



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 NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of §
MATTHEW MONTOYA § ORDER OF
PETITIONER for Eligibility for § CONDITIONAL ELIGIBILITY
Licensure and §
Vocational License Number 193053 §

On the date entered below, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the Application for Initial Licensure by Examination and supporting documents filed by MATTHEW MONTOYA, 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 Section 301.452 *et seq.*, Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on March 15, 2007, by Katherine A. Thomas, MN, RN, Executive Director

FINDINGS OF FACT

1. On or about October 5, 2006, Petitioner submitted an Application for Initial Licensure by Examination requesting a determination of eligibility for licensure in compliance with Section 301.257 *et seq.*, Texas Occupations Code.
2. Petitioner waived representation, notice, administrative hearing, and judicial review.
3. Petitioner graduated with an Associate Degree in Nursing from St. Philip's College, San Antonio, Texas, in December 2006. Petitioner received a Certificate in Vocational Nursing from the Health Institute of San Antonio, San Antonio, Texas, on January 26, 2004. Petitioner was licensed as a Vocational Nurse on March 17, 2004, which is in current status.
4. On or about December 15, 2003, Petitioner completed the Application for Initial Licensure

by Examination for Vocational Nursing and answered "no" to the question which reads as follows: *"Have you ever been convicted of a misdemeanor other than a minor traffic violation?"*

5. On October 5, 2006, Petitioner completed the Application for Initial Licensure by Examination for Registered Nursing and answered "no" to Question Number One (1), which reads as follows: *"Have you ever been arrested, convicted, placed on community supervision whether or not adjudicated guilty, sentenced to serve jail or prison time or granted a 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 adjudications with or without a finding of guilty."*
6. Petitioner failed to disclose the following criminal history, to wit:
 - A. On or about March 18, 1998, Petitioner was charged with the Class B misdemeanor offense of Possession of Marijuana, under 2 ounces in the County Court of Wilson County, Texas. On May 26, 1998, Petitioner pled no contest and was ordered to attend a Drug Offenders Program, serve three (3) months community supervision, sixty (60) hours community service, and assessed a fine in the amount of fifty dollars (\$50.00). Petitioner's probation was terminated on August 25, 1998, and dismissed on September 29, 1998 although the Petitioner failed to satisfactorily complete the community supervision. Petitioner failed to complete the community service restitution hours and the Drug Offenders Program. Petitioner also tested positive for marijuana while on probation.
 - B. On or about November 14, 1999, Petitioner was charged with the Class B misdemeanor offense of Driving While Intoxicated in the County Court at Law of Guadalupe County, Texas. On February 1, 2000, Petitioner pled guilty and was sentenced to one hundred eighty (180) days in the Guadalupe County Jail and to pay a fine of two thousand dollars (\$2,000.00). The imposition of sentence with respect to one hundred eighty (180) days in the Guadalupe County Jail and one thousand five hundred dollars (\$1,500.00) of the fine is suspended and probated. Petitioner was placed on probation for twenty-four (24) months, and was also required to attend the Crossroads Program and a DWI Education Program and to complete eighty (80) hours of community service. Petitioner's driver's license was suspended for a period of three hundred sixty-five (365) days. As a Special Condition of Probation, Petitioner was ordered to serve three (3) consecutive days in the Guadalupe County Jail and have an ignition inter-lock device installed on his vehicle for a period of twelve (12) months. Petitioner satisfactorily completed the terms of his community supervision and was therefore discharged on February 1, 2002.
7. There is no evidence of any subsequent criminal conduct.

8. Licensure of Petitioner poses no direct threat to the health and safety of patients or the public.
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 March 15, 2007, 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 Board of Nurse Examiners has jurisdiction over this matter pursuant to Section 301.453, Texas Occupations Code.
2. Petitioner has submitted a petition in compliance with Section 301.257 *et seq.*, Texas Occupations Code.
3. Petitioner's criminal history reflects criminal conduct which is grounds for denial of a license under Section 301.452 *et seq.*, 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, 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 his conduct 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, MATTHEW MONTOYA, 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, Revised Civil Statutes of Texas as amended, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *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 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. 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, and documentation of care. 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 on the Board's website, www.bne.state.tx.us (under BNE events).*

(2) PETITIONER SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing 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. The course shall be a minimum of six (6) contact hours in length. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. PETITIONER SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify PETITIONER's successful completion of the course. 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 on the Board's website, www.bne.state.tx.us (under BNE events).*

(3) 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 Board of Nurse Examiners 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, PETITIONER SHALL be issued unencumbered licenses and multistate licensure privileges, if any, to practice nursing in the State of Texas.

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PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past criminal conduct, and I have caused a complete and accurate criminal history to be submitted to the Board of Nurse Examiners 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 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 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 Board of Nurse Examiners.

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 licenses 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 Executive Director of the Board of Nurse Examiners enter this Order.

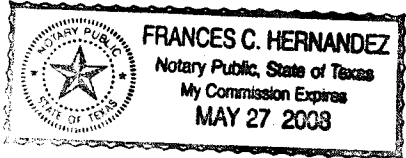
Signed this 18 day of April, 2007.

Matthew Montoya
MATTHEW MONTOYA, PETITIONER

Sworn to and subscribed before me this 18th day of April, 2007.

SEAL

Frances C. Hernandez
Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Order of Conditional Eligibility that was signed on the 18th day of *April, 2007*, by MATTHEW MONTOYA, PETITIONER, for Application for Licensure by Examination and Vocational License Number 193053, and said Order is final.

Entered this 26th day of *April, 2007*.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS



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