



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 Registered Nurse § AGREED
License Number 672556 and Vocational Nurse §
License Number 164763 §
issued to LYNDA DARNELL WARREN (HURT) § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board considered the matter of LYNDA DARNELL WARREN (HURT), Registered Nurse License Number 672556 and Vocational Nurse License Number 164763, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10),(12)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on September 16, 2009, by Katherine A. Thomas, MN, RN, Executive Director.

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.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent license to practice vocational nursing in the State of Texas is in delinquent status. Respondent's license to practice professional nursing in the State of Texas is in current status.
4. Respondent received an Associates Degree in Vocational Nursing from McLennan Community College, Waco, Texas on August 15, 1997. Respondent was licensed to practice vocational nursing in the State of Texas on October 1, 1997. Respondent received an Associates Degree in Professional Nursing from McLennan Community College, Waco,

Texas on May 1, 1998. Respondent was licensed to practice professional nursing in the State of Texas on September 6, 2000.

5. Respondent's complete nursing employment history includes:

10/97 - 11/07	LVN/RN	Providence Hospital Waco, Texas
12/2007	unknown	
01/08 - 11/08	RN	Providence Hospice Waco, Texas
12/08 - 01/09	unknown	
02/09 - present	RN	Texas Youth Commission McClennan County State Juvenile Correctional Facility Mart, Texas

6. Respondent was issued an Eligibility Agreed Order by the Board of Nurse Examiners for the State of Texas on August 22, 2000. A copy of the Eligibility Agreed Order dated August 22, 2000, is attached and incorporated, by reference, as part of this Order.

7. At the time of the incident in Finding of Fact Number Eight (8) Respondent was employed as a Registered Nurse with the Texas Youth Commission, McClennan County State Juvenile Correctional Facility, Mart, Texas, and had been in this position for four (4) months.

8. On or about July 1, 2009, while employed as a Registered Nurse with the Texas Youth Commission, McClennan County State Juvenile Correctional Facility, Mart, Texas, Respondent lacked fitness to practice professional nursing in that she self-reported to the Texas Board of Nursing that on or about June 27, 2009, she attempted to harm herself by taking an excessive amounts of Nortriptylin 25mg and Ambien 10mg. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

9. The Respondent's conduct described in the preceding Finding of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.

10. 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.

11. In response to Finding of Fact Number Eight (8), Respondent states that as of July 21, 2009 she does not feel the need to harm herself. When looking back, Respondent realizes how ridiculous her actions were and how disappointed she is with herself. Respondent also states that since March of 2009, she was taking the drug Chantix, a medicine used for the cessation of smoking. Respondent recently found out that Chantix has been linked to a cause of suicide and suicide ideations.
12. Respondent is currently being treated by Dr. Greg D. Blaisdell for Major Depression Disorder. Her treatment plan involves appointments with Dr. Blaisdell every 2-4 weeks for supportive counseling and medication management. In addition, Respondent is seeing another doctor every 1-2 weeks for individual psychotherapy. Respondent also sees her primary care physician as needed. Dr. Blaisdell currently prescribes Respondent Rozerem, Lexapro, Vistaril, and Atarax. In Dr. Blaisdell's professional opinion, with reasonable medical certainty, Respondent is currently able to practice nursing.
13. Respondent's conduct described in Finding of Fact Number Eight (8) was significantly influenced by Respondent's impairment by dependency on chemicals.
14. Respondent'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. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violations of Section 301.452(b)(10),(12)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A), and 22 TEX. ADMIN. CODE §217.12(1)(A),(5)&(10)(A).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 672556 and Vocational Nurse License Number 164763, heretofore issued to LYNDA DARNELL WARREN (HURT), including revocation of Respondent's license to practice nursing in the State of Texas.

5. The Board may, in its discretion, order a 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

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, 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, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her license to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure 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.

IT IS FURTHER AGREED, SHOULD RESPONDENT 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 Respondent's license and multistate licensure privileges, if any, to practice nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

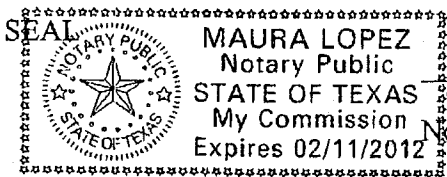
I understand that I have the right to legal counsel prior to signing this Agreed Order.

