

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	AGREED ORDER
JOSEPH ZACHARY CRUZ,	§	FOR
Vocational Nurse License Number 225491 and	§	DISCIPLINE & ELIGIBILITY
PETITIONER for Eligibility for Licensure	§	

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of Vocational Nurse License Number 225491 and the Application by Examination, which has been processed as a Petition for Declaratory Order pursuant to 22 TEX. ADMIN. CODE §217.2(b) and §213.30, and supporting documents filed by JOSEPH ZACHARY CRUZ, hereinafter referred to as PETITIONER, together with any documents and information gathered by staff and Petitioner's Certification contained herein.

Information received by the Board produced evidence that PETITIONER may be subject to discipline and ineligible for licensure pursuant to Sections 301.452(b)(10)&(13) and 301.453, Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on February 7, 2013, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about October 31, 2012, PETITIONER submitted an Application by Examination requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.253, 301.257 and 301.258, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §217.2(b) and §213.30.
2. Petitioner waived representation by counsel, informal proceedings, notice and hearing, and consented to the entry of this Order.

3. Petitioner received a Certificate in Nursing from Baptist Health System, San Antonio, Texas, on August 20, 2009. Petitioner was licensed to practice vocational nursing in the State of Texas on November 13, 2009. Petitioner received an Associate Degree in Nursing from San Antonio College, San Antonio, Texas, on October 15, 2012.
4. Petitioner's nursing employment history includes:

12/2009 - 1/2011	LVN Staff Nurse	Scott & White Memorial Hospital Temple, Texas
1/2011 - 9/2012	LVN Staff Nurse	Southwest General Hospital San Antonio, Texas
10/2012 - Present	Unknown	
5. At the time of the initial incident, Petitioner was employed as a LVN Staff Nurse with Southwest General Hospital, San Antonio, Texas, and had been in this position for one (1) year and eight (8) months.
6. During June 1, 2012 through September 12, 2012, while employed as a LVN Staff Nurse with Southwest General Hospital, San Antonio, Texas, Petitioner practiced vocational nursing without a valid license. Petitioner's license to practice vocational nursing in the State of Texas expired on May 31, 2012 and was not renewed until November 14, 2012. Petitioner's conduct was likely to deceive the facility in that it relied on a valid license while making nursing care assignments to Petitioner and could have affected its decision to continue employment.
7. On or about September 12, 2012, while employed as a LVN Staff Nurse with Southwest General Hospital, San Antonio, Texas, Petitioner withdrew medications from the Pyxis Medication Dispensing System for patients but failed to administer the medications as ordered by the physician. Petitioner's conduct exposed the patients unnecessarily to a risk of harm from a delay of treatment of their disease process.
8. On or about September 12, 2012, while employed as a LVN Staff Nurse with Southwest General Hospital, San Antonio, Texas, Petitioner withdrew medications from the Pyxis Medication Dispensing System for Patients Medical Record Numbers 1224700103, 1225100078, 1225300138, 1225500131 and 1225500160, failed to administer the medications as ordered by the physician and then falsely documented the administration of medications in the patients' Medication Administration Record. Petitioner's conduct resulted in an inaccurate medical record and was likely to deceive subsequent care givers who relied on the information while providing care to the patients.

9. On or about September 12, 2012, while employed with Southwest General Hospital, San Antonio, Texas, Petitioner withdrew medications from the Pyxis Medication Dispensing System for patients, but failed to follow the policy and procedure for the wastage of the medications. Petitioner's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 483 of the Texas Health and Safety Code (Dangerous Drug Act).
10. In response to Finding of Fact Number Six (6), Petitioner states that he attempted to renew his license on June 1, 2012, however it was denied because he was defaulted in his student loan. In response to Findings of Fact Numbers Seven (7) through Nine (9), Petitioner states that he held the medications because the patient was going down for a procedure. By the time the patient came up it was already too late to give the medications. He made the mistake of not charting the medication as not being given because he was very busy that day due to the number of patients he was admitting and discharging. He believes that some coworkers he was not able to work with him filed the complaint.
11. Petitioner has sworn that, with the exception of matters disclosed in connection with the Application by Examination, his past behavior conforms to the Board's professional character requirements at 22 TEX. ADMIN. CODE §213.27.
12. Petitioner presented no evidence of behavior which is inconsistent with good professional character.
13. The Executive Director considered evidence of Petitioner's past behavior in light of the character factors set out in 22 TEX. ADMIN. CODE §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character.
14. 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.
15. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.
16. Petitioner 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.
17. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452(b), Texas Occupations Code.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Sections 301.452 and 301.453, Texas Occupations Code.
2. On or about October 31, 2012, Petitioner submitted an Application by Examination requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.253, 301.257 and 301.258, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §217.2(b) and §213.30.
3. Petitioner's history reflects conduct which may constitute grounds for discipline and denial of a license under Sections 301.251 and 301.452(b)(10)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(C),(1)(D)&(1)(M) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C),(4),(6)(A),(6)(H)&(10)(C).
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. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 TEX. ADMIN. CODE §213.27, and pursuant to 22 TEX. ADMIN. CODE §213.33, 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.
6. This Order is conditioned upon the accuracy and completeness of Petitioner's disclosures. Any subsequently discovered discrepancies will result in investigation and possible disciplinary action, up to revocation of Petitioner's license(s).

