

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(s).
2. Respondent waived informal proceedings, 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.
4. Respondent received an Associate Degree in Nursing from Vernon Regional Junior College, Vernon, Texas on May 16, 2009. Respondent was licensed to practice professional nursing in the State of Texas on January 19, 2010.
5. Respondent's professional nursing employment history includes:

01/10 - 02/12	RN	Kell West Regional Hospital Wichita Falls, Texas
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Respondent's professional nursing employment history continued:

03/12 - Present Unknown

6. On or about November 30, 2009, Respondent was issued an Order of Conditional Eligibility by the Board which required him to participate in and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Findings of Fact, Conclusions of Law, and Order of Conditional Eligibility dated November 30, 2009, is attached and incorporated, by reference, as part of this Order.
7. On or about February 11, 2012, while employed with Kell West Regional Hospital, Wichita Falls, Texas, Respondent was absent from his work assignment for approximately forty-five (45) minutes without notifying the appropriate personnel. A call was made to Respondent's cell phone in an attempt to locate him but he failed to respond. Respondent's conduct was likely to injure patients in that leaving the nursing assignment could have resulted in the patients not getting the care that they needed.
8. On or about February 11, 2012, while employed with Kell West Regional Hospital, Wichita Falls, Texas, Respondent failed to obtain specimens from an emergency room patient and deliver them to the lab in a timely manner. Respondent's conduct was likely to injure the patient in that it could have resulted in a delay in patient treatment.
9. On or about February 11, 2012, while employed with Kell West Regional Hospital, Wichita Falls, Texas, Respondent lacked fitness to practice nursing in that he was observed to be distracted and/or disoriented. Respondent intended to stick a patient to obtain an ordered blood specimen even though the patient already had venous access through a saline lock. The Charge Nurse reminded Respondent that the patient did not require a re-stick to collect the blood specimen. Respondent also failed to clock out at the end of his shift. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
10. On or about February 12, 2012, while employed with Kell West Regional Hospital, Wichita Falls, Texas, Respondent lacked fitness to practice nursing in that he was observed to be hyperactive after he clocked in at 7:17 am. When questioned by the Charge Nurse about his tired appearance, Respondent replied that he could not sleep the night before and did not go to bed until approximately 4 am. At approximately 7:30 am Respondent left the emergency room without explanation and was absent for approximately thirty (30) minutes. At approximately 8:30 am Respondent again left the emergency room and was gone approximately thirty (30) minutes. Respondent returned with several items including keyboard air cleaner which he sprayed in his face. At approximately 9:10 am Respondent told the Charge Nurse that he was going to a local convenient store. At 9:30 am a coworker was sent to locate Respondent at the convenient store but he could not be found. The coworker drove to Respondent's house where he was located. Respondent explained that he

thought he would go home and let out his dogs. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

11. On or about February 11, 2012, through February 12, 2012, while employed with Kell West Regional Hospital, Wichita Falls, Texas, Respondent became non-compliant with the Order of Conditional Eligibility issued to him by the Texas Board of Nursing on November 30, 2009. Non-compliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract in that TPAPN determined that he exhibited behaviors inconsistent with good recovery and/or was not capable of performing safe nursing practice. That determination was based on the conduct outlined in Formal Charges I through IV for which Respondent was subsequently terminated from Kell West Regional Hospital. Stipulation Number Three (3) of the Order of Conditional Eligibility dated November 30, 2009, states:

"(3) APPLICANT SHALL comply with all requirements of the TPAPN contract during its term." On or about February 24, 2012, Respondent was dismissed from TPAPN and referred to the Board.

A copy of the Findings of Fact, Conclusions of Law and Order of Conditional Eligibility dated November 30, 2009, is attached and incorporated, by reference, as part of this pleading.

12. 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.
13. Formal Charges were filed on April 27, 2012.
14. Formal Charges were mailed to Respondent on April 30, 2012.

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 violation(s) of 22 TEX. ADMIN. CODE §217.11(1)(B)(C)(D)(P). and 22 TEX. ADMIN. CODE §217.12(1)(A)(E), (4), (5), (9), (11)(B) & (12).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(b)(1), (10), (12) & (13), Texas Occupations Code, to take disciplinary action against Registered Nurse License

Number 779217, heretofore issued to JAMES BYRON GASS, 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 779217, previously issued to JAMES BYRON GASS, to practice nursing in Texas is/are hereby SUSPENDED for a period of two (2) years with the suspension STAYED and Respondent is hereby placed on PROBATION for two (2) 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, within one (1) year of entry of this Order, 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.texas.gov/disciplinaryaction/stipscourses.html>.

(3) 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. *Board-approved courses may be found at the following Board website address:* <http://www.bon.texas.gov/disciplinaryaction/stipscourses.html>.

(4) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500.00). RESPONDENT 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, 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 TWO (2) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) 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:

(5) RESPONDENT SHALL notify each present employer 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 present employer within five (5) days of receipt of this Order. 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.

(6) 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.

(7) 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.

(8) 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) month period for two (2) year(s) of employment as a nurse.

(9) 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 a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.

(10) 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.

(11) 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) month period. 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.