I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, 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 to practice professional or vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 28th day of October, 2009.

Lynda Darnell Warren (Hurt)
LYNDA DARNELL WARREN (HURT), Respondent


Sworn to and subscribed before me this 28th day of October, 2009.

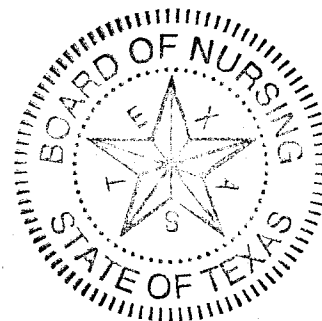


Maura Lopez
Notary Public in and for the State of Texas

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Agreed Order that was signed on the 28th day of October, 2009, by LYNDA DARNELL WARREN (HURT), Registered Nurse License Number 672556 and Vocational Nurse License Number 164763, and said Order is final.

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


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



BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of	§	ELIGIBILITY
LYNDA DARNELL HURT	§	
APPLICANT for Eligibility for Licensure	§	AGREED ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of LYNDA DARNELL HURT, Applicant for Licensure by Endorsement, hereinafter referred to as APPLICANT.

Information received by the Board produced evidence that APPLICANT may have violated Section 301.452(b)(1), Texas Occupations Code. APPLICANT waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on August 3, 2000, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about July 20, 2000, Applicant submitted a Temporary License/Endorsement Application as a professional nurse in the State of Texas in compliance with Section 301.260 of the Texas Occupations Code.
2. Applicant waived representation by counsel, informal conference, notice and hearing, and consented to the entry of this Order.
3. Applicant received an Associate Degree in Nursing from McLennan Community College, Waco, Texas, in May 1998.
4. Applicant completed the application for licensure by endorsement and answered "yes" to question Number Fourteen (14), which reads as follows: "Have you been practicing as a registered nurse in the past four (4) years?"
5. In May 1999, Applicant was licensed as a registered nurse in the State of Oklahoma.

6. On or about May 29, 1999 through on or about July 19, 2000, while employed with Providence Hospital, Waco, Texas, Applicant practiced as a professional nurse in the State of Texas without a valid Texas registered nurse license.
7. Applicant has been advised by the Board that incomplete or incorrect disclosures to the Board or a subsequent discovery of a basis for 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 Board of Nurse Examiners (Board) has jurisdiction over this matter pursuant to Section 301.452(b), Texas Occupations Code.
2. Applicant has submitted an application in compliance with Section 301.260, Texas Occupations Code.
3. The evidence in Finding of Fact Number Five (5) is sufficient cause to take disciplinary action under Section 301.452(b), 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.

ORDER

IT IS THEREFORE AGREED that the application of LYNDA DARNELL HURT 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 Professional Nurse Education, Licensure and Practice.

(2) APPLICANT SHALL pay a fine in the amount of Two Hundred Fifty Dollars (\$250) prior to the issuance of a license.

(3) Upon payment of the fine and necessary fees, APPLICANT SHALL be issued a license to practice professional nursing in the State of Texas which shall bear the appropriate notation. APPLICANT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Art. 4513 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.

(4) APPLICANT SHALL, within one (1) year of initial licensure, successfully complete a course in nursing jurisprudence. APPLICANT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience must include registered nurses. It must 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. 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 is to be taken in addition to any continuing education requirements the Board may have for relicensure.

IS FURTHER AGREED, that upon full compliance with the terms of this Order, APPLICANT SHALL be issued an unencumbered license to practice professional nursing in the State of Texas.

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APPLICANT'S CERTIFICATE

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 Board of Nurse Examiners 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 Board Rules at 213.27, 213.28, and 213.29 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 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 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 and hearing, and request that the Board of Nurse Examiners enter this Order.

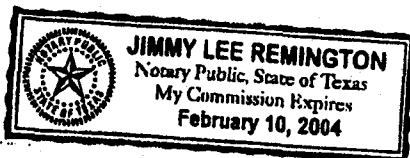
Signed this 22 day of August, 2000.

Lynda Darnell Hurt
LYNDA DARNELL HURT, APPLICANT

Sworn to and subscribed before me this 22 day of August, 2000.


SEAL

Jimmy Lee Remington
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 Eligibility Agreed Order that was signed on the 22nd day of August, 2000, by LYNDA DARNELL HURT, APPLICANT, and said Order is final.

