



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
RODNEY DALE BEARD
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 Application for Initial Licensure by Examination and supporting documents filed by RODNEY DALE BEARD, 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(b)(3)&(12), Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on February 11, 2008, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about October 10, 2007, 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 a Baccalaureate Degree in Nursing from The University of Texas Medical Branch, Galveston, Texas, in August 2007.
4. Petitioner completed the Application for Licensure by Examination 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 June 22, 1999, Petitioner was charged with the misdemeanor offense of Assault Causing Bodily Injury in the County Court at Law of Jefferson County, Texas. Petitioner entered a plea of guilty and was required to complete a Violence Education Course. On August 25, 1999, the charge was dismissed.
 - B. On February 24, 2001, Petitioner was arrested for the misdemeanor offense of Driving While Intoxicated in Brazoria County. On January 30, 2002, in the County Court at Law No. 1 of Brazoria County, Texas, Petitioner was charged with the reduced offense of Public Intoxication and assessed a fine in the amount of three hundred dollars (\$300.00).
 - C. On August 21, 2007, Petitioner was charged with the misdemeanor offense of Driving While Intoxicated in the County Court at Law of Hardin County, Texas. Petitioner entered a plea of guilty and was sentenced to ninety (90) days confinement which was probated to six (6) months probation.
6. There is no evidence of any subsequent criminal conduct.
7. Petitioner completed the Application for Licensure by Examination and answered "yes" to the question which reads as follows: *"Within the past five (5) years have you been addicted to and/or treated for the use of alcohol or any other drug?"*
8. A letter dated August 20, 2007, from Fran L. Ratliff, LVN, Absolute Recovery and Prevention Services, was submitted stating that Petitioner is currently receiving medical care at Absolute Recovery and Prevention Services. Petitioner has been compliant with all programs and is in good standing with the program. Petitioner's current medication is Methadone that has no psycho-active side effects and therefore will not influence his performance of any task.
9. Petitioner presented evidence of current fitness to practice professional nursing, provided Petitioner complies with the stipulations as outlined in this Order.
10. 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.
11. The Executive Director considered evidence of Petitioner's substance abuse and subsequent rehabilitation as provided in §213.29, 22 Texas Administrative Code.

12. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Petitioner.
13. Petitioner has sworn that, with the exception of matters disclosed in connection with the Application for Initial Licensure by Examination, his 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.
14. On February 11, 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.
15. 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 Registered Nurses.
16. 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 an application in compliance with Section 301.257, Texas Occupations Code.
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 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, RODNEY DALE BEARD, 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 Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.*, and this Order.

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.

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 five hundred dollars (\$500.00) 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 professional 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 PETITIONER's license 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 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 Initial 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.

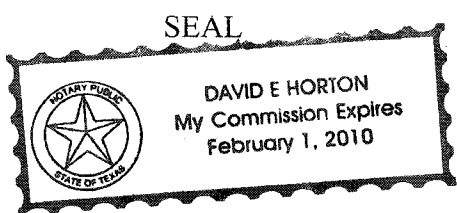
I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Executive Director of the Texas Board of Nursing enter this Order.

Signed this 4th day of April, 2008.

Rodney Dale Beard, Petitioner
RODNEY DALE BEARD, PETITIONER


Sworn to and subscribed before me this 4th day of April, 2008.

David E Horton
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 4th day of April, 2008, by RODNEY DALE BEARD, PETITIONER, for Application for Initial Licensure by Examination, and said Order is final.

Entered and effective this 17th day of April, 2008.


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