



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 BOARD OF NURSING  
FOR THE STATE OF TEXAS

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In the Matter of  
SAMUEL ALLEN RODGERS  
PETITIONER for Eligibility for  
Licensure

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§

ORDER OF  
CONDITIONAL ELIGIBILITY

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 SAMUEL ALLEN RODGERS, 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 be ineligible for licensure pursuant to the Occupations Code 301.452(b).

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on May 11, 2010, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about June 22, 2009, the Board received a Petition for Declaratory Order submitted by Petitioner requesting a determination of eligibility for licensure in compliance with Section 301.252 and 301.257, of the Texas Occupations Code and the Board's Rules at 22 Texas Administrative Code Sections 213.30 and 217.2.
2. Petitioner waived representation, notice, administrative proceedings, and judicial review.
3. Petitioner graduated with a Baccalaureate Degree in Nursing from the University of Texas at El Paso School of Nursing, El Paso, Texas, on August 4, 2009.
4. Petitioner completed the Petition for Declaratory Order and answered "Yes" to the question which reads: *"For any criminal offense, including those pending appeal, have you:*  
*A. been convicted of a misdemeanor?"*

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

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

On or about October 30, 1994, Petitioner was arrested for the offense of POSSESSION OF A CONTROLLED SUBSTANCE PG 1<1G, a State Jail felony, by the El Paso Police Department, El Paso, Texas. On or about March 10, 1995, Petitioner entered a plea of "Guilty" to POSSESSION OF A CONTROLLED SUBSTANCE - COCAINE, Cause No. 76422, (a State Jail felony committed on October 30, 1994), in the 243<sup>rd</sup> District Court of El Paso County, Texas. Proceedings were deferred without an adjudication of guilt and Petitioner was placed on probation for two (2) years. On or about January 31, 1997, Petitioner was granted an Order extending probationary period for one (1) year.

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

7. On March 13, 2010, Petitioner was seen by John Gonzalez, EdD, to undergo a forensic psychological evaluation to include a chemical dependency component and a polygraph examination. After considerable investigation into the matter of past criminal conduct by Petitioner, several key issues have become more clearly defined in order to resolve this matter. To begin, psycho-metric testing and a clinical interview reveal no indication of psycho-pathology or mental disorder of any kind. However, testing and the clinical interview reveal a past history of impulsive, aggressive behaviors. Depression and anxiety instruments indicate adequate emotional resources to deal with daily life tasks. General mental health appears to be stable and adequate to succeed in today's society, and coping skills are significant to deal with the levels of stress produced by life's tasks. Testing and present history suggest no need for counseling to cope better with stress and control maladaptive impulses.

After carefully examining the nature of the evidence for and against the matter regarding Petitioner's suitability for licensure as an RN, he appears to have matured to become more competent and reliable, as a good citizen and family man. 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, Rule 217.12 at 22 TAC.

8. 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.
9. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Petitioner.
10. Petitioner has sworn that his past behavior conforms to the Board's professional character requirements. Petitioner presented no evidence of behavior which is inconsistent with good professional character.
11. Petitioner has been advised that any information found to be incomplete, incorrect, or misleading will be considered and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through misrepresentation.
12. On or about May 11, 2010, 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.

#### 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 301.252 and 301.257, of the Texas Occupations Code and the Board's Rules at 22 Texas Administrative Code Sections 213.30 and 217.2.
3. Petitioner's criminal history reflects criminal conduct which constitutes grounds for denial of a license under Section 301.452(b), Texas Occupations Code.
4. 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.
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 Texas Administrative Code §213.28 and evaluating the direct relationship to nursing according to 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 Texas Administrative Code §213.27, the Board is satisfied that the individual is able to consistently conform to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

### ORDER

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of any required fees, SAMUEL ALLEN RODGERS, PETITIONER, is CONDITIONALLY ELIGIBLE to sit for the National Council Licensure Examination for Registered Nurses (NCLEX-RN® 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 Professional 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 multistate licensure privilege, if any, to practice professional nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while PETITIONER's license is encumbered by this Order the 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 ORDERED that PETITIONER, upon attaining a passing grade on the NCLEX-RN®, shall be issued a license to practice nursing in the State of Texas which shall bear the appropriate notation and PETITIONER SHALL be subject to the following stipulations.

(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) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. 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.state.tx.us/disciplinaryaction/stipscourses.html>

**IT IS FURTHER AGREED, SHOULD PETITIONER PRACTICE AS A REGISTERED NURSE IN THE STATE OF TEXAS, PETITIONER WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND PETITIONER MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED.**

**PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:**

(2) PETITIONER SHALL notify each present employer in nursing of this Order of the Board and the stipulations on PETITIONER'S license. PETITIONER 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. PETITIONER SHALL notify all future employers in nursing of this Order of the Board and the stipulations on PETITIONER'S license. PETITIONER 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.

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

(4) PETITIONER SHALL be supervised by a Registered Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as PETITIONER, 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 PETITIONER is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency.

PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(5) PETITIONER SHALL CAUSE each employer to submit, on forms provided to the PETITIONER by the Board, periodic reports as to PETITIONER'S capability to practice nursing. These reports shall be completed by the Registered Nurse who supervises the PETITIONER. 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 one (1) year of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, PETITIONER SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

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PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past criminal conduct, 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 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 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 as 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.

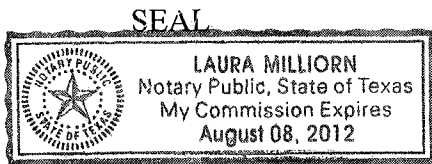
I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

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 8 day of June, 2010

Samuel Allen Rodgers  
SAMUEL ALLEN RODGERS, PETITIONER

Sworn to and subscribed before me this 8<sup>th</sup> day of June, 2010



[Signature]  
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 8<sup>th</sup> day of June, 2010, by SAMUEL ALLEN RODGERS, PETITIONER, for Licensure by Examination, and said Order is final.

Entered this 22<sup>nd</sup> day of July, 2010.

BOARD OF NURSING  
FOR THE STATE OF TEXAS



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