Effective this 22nd day of August, 2000.


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

Enclosures: 301.157 Program of Study and Accreditation
301.252 License Application
301.253 Examination
301.260 Temporary License by Endorsement
301.452 Grounds for Disciplinary Action
301.453 Disciplinary Authority of Board; Methods of Discipline
213.27 Good Professional Character
213.28 Licensure of Persons with Criminal Convictions
213.29 Criteria and Procedure Regarding Intemperate Use and Lack of
Fitness in Eligibility and Disciplinary Matters

Sec. 301.157. Programs of Study and Accreditation.

- (a) The board shall prescribe three programs of study to prepare registered nurses as follows:
- (1) a baccalaureate degree program that is conducted by an educational unit in nursing that is a part of a senior college or university and that leads to a baccalaureate degree in nursing;
 - (2) an associate degree program that is conducted by an educational unit in nursing within the structure of a college or a university and that leads to an associate degree in nursing; and
 - (3) a diploma program that is conducted by a single-purpose school, usually under the control of a hospital, and that leads to a diploma in nursing.
- (b) The board shall:
- (1) prescribe and publish the minimum requirements and standards for a course of study in each program that prepares professional nurses;
 - (2) prescribe other rules as necessary to conduct accredited schools of nursing and educational programs for the preparation of professional nurses;
 - (3) accredit schools of nursing and educational programs that meet the board's requirements; and
 - (4) deny or withdraw accreditation from a school of nursing or educational program that fails to meet the prescribed course of study or other standard.
- (c) The board may not require a program that is composed of less than two academic years or more than four calendar years.
- (d) A person may not be certified as a graduate of any school of nursing or educational program unless the person has completed the requirements of the prescribed course of study, including clinical practice, of an accredited school of nursing or educational program.
- (e) The board shall give each person, including an organization, affected by an order or decision of the board under this section reasonable notice of not less than 20 days and an opportunity to appear and be heard regarding the order or decision. The board shall hear each protest or complaint from a person affected by a rule or decision regarding:
- (1) the inadequacy or unreasonableness of any rule or order the board adopts; or
 - (2) the injustice of any order or decision of the board.
- (f) Not later than the 30th day after the date an order is entered and approved by the board, a person is entitled to bring an action against the board in a district court of Travis County to have the rule or order vacated or modified, if that person:
- (1) is affected by the order or decision;
 - (2) is dissatisfied with any rule or order of the board; and
 - (3) sets forth in a petition the principal grounds of objection to the rule or order.
- (g) An appeal under this section shall be tried de novo as if it were an appeal from a justice court to a county court.

(formerly V.A.C.S. Art. 4513, Sec. 1 (part); Art. 4518, Secs. 1, 2.)

Sec. 301.252. License Application.

Each applicant for a registered nurse license must submit to the board a sworn application that demonstrates the applicant's qualifications under this chapter, accompanied by evidence that the applicant has:

- (1) good professional character; and
- (2) successfully completed an accredited program of professional nursing education.

(formerly V.A.C.S. Art. 4518, Sec. 3 (part).)

Sec. 301.253. Examination.

- (a) Except as provided by Section 301.452, an applicant is entitled to take the examination prescribed by the board if:
 - (1) the board determines that the applicant meets the qualifications required by Section 301.252; and
 - (2) the applicant pays the fees required by the board.
- (b) The board shall give the examination in various cities throughout the state.
- (c) The examination shall be designed to determine the fitness of the applicant to practice professional nursing.
- (d) The board shall determine the criteria that determine a passing score on the examination. The criteria may not exceed those required by the majority of the states.
- (e) A written examination prepared, approved, or offered by the board, including a standardized national examination, must be validated by an independent testing professional.

(formerly V.A.C.S. Art. 4518, Sec. 3 (part); Art. 4519, Subsecs. (a), (b) (part).)

Section 301.260. Temporary License By Endorsement.