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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 violation(s) 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 20 day of July, 2012

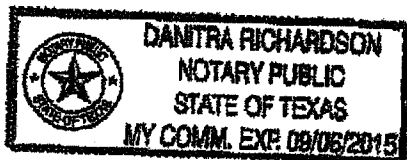
[Signature]
JAMES BYRON GASS, Respondent

Sworn to and subscribed before me this 20th day of July, 2012.

SEAL

[Signature]

Notary Public in and for the State of Texas



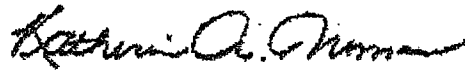
Approved as to form and substance.

[Signature]
Deborah Goodall, Attorney for Respondent

Signed this 24 day of July, 2012

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 20th day of July, 2012, by JAMES BYRON GASS, Registered Nurse License Number 779217, and said Order is final.

Effective this 14th day of August, 2012.



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



BEFORE THE
TEXAS BOARD OF NURSING.

In the Matter of
JAMES BYRON GASS
APPLICANT for Eligibility for
Licensure

§
§
§
§

ORDER OF
CONDITIONAL ELIGIBILITY

On the date entered below, the Texas Board of Nursing, hereinafter referred to as the Board, considered the Application for Licensure by Examination Order and supporting documents filed by JAMES BYRON GASS, 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 PETITIONER may be ineligible for licensure pursuant to the Occupations Code 301.452(b)(9)&(10).

APPLICANT waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on October 10, 2009, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about April 1, 2009, Applicant submitted an Application for Licensure by Examination 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. Applicant waived representation, notice, administrative proceedings, and judicial review.
3. Applicant graduated with an Associate Degree in Nursing from Vernon College, Vernon, Texas, in May 2009.
4. Applicant completed the Application for Licensure by Examination and answered "yes" to the question which reads: "Within the past five (5) years have you been addicted to and/or treated for the use of alcohol or any other drug?"

5. On May 1, 2006, Applicant voluntarily entered the Abilene Psychiatric Center, Abilene, Texas, for treatment of alcoholism, with discharge on May 4, 2006. Applicant was discharged with the recommendation that he be readmitted into PHP or intensive outpatient at Red River Hospital in Wichita Falls, Texas.
6. 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.
7. The Executive Director considered evidence of Applicant's substance abuse and subsequent rehabilitation as provided in §213.29, 22 Texas Administrative Code.
8. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Applicant.
9. Applicant has sworn that, with the exception of matters disclosed in connection with the Application for Licensure by Examination, his past behavior conforms to the Board's professional character requirements. Applicant presented no evidence of behavior which is inconsistent with the Board's character requirements in 22 Texas Administrative Code §213.27.
10. On October 10, 2009, the Executive Director considered evidence of Applicant's past 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.
11. In consideration of Applicant's past conduct and subsequent evidence of rehabilitation, the Executive Director finds that Applicant should be declared conditionally eligible to take the National Council Licensure Examination for Registered Nurses.
12. Applicant'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. Applicant has submitted an Application for Licensure by Examination 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. Applicant shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452(b)(9)&(10), 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 Applicant 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 Applicant, upon initial licensure as a registered 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, JAMES BYRON GASS, APPLICANT, is CONDITIONALLY ELIGIBLE to sit for the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination). APPLICANT SHALL NOT be eligible for temporary authorization to practice as a Graduate Nurse in the State of Texas.

IT IS FURTHER ORDERED that 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.

IT IS FURTHER ORDERED that APPLICANT, upon attaining a passing grade on the NCLEX-RN®, shall be issued a license to practice nursing in the State of Texas.

IN ADDITION, IT IS THEREFORE FURTHER AGREED and ORDERED that APPLICANT, upon initial licensure, SHALL comply with the following conditions for such a time

as is required for APPLICANT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) APPLICANT 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 five hundred dollars (\$500.00) payable to TPAPN.

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

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

(4) APPLICANT 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 Applicant's multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Applicant's license is encumbered by this Order, 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.

IT IS FURTHER AGREED, SHOULD APPLICANT 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 EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or revocation of a APPLICANT's license and multistate licensure privileges, if any, to practice nursing in the State of Texas.

APPLICANT'S CERTIFICATION

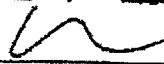
I am the Applicant in this matter. I have fully and truthfully disclosed all relevant information in conformity with Rule 213.29 at Texas Administrative Code. I certify that my past behavior, except as disclosed in my Application for Licensure by Examination, has been in conformity with the Board's professional 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 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-RN® 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 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 23 day of November, 2009.



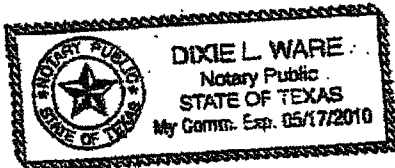
JAMES BYRON GASS, APPLICANT

Sworn to and subscribed before me this 23 day of November 2009

SEAL


Dixie L. Ware

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 23rd day of November, 2009, by JAMES BYRON GASS, APPLICANT, for Licensure by Examination, and said Order is final.

Entered and effective this 30th day of November, 2009.


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