Texas Board of Nursing

333 Guadalupe Street, Ste. 3-460, Austin, Texas 78701
Phone: (512) 305-7400 Fax: (512) 305-7401 www.bon.state.tx.us
Katherine A. Thomas, MN, RN
Executive Director

June 29, 2009

<u>Certified Mail No. 7008 1830 0004 1634 3747</u>
<u>Return Receipt Requested</u>

Allan G Nkhoma
905 Jimmy Court
Burleson, Texas 76028

Dear Mr. Nkhoma:

Please find enclosed a copy of your *Eligibility Agreed Order,* ratified June 23, 2009, regarding your Temporary License/Endorsement Application you filed with the Texas Board of Nursing.

The disposition will be forwarded to the National Council of State Boards of Nursing, Inc., and to the Healthcare Integrity and Protection Data Bank (HIPDB). The results of any disciplinary action are public information.

If you have any questions, please contact the Licensing Department at (512)305-6809.

Sincerely,

Katherine A. Thomas, MN, RN
Executive Director

KAT/tw

R02/1299

Enclosures: Eligibility Agreed Order

BEFORE THE TEXAS BOARD OF NURSING
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In the Matter of	§	ELIGIBILITY
ALLAN G NKHOMA	§	
APPLICANT for Eligibility for Licensure	§	AGREED ORDER

On the date entered below, the Texas Board of Nursing, hereinafter referred to as the

Board, considered the Temporary License/Endorsement Application and supporting documents filed

by ALLAN G NKHOMA, 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 APPLICANT may have violated Section 301.452(b)(2) & (10),

Texas Occupations Code.

APPLICANT waived representation by counsel, notice and hearing, and agreed to the

entry of this Order offered on June 10, 2009, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about April 7, 2008, Applicant submitted an Application for Licensure by Endorsement requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.257 and 301.260 of the Texas Occupations Code and the Board's Rules at 22 Texas Administrative Code Sections 213.30 and 217.5.

2. Applicant waived representation by counsel, informal conference, notice and hearing, and consented to the entry of this Order.

3. Applicant received a Diploma of Nursing from Lusaka School of Nursing, Lusaka, Zambia, in December 1992.

4. On or about April 7, 2008, Applicant completed the application for licensure by endorsement and answered "no" 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 <u>cited</u> 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. Applicant failed to disclose the following criminal history, to wit:

> On or about December 2, 2003, Applicant received a judgment and sentence for the Misdemeanor offenses of DRIVING UNDER INFLUENCE, FAILURE TO STOP-REDLIGHT, and IMPROPER LANE TRAVEL. Applicant was CONVICTED on the charge of DRIVING UNDER INFLUENCE and subsequently DISMISSED on the charges of FAILURE TO STOP-REDLIGHT and IMPROPER LANE TRAVEL in the Washington County Justice Court, Utah, under Case Number 03020550.

6. Applicant has sworn that with the exception of matters disclosed in connection with the Temporary License/Endorsement Application, his past behavior conforms to the Board's professional character requirements.

7. In a letter to the Board dated March 2, 2009, Applicant stated he neglected to mention that he was arrested with a blood alcohol level of 0.81 over five (5) years ago.

8. Applicant presented no evidence of behavior since his misdemeanor conviction which is inconsistent with good professional character.

9. The Executive Director is satisfied that Applicant is able to meet the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

10. The Executive Director considered evidence of Applicant's post conviction 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. Licensure of Applicant poses no direct threat to the health and safety of patients or the public, provided Applicant complies with the stipulations outlined in this Order.

12. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Applicant's disclosures.

13. Applicant 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.

CONCLUSIONS OF LAW

1. The Texas Board of Nursing (Board) has jurisdiction over this matter pursuant to Section 301.453 *et seq.*, Texas Occupations Code.

2. Applicant has submitted an Application for Licensure by Endorsement requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.257 and 301.260, Texas Occupations Code and the Board's Rules at 22 Texas Administrative Code Sections 213.30 and 217.5.

3. The evidence in Findings of Fact Numbers Four (4) and Five (5) is sufficient cause to take disciplinary action under Section 301.452 *et seq.*, Texas Occupations Code, and, therefore, sufficient cause to deny licensure.

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. This Order is conditioned upon the accuracy and completeness of Applicant's disclosures. Any subsequently discovered discrepancies will result in investigation and disciplinary action.

6. The Board may license individuals who have been previously convicted of a crime upon consideration of the factors set out in 22 Texas Administrative Code §§213.27 and 213.28 and evaluating the direct relationship to nursing according to Chapter 53, Sec. 53.001 *et seq.*, Texas Occupations Code.

7. Applicant shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452 *et seq.*, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED that the application of ALLAN G NKHOMA, APPLICANT, is hereby conditionally GRANTED and shall be subject to the following conditions:

(1) APPLICANT SHALL obtain and read the Texas Nursing Practice Act, and the Rules and Regulations Relating to Nurse Education, Licensure and Practice.

(2) APPLICANT SHALL pay a fine in the amount of two hundred fifty dollars

($250.00), in the form of a Cashier's Check or a U.S. Money Order payable to the Texas Board of Nursing, within forty-five (45) days of initial licensure.

(3) Upon payment of any necessary fees, APPLICANT SHALL be issued a license to practice nursing in the State of Texas, which shall bear the appropriate notation.

(4) 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.

(5) IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to APPLICANT's multistate licensure privilege, if any, to practice professional nursing in the State of Texas.

(6) IT IS FURTHER AGREED and ORDERED that while APPLICANT's license is encumbered by this Order the 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.

(7) APPLICANT SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in Texas nursing jurisprudence and ethics. APPLICANT 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 Chemical Dependency, and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. APPLICANT 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 APPLICANT'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, that upon full compliance with the terms of this Order, APPLICANT SHALL be issued an unencumbered license with multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

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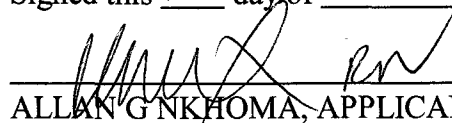CONTINUED ON NEXT PAGE.

APPLICANT'S CERTIFICATION

I am the Applicant in this matter. I have fully and truthfully disclosed all of my past convictions 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 convicted. I certify that my past behavior, except as disclosed in my Temporary License/Endorsement Application 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 Sections 301.157(d), 301.252, 301.253, 301.260, and 301.452(b) of the Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, and Board Rules at 213.27, 213.28, and 213.29 at 22 Texas Administrative Code which are incorporated by reference as a part of this Order. I agree with all terms of this Order and any stipulations. I agree to inform the Board of any other grounds for denial of licensure prior to 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 16 day of June, 2009.

_____
ALLAN G NKHOMA, APPLICANT

Sworn to and subscribed before me this 16 day of June, 2009.
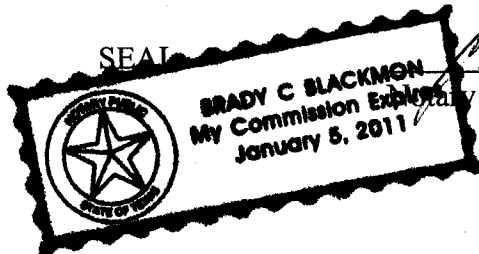
_____
Public in and for the State of TEXAS

SEAL

BRADY C BLACKMON
My Commission Expires
January 5, 2011

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby ratify and adopt the Eligibility Agreed Order that was signed on the 16th day of _____ June _____, _____ 2009 _____, by ALLAN G NKHOMA, APPLICANT, for Temporary License/Endorsement, and said Order is final.

Effective this __23rd__ day of __June__, __2009__.

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