- (a) An applicant for a license under this chapter who is licensed as a registered nurse by another state may qualify for a temporary license by endorsement to practice as a registered nurse by submitting to the board:
 - (1) an endorsement fee as determined by the board and a completed sworn application in the form prescribed by the board;
 - (2) evidence that the person possessed, at the time of initial licensing as a registered nurse, the other qualifications necessary at that time to have been eligible for licensing in this state; and
 - (3) proof of initial licensing by examination and proof that the license and any other license issued to the applicant by another state have not been suspended, revoked, canceled, surrendered, or otherwise restricted.
- (b) A holder of a temporary license under this section is entitled to receive a permanent license if the applicant:
 - (1) verifies the applicant's academic and professional credentials; and
 - (2) satisfies any other requirement established by statute.
- (c) The board shall grant or deny an application for a permanent license not later than the 180th day after the date the board receives all required forms or information. The board may extend that deadline to allow for the receipt and tabulation of examination results.

(formerly V.A.C.S. Art. 4521, Subsecs. (a), (b), (c).)

Section 301.452. Grounds for Disciplinary Action.

- (b) A person is subject to denial of a license or to disciplinary action under this subchapter for:
- (1) a violation of this chapter or a rule or order issued under this chapter;
 - (2) fraud or deceit in procuring or attempting to procure a license to practice professional nursing;
 - (3) a conviction for a felony or for a misdemeanor involving moral turpitude;
 - (4) conduct that results in the revocation of probation imposed because of conviction for a felony or for a misdemeanor involving moral turpitude;
 - (5) use of a nursing license, diploma, or permit, or the transcript of such a document, that has been fraudulently purchased, issued, counterfeited, or materially altered;
 - (6) impersonating or acting as a proxy for another person in the licensing examination required under Section 301.253 or 301.255;
 - (7) directly or indirectly aiding or abetting an unlicensed person in connection with the unauthorized practice of professional nursing;
 - (8) revocation, suspension, or denial of, or any other action relating to, the person's license to practice nursing in another jurisdiction;
 - (9) intemperate use of alcohol or drugs that the board determines endangers or could endanger a patient;
 - (10) unprofessional or dishonorable conduct that, in the board's opinion, is likely to deceive, defraud, or injure a patient or the public;
 - (11) adjudication of mental incompetency;
 - (12) lack of fitness to practice because of a mental or physical health condition that could result in injury to a patient or the public; or
 - (13) failure to care adequately for a patient or to conform to the minimum standards of acceptable professional nursing practice in a manner that, in the board's opinion, exposes a patient or other person unnecessarily to risk of harm.
- (c) The board may refuse to admit a person to a licensing examination for a ground described under Subsection (b).

(formerly V.A.C.S. Art. 4525, Subsecs. (a) (part), as amended Acts 73rd Leg., R.S., Ch. 436, (a) (part), as amended Acts 73rd Leg., R.S., Ch. 840, (b), as amended Acts 73rd Leg., R.S., Ch. 840.)
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Sec. 301.453. Disciplinary Authority of Board; Methods of Discipline.

- (a) If the board determines that a person has committed an act listed in Section 301.452(b), the board shall enter an order imposing one or more of the following:
- (1) denial of the person's application for a license, license renewal, or temporary permit;
 - (2) issuance of a written warning;
 - (3) administration of a public reprimand;
 - (4) limitation or restriction of the person's license, including:
 - (A) limiting to or excluding from the person's practice one or more specified activities of professional nursing; or
 - (B) stipulating periodic board review;
 - (5) suspension of the person's license for a period not to exceed five years;
 - (6) revocation of the person's license; or
 - (7) assessment of a fine.
- (b) In addition to or instead of an action under Subsection (a), the board, by order, may require the person to:
- (1) submit to care, counseling, or treatment by a health provider designated by the board as a condition for the issuance or renewal of a license;
 - (2) participate in a program of education or counseling prescribed by the board;
 - (3) practice for a specified period under the direction of a registered nurse designated by the board; or
 - (4) perform public service the board considers appropriate.
- (c) The board may probate any penalty imposed on a registered nurse and may accept the voluntary surrender of a license. The board may not reinstate a surrendered license unless it determines that the person is competent to resume practice.
- (d) If the board suspends, revokes, or accepts surrender of a license, the board may impose conditions for reinstatement that the person must satisfy before the board may issue an unrestricted license.

(formerly V.A.C.S. Art. 4525, Subsecs. (a) (part), as amended Acts 73rd Leg., R.S., Ch. 436; Art. 4521.1, Subsecs. (a), (b), (c), (d).
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BOARD OF NURSE EXAMINERS FOR THE STATE OF TEXAS

**PRACTICE AND PROCEDURE
§213.27-29**

§213.27. Good Professional Character.

