

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
BARBARA DENISE LOWREY
PETITIONER for Eligibility for
Licensure

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ORDER OF
CONDITIONAL ELIGIBILITY

On the date entered below, the Board of Nurse Examiners for the State of Texas hereinafter referred to as the Board, considered the Petition for Declaratory Order and supporting documents filed by BARBARA DENISE LOWREY, 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) *et seq.*, Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on August 29, 2006, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about May 8, 2006, Petitioner submitted a Petition for Declaratory Order 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 Certificate in Vocational Nursing from Odessa College School of Vocational Nursing, Monahans, Texas, on August 4, 2006.
4. Petitioner disclosed the following criminal history, to wit:
 - A. On January 8, 1995, Petitioner was charged with the Class B misdemeanor offense of Driving While Intoxicated in the County Court at Law No. 2 of Ector County,

Texas. On January 18, 1996, Petitioner plead guilty and was sentenced to nine (9) months community supervision. Petitioner was assessed a fine and court costs in the amount of one thousand ninety-two dollars (\$1,092.00). Petitioner driver's license was suspended for three hundred sixty-five (365) days.

- B. On August 7, 1995, Petitioner was arrested for the Class C misdemeanor offense of Public Intoxication by the Police Department for the City of Odessa, Texas. Petitioner states she spent the night in jail and received a punishment of time served.
 - C. On October 21, 1995, Petitioner was arrested for the Class C misdemeanor Class C offense of Public Intoxication by the Police Department for the City of Odessa, Texas. Petitioner states she spent the night in jail and received a punishment of time served.
 - D. In September 1998, Petitioner's disclosed she was arrested in Gatesville, Texas for the misdemeanor offense of Public Intoxication. Petitioner states she spent the night in jail and received a punishment of time served.
 - E. On July 30, 2000, Petitioner was arrested for the misdemeanor offense of Public Intoxication and the misdemeanor offense of Criminal Mischief. On December 7, 2000, Petitioner was convicted of the misdemeanor criminal mischief offense and assessed a fine in the amount of three hundred fifty dollars (\$350.00). Petitioner states she as a punishment for the public intoxication charge she was credited with time served in jail.
 - F. On April 2, 2002, Petitioner was charged with the Class A misdemeanor offense of Driving While Intoxicated in the County Court at Law No. 2 of Ector County, Texas. On July 26, 2002, Petitioner was convicted of the offense and sentenced to sixty (60) days confinement in the Ector County Jail. Petitioner's driver's license was suspended for one hundred eighty (180) days.
5. There is no evidence of any subsequent criminal conduct.
6. On July 22, 2006, Petitioner presented to John Gonzalez, EdD, Psychologist, Lubbock, Texas, to undergo a forensic psychological evaluation to include a chemical dependency component and a polygraph exam. The results of the evaluation indicate that Petitioner exhibits some level of drug use and binge drinking. Although, drug and alcohol testing suggest no substance addiction or disorder, binge drinking and some drug use are significant issues. Dr. Gonzalez states that Petitioner needs to develop better stress coping mechanisms and control impulsive behaviors (binge drinking) to succeed in a demanding career such a nursing. Dr. Gonzalez recommends that Petitioner successfully complete an approved, outpatient Drug and Alcohol Counseling Program. The polygraph exam conducted by Officer Doug Sutton, Amarillo, Texas, reinforces Petitioner's statement that she is not addicted to drugs or alcohol and has had no recent criminal charges. However, Petitioner admitted to

periodic binge drinking, and she is willing to enter therapy to control this failing. Dr. Gonzalez concludes by stating when Petitioner successfully completes therapy, and drugs and alcohol are no longer problems for her, the probability is high that Petitioner would consistently behave in accordance with Rules 213.27-213.29 at 22 TAC as well as the minimum requirements of Board's Rules 217.11 at 22 TAC and generally accepted nursing standards. The probability is also high that Petitioner would consistently avoid behaviors identified by the Board as constituting unprofessional conduct, Rule 217.12 at 22 TAC.

7. The Board received letters of support/recommendation for Petitioner from the following:
 - A letter of reference dated December 15, 2005, was submitted to the Board on behalf of Petitioner by Bonnita Bale, R.N., Nursing Instructor, Odessa College School of Nursing, Monahans, Texas.
 - A letter of reference dated April 11, 2006, was submitted to the Board on behalf of Petitioner by Virginia Dooley, R.N., Assistant Professor of Nursing, Odessa College School of Vocational Nursing, Monahans, Texas.
8. Licensure of Petitioner poses no direct threat to the health and safety of patients or the public provided Petitioner complies with the stipulations outlined in this Order.
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 her 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 or about August 29, 2006, 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 her 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, subject to ratification by the Board of Nurse Examiners, that the **CONDITIONAL ELIGIBILITY** to sit for the National Council Licensure Examination for Practical Nurses (NCLEX-PN[®] Examination) of **BARBARA DENISE LOWREY, PETITIONER**, is hereby **SUSPENDED** and said suspension is enforced until Petitioner completes a treatment program approved by the Board, provides documentation of successful completion, and has obtained twelve (12) consecutive months of sobriety. Any relapse prior to the completion of the twelve (12) consecutive months of sobriety will result in an extension of the enforced suspension until such twelve (12) consecutive months of sobriety and additional treatment have been attained.

IT IS FURTHER AGREED, upon verification of successful completion of the approved intensive out-patient treatment and twelve (12) consecutive months of sobriety as set out in this Order, the Suspension will be stayed, and Petitioner will be under the following stipulations:

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of any required fees, BARBARA DENISE LOWREY, 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 the suspension being stayed, 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 the suspension being stayed, 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).*

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 TWENTY-FOUR (24) 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:

(3) 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.

(4) PETITIONER SHALL CAUSE each present employer in vocational nursing to submit the Notification of Employment form, which is provided to the Petitioner by the Board, to the Board's office within ten (10) days of receipt of this Order. 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.

(5) 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.

(6) 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 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.

(7) PETITIONER SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, PETITIONER SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and PETITIONER SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.**

(8) PETITIONER SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the second three (3) month period,

random screens shall be performed at least once per month. For the remainder of the stipulation period, random screens shall be performed at least once every three (3) months.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the PETITIONER's place of employment at any time during the stipulation period and require PETITIONER to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. PETITIONER SHALL be responsible for the costs of all random drug screening during the stipulation period.

Any positive result for which the nurse does not have a valid prescription will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board.

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.

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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 Petition for Declaratory Order, 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 petition, 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.

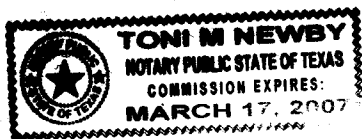
Signed this _____ day of _____, 2006.

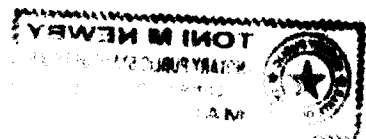
Barbara Denise Lowrey
BARBARA DENISE LOWREY, PETITIONER

Sworn to and subscribed before me this 25th day of September, 2006.

SEAL

Toni M Newby
Notary Public in and for the State of Texas.

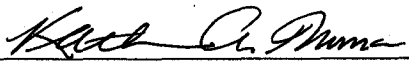




WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Order of Conditional Eligibility that was signed on the 25th day of September, 2006, by BARBARA DENISE LOWREY, PETITIONER, for Petition for Declaratory Order, and said Order is final.

Entered this 13th day of November, 2006.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

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