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that PETITIONER SHALL receive the sanction of a WARNING WITH STIPULATIONS, and upon meeting the requirements for graduation of an appropriate program in nursing education and payment of any required fees, PETITIONER is ELIGIBLE to sit for the National Council Licensure Examination for Practical Nurses (NCLEX-PN® Examination) and/or the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination), as applicable.

IT IS FURTHER AGREED that PETITIONER SHALL NOT be eligible for temporary authorization to practice as a Graduate Vocational Nurse (GVN) and/or as a Graduate Nurse (GN), as applicable, in the State of Texas.

IT IS FURTHER AGREED that, upon payment of any required fees and upon attaining a passing grade on the appropriate National Council Licensure Examination, PETITIONER shall be issued the applicable license to practice nursing in the State of Texas, and while under the terms of this Order, all licenses issued to PETITIONER shall be subject to the following stipulations:

PETITIONER SHALL obtain and read the Texas Nursing Practice Act and the Rules and Regulations Relating to Nurse Education, Licensure, and Practice.

PETITIONER SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code §§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 PETITIONER'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while PETITIONER'S license(s) is/are encumbered by this Order, PETITIONER may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where PETITIONER wishes to work.

(1) PETITIONER SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and 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. In order for the course to

be approved, the target audience shall include nurses. It shall be a minimum of six (6) 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 Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. 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 at the following Board website address:* <http://www.bon.texas.gov/disciplinaryaction/stipscourses.html>.

(2) PETITIONER SHALL, within one (1) year of entry of this Order, successfully complete a course in medication administration. 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. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects

resulting from improper administration. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. PETITIONER SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. PETITIONER SHALL CAUSE the instructor 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 at the following Board website address:*
<http://www.bon.texas.gov/disciplinaryaction/stipscourses.html>

(3) PETITIONER SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. 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) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. PETITIONER SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office 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 at the following Board website address:*

<http://www.bon.texas.gov/disciplinaryaction/stipscourses.html>.

(4) PETITIONER SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, PETITIONER SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. 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 at the following Board website address: <http://www.bon.texas.gov/disciplinaryaction/stipscourses.html>.*

IT IS FURTHER AGREED, SHOULD PETITIONER PRACTICE AS A 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 REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:

(5) PETITIONER SHALL notify each present employer in nursing of this Order of the Board and the stipulations on PETITIONER'S license(s). PETITIONER SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. PETITIONER SHALL

notify all future employers in nursing of this Order of the Board and the stipulations on PETITIONER'S license(s). 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.

(6) PETITIONER SHALL CAUSE each present employer in 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 nurse.

(7) PETITIONER SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as 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.

(8) 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 nursing. These reports shall be completed by the 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) month

period for one (1) year(s) of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from PETITIONER'S license(s) to practice nursing in the State of Texas and PETITIONER shall be eligible for nurse licensure compact privileges, if any.

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PETITIONER'S CERTIFICATION

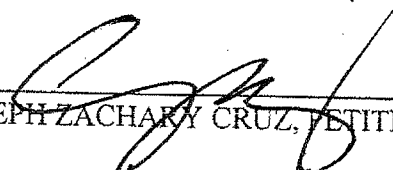
I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past conduct which could constitute grounds for licensure ineligibility, and I have caused a complete and accurate criminal history to be submitted to the Texas Board of Nursing from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. I certify that my past behavior, except as disclosed in my application and/or petition, has been in conformity with the Board's character rule. I have provided the Board with complete and accurate documentation of my past conduct 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 and/or petition, I acknowledge that I have read and I understand Sections 301.157(d), 301.252, 301.253, 301.257, 301.258, 301.260, 301.452, and 301.453, Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and 22 TEX. ADMIN. CODE §§213.27, 213.28, 213.29, and 213.30. 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 Temporary Permit to practice nursing. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to accepting any 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(s) to practice 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 Texas Board of Nursing ratify this Order.

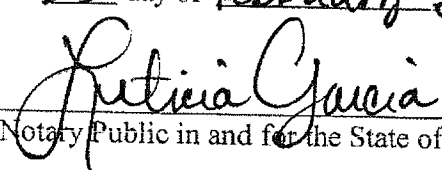
Signed this 25 day of February, 2013.



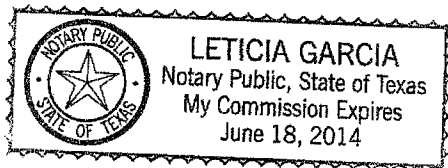
JOSEPH ZACHARY CRUZ, PETITIONER

Sworn to and subscribed before me this 25 day of February 2013.

SEAL

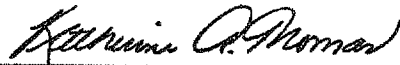


Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Eligibility Order that was signed on the 25th day of February, 2013, by JOSEPH ZACHARY CRUZ, Vocational Nurse License Number 225491 and PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this 19th day of March, 2013.



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