(a) Good professional character is the integrated pattern of personal, academic and occupational behaviors which, in the judgment of the Board, indicates that an individual is able to consistently conform his or her conduct to the requirements of the Nursing Practice Act, the Board's rules and regulations, and generally accepted standards of nursing practice including, but not limited to, behaviors indicating honesty, accountability, trustworthiness, reliability and integrity.

(b) Factors to be used in evaluating good professional character in eligibility and disciplinary matters are:

(1) Good professional character is determined through the evaluation of behaviors demonstrated by an individual in his or her personal, academic and occupational history. An individual's age, education and experience necessarily affect the nature and extent of behavioral history; and, therefore shall be considered in each evaluation.

(2) A person who seeks to obtain or retain a license to practice professional nursing shall provide evidence of good professional character which, in the judgment of the Board, is sufficient to insure that the individual can consistently act in the best interest of patients/clients and the public in any practice setting. Such evidence shall establish that the person:

(A) is able to distinguish right from wrong;

(B) is able to think and act rationally;

(C) is able to keep promises and honor obligations;

(D) is accountable for his or her own behavior;

(E) is able to practice nursing in an autonomous role with patients/clients, their families and significant others and members of the public who are or who may become physically, emotionally or financially vulnerable;

(F) is able to recognize and honor the interpersonal boundaries appropriate to any therapeutic relationship or health care setting; and

(G) is able to promptly and fully self-disclose facts, circumstances, events, errors and omissions when such disclosure could enhance the health status of patients/clients or the public or could protect patients/clients or the public from unnecessary risk of harm.

§213.28. Licensure of Persons with Criminal Convictions.

(a) This section sets out the considerations and criteria on the eligibility of persons with criminal convictions to obtain a license as a registered nurse or those already licensed who renew their license. The Board may refuse to approve persons to take the licensure examination, may refuse to issue or renew a license or certificate of registration, or may refuse to issue a temporary permit to any individual that has been convicted of a felony, a misdemeanor involving moral turpitude, or engaged in conduct resulting in the revocation of probation imposed pursuant to such a conviction.

(b) The practice of nursing involves clients, their families, significant others and the public in diverse settings. The registered nurse practices in an autonomous role with individuals who are physically, emotionally and financially vulnerable. The nurse has access to personal information about all aspects of a person's life, resources and relationships. Therefore, criminal behavior whether violent or non-violent, directed against persons, property or public order and decency is considered by the Board as highly relevant to an individual's fitness to practice nursing.

(c) In considering whether a criminal conviction renders the individual ineligible for licensure or renewal of

licensure as a registered nurse, the Board shall consider:

- (1) the knowing or intentional practice of professional nursing without a license issued under the NPA;
- (2) any felony or misdemeanor involving moral turpitude;
- (3) the nature and seriousness of the crime;
- (4) the relationship of the crime to the purposes for requiring a license to engage in professional nursing practice;
- (5) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
- (6) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of professional nursing practice.

(d) In addition to the factors that may be considered under subsection (c) of this section, the Board, in determining the present fitness of a person who has been convicted of a crime, shall consider:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person at the time of the commission of the crime;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person prior to and following the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release;

and

(6) other evidence of the person's present fitness, including letters of recommendation from: prosecutorial, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff or chief of police in the community where the person resides; and any other persons in contact with the convicted person.

(e) It shall be the responsibility of the applicant to secure and provide to the Board the recommendations of the prosecution, law enforcement, and correctional authorities as required under this Act. The applicant shall also furnish proof in such form as may be required by the licensing authority that he or she has maintained a record of steady employment and has supported his or her dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted.

(f) If requested by staff, it shall be the responsibility of the individual seeking licensure to ensure that staff is provided with legible, certified copies of all court and law enforcement documentation from all jurisdictions where the individual has resided or practiced as a licensed health care professional. Failure to provide complete, legible and accurate documentation will result in delays prior to licensure or renewal of licensure and possible grounds for ineligibility.

