



Board of Nurse Examiners For the State of Texas

Location Address: William P. Hobby Building, Ste. 3-460, 333 Guadalupe Street, Austin, Texas 78701
Phone: (512) 305-7400 Fax: (512) 305-7401 Web: www.bne.state.tx.us

Katherine A. Thomas, MN, RN
Executive Director

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

February 16, 2006

Certified Mail No. 7004 2890 0001 8856 8952
Return Receipt Requested

Luis Miguel Rodriguez
1928 London St.
Vernon, TX 76384

Dear Mr. Rodriguez:

Please find enclosed your *Order of Conditional Eligibility*, ratified February 14, 2006, regarding the Application by Examination for Licensure you filed with the Board of Nurse Examiners. 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.

You have been granted permission to write the National Council Licensure Examination for Practical Nurses (NCLEX-PN® Examination) upon completion of the requirements for graduation and payment of any required fees. Your eligibility to take the NCLEX-PN® Examination may be affected by any inaccuracies in your petition, and any subsequent violation of the Nursing Practice Act may affect your eligibility to sit for the examination or the later revocation of a license obtained through misrepresentation.

If you have any questions, please contact the Examination Department at (512) 305-6819.

Sincerely,

Katherine A. Thomas
Katherine A. Thomas, MN, RN
Executive Director

KAT/phr

R02/1299

Enclosures: Conditional Eligibility Order

Members of the Board

Joyce Adams, PhD, RN Houston	Deborah Bell, CLU, ChFC Abilene	George Buchenau, Jr., BSN, RN, MBA Amarillo	Virginia Campbell, BSN, RN, CNOR Mesquite	Blanca Rosa Garcia, PhD, RN Corpus Christi
Richard Gibbs, LVN Mesquite	Rachel Gomez, LVN Harlingen	Brenda Jackson, PhD, RN San Antonio	Beverley Jean Nutall, LVN Bryan	
Anita Palmer, ME, MA Olney	Phyllis Rawley, CPC Vice-President	Linda Rounds, PhD, FNP, RN President	Frank Sandoval, Jr., J.D. San Antonio	

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of	§	
LUIS MIGUEL RODRIGUEZ	§	ORDER OF
PETITIONER for Eligibility for	§	CONDITIONAL ELIGIBILITY
Licensure	§	

On the date entered below, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the Application by Examination for Licensure and supporting documents filed by LUIS MIGUEL RODRIGUEZ, 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 November 22, 2005, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about July 6, 2005, Petitioner submitted an Application by Examination for Licensure 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 Diploma in Vocational Nursing from Vernon College, Vernon, Texas, in August 2005.
4. Petitioner completed the Application by Examination for Licensure and answered "yes" to Question Number One (1), which reads as follows: "*Have you been convicted, adjudged guilty by a court, plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal*

charges or unresolved arrests (excluding minor traffic violations)? This includes expunged offenses and deferred adjudications with or without prejudice of guilt. Please note that DUI's, DWI's, PI's must be reported and are not considered minor traffic violations. (One time minor in possession [MIP] or minor in consumption [MIC] do not need to be disclosed, therefore, you may answer "No". If you have two or more MIP's or MIC's, you must answer "Yes".)

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

- A. Petitioner disclosed in a written statement to the Board that he was arrested for Public Intoxication in Wilbarger County, Texas. Petitioner was assessed a fine, which he paid.
- B. Petitioner disclosed in a written statement to the Board that he was arrested for Public Intoxication in Wichita County, Texas. Petitioner was assessed a fine, which he paid.
- C. On March 7, 2002, Petitioner was charged with the misdemeanor Class B offense of Failing to Give Notice of Striking Hwy Fixture/Landscaping in the County Court at Law of Hale County, Texas. Petitioner plead Guilty and proceedings were deferred without adjudication of Guilt. Petitioner was placed on probation for three (3) years, assessed court costs in the amount of two hundred sixty-one dollars (\$261.00), and ordered to pay restitution in the amount of Four Thousand Fifty Dollars (\$4,050.00). Petitioner was discharged from probation on March 7, 2005.