(g) Behavior that would otherwise bar or impede licensure may be deemed a "Youthful Indiscretion" as determined by an analysis of the behavior using the factors set out in §213.27 of this title (relating to Good Professional Character), subsections (a)-(e) of this section and at least the following criteria:

- (1) age of 22 years or less at the time of the behavior;
- (2) absence of criminal plan or premeditation;
- (3) presence of peer pressure or other contributing influences;
- (4) absence of adult supervision or guidance;

- (5) evidence of immature thought process/judgment at the time of the activity;
- (6) evidence of remorse;
- (7) evidence of restitution to both victim and community;
- (8) evidence of current maturity and personal accountability;
- (9) absence of subsequent undesirable conduct;
- (10) evidence of having learned from past mistakes;
- (11) evidence of current support structures that will prevent future criminal activity; and
- (12) evidence of current ability to practice professional nursing in accordance with the Nursing Practice Act, Board rules and generally accepted standards of professional nursing.

(h) With respect to a request to obtain a license from a person who has a criminal history, the executive director is authorized to close an eligibility file when the applicant has failed to respond to a request for information or to a proposal for denial of eligibility within 60 days thereof. (6/99)

§213.29. Criteria and Procedure Regarding Intemperate Use and Lack of Fitness in Eligibility and Disciplinary Matters.

(a) A person desiring to obtain or retain a license to practice professional nursing shall provide evidence of current sobriety and fitness.

(b) Such person shall provide a sworn certificate to the Board stating that he/she has read and understands the requirements for licensure as a registered nurse and that he/she has not:

- (1) within the past five years, become addicted to or treated for the use of alcohol or any other drug; or
- (2) within the past five years, been diagnosed with, treated or hospitalized for schizophrenia and/or other psychotic disorders, bi-polar disorder, paranoid personality disorder, antisocial personality disorder or borderline personality disorder. (6/99)

(c) Such person, if unable to sign the certification in subsection (b) of this section, shall execute an authorization for release of medical, psychiatric and treatment records in relation to the conditions mentioned in subsection (b) of this section.

(d) Such person shall submit to and pay for an evaluation by a professional approved by the executive director to determine current sobriety and fitness. The evaluation shall be limited to the conditions mentioned in subsection (b) of this section.

(e) Prior intemperate use or mental illness is relevant only so far as it may indicate current intemperate use or lack of fitness.

(f) No license shall be denied under this rule unless it is shown that the person seeking to obtain or retain the license poses a direct threat to the health and safety of patients/clients, their families or significant others or the public.

(g) With respect to chemical dependency in eligibility and disciplinary matters, the executive director is authorized to:

(1) review submissions from a movant, materials and information gathered or prepared by staff, and identify any deficiencies in file information necessary to determine the movant's request;

(2) close any eligibility file in which the movant has failed to respond to a request for information or to a proposal for denial of eligibility within 60 days thereof;

(3) approve eligibility, enter eligibility orders and approve renewals, without board ratification, when the evidence is clearly insufficient to prove a ground for denial of licensure; and

(4) propose conditional orders in eligibility, disciplinary and renewal matters for individuals who have experienced chemical/alcohol dependency within the past five years provided:

(A) the individual presents reliable and verifiable evidence of having functioned in a sober/abstinent manner for twelve consecutive months; and

(B) licensure limitations/stipulations and/or peer assistance program participation can be implemented which will ensure that patients and the public are protected until the individual has attained a five-year term of sobriety/abstinence.

(h) With respect to mental illness in eligibility, disciplinary, and renewal matters, the executive director is authorized to propose conditional orders for individuals who have experienced mental illness within the past five years provided:

(1) the individual presents reliable and verifiable evidence of having functioned in a manner consistent with the behaviors required of nurses under the Nursing Practice Act and Board rules for at least twelve consecutive months; and,

(2) licensure limitations/stipulations and/or peer assistance program participation can be implemented which will ensure that patients and the public are protected until the individual has attained a five-year term of controlled behavior and consistent compliance with the requirements of the Nursing Practice Act and Board rules.

(i) In renewal matters involving chemical dependency or mental illness, the executive director shall consider the following information from the preceding renewal period:

- (1) evidence of the licensee's safe practice;
- (2) compliance with the NPA and Board rules; and
- (3) written verification of compliance with any treatment.

(j) Upon receipt of items (I)(1)-(3) of this section, the executive director may renew the license.

Repeal and New chapter adopted 6/98 to become effective 9/98. Amended 6/99, effective 7/20/99