6. Petitioner failed to disclose the following criminal history, to wit:

On October 12, 2000, Petitioner was charged with the felony offense of False Alarm or Report Emergency in the District Court of Wilbarger County, Texas. The charged was reduced from a felony to a misdemeanor Class C offense of Disorderly Conduct. Petitioner was assessed a fine in the amount of five hundred dollars (\$500.00). On February 1, 2002, Petitioner paid his fine in full.

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

8. On October 20, 2005, Petitioner was requested to undergo a Forensic Psychological Evaluation to include a Chemical Dependency Component and a Polygraph Exam to determine eligibility for licensure. On November 8, 2005, Petitioner presented to Richard Lee Wall, Ph.D., Clinical Psychologist, Lubbock, Texas, to undergo evaluation. The results of the evaluation indicate no major psychopathology which might suggest significant problems in a role of a professional nurse. Only minor problems with Petitioner's role as a professional nurse are indicated, e.g., mild to moderate immaturity. Clinical interview, test data, and collateral reports are suggestive of a naive and somewhat immature individual. The evaluator is unable to find any significant indication in this examination that Petitioner would not be able to assume the duties of a professional nurse. Dr. Wall examined the report of the

polygraph examination conducted on November 12, 2005 by Doug Sutton. A finding of "No Deception" was made regarding his report of Petitioner's problematic history.

9. The Board received letters of support/recommendation for Petitioner from the following:
 - A letter of recommendation dated June 20, 2005, was submitted to the Board on behalf of Petitioner by Chad Brownlow, Instructor, Vocational Nursing, Vernon College, Vernon, Texas.
 - A letter of recommendation dated June 20, 2005, was submitted to the Board on behalf of Petitioner by Della Porter, RN, Assistant Director, Vocational Nursing, Vernon College, Vernon, Texas.
10. Licensure of Petitioner poses no direct threat to the health and safety of patients or the public.
11. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Petitioner.
12. 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.
13. 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.
14. On or about November 22, 2005, 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, LUIS MIGUEL RODRIGUEZ, PETITIONER, is CONDITIONALLY ELIGIBLE to sit for the National Council Licensure Examination for Practical Nurses (NCLEX-PN® Examination). PETITIONER SHALL NOT be eligible for temporary authorization to practice as a Graduate Vocational 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 Vocational 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 vocational 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-PN®, shall be issued a license to practice vocational 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 initial licensure, 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 initial licensure, 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 two hundred fifty dollars (\$250.00). PETITIONER SHALL pay this fine within forty-five (45) days of initial licensure. 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, SHOULD PETITIONER PRACTICE AS A VOCATIONAL 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 VOCATIONAL NURSE (VN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(4) PETITIONER SHALL notify all future employers in vocational 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.

(5) 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 vocational nurse.

(6) For the duration of the stipulation period, PETITIONER SHALL be supervised by a Registered Nurse or a Licensed Vocational 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.

(7) 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 vocational nursing. These reports shall be completed by the Registered Nurse or the Licensed Vocational 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) months for one (1) year of employment as a vocational 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 vocational nursing in the State of Texas.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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 by Examination for Licensure, 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 Vocational 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-PN® 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 license to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

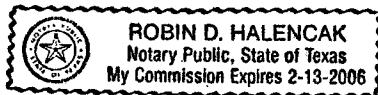
I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Executive Director of the Board of Nurse Examiners enter this Order.

Signed this 28 day of Dec, 2005.

Luis Miguel Rodriguez
LUIS MIGUEL RODRIGUEZ, PETITIONER

Sworn to and subscribed before me this 28 day of Dec, 2005.

SEAL

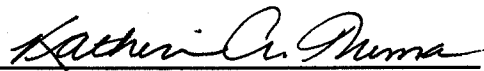


Robin D. Halencak
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, 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 28th day of December, 2005, by LUIS MIGUEL RODRIGUEZ, PETITIONER, for an Application by Examination for Licensure, and said Order is final.

Entered this 14th day of February, 2006.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS


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