



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.
Patricia A. Thomas
Executive Director of the Board

In the Matter of § BEFORE THE TEXAS
Permanent Registered Nurse §
License Number 812941 §
Issued to KEVIN EARL KOLLER, §
Respondent § BOARD OF NURSING

ORDER OF TEMPORARY SUSPENSION

TO: KEVIN EARL KOLLER
7837 MAIDEN LANE
FRISCO, TX 75035

A public meeting of the Texas Board of Nursing was held on June 6, 2013 at 333 Guadalupe, Room 3-460, Austin, Texas, in which the Temporary Suspension of Permanent Registered Nurse License Number 812941, issued to KEVIN EARL KOLLER was considered pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE. Staff of the Texas Board of Nursing appeared and presented evidence and information concerning the conduct of KEVIN EARL KOLLER and whether his continued practice as a nurse would constitute a continuing and imminent threat to the public welfare.

After review and due consideration of the evidence and information presented, the Board finds that the following charges are substantiated:

CHARGE I.

On or about May 28, 2013, Respondent became noncompliant with the Agreed Order issued to him by the Texas Board of Nursing on April 23, 2009. Noncompliance is the result of Respondent's failure to abstain from the consumption of alcohol in that he produced a specimen for a random drug screen that resulted positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), which are both metabolites of Ethanol. Stipulation Number Six (6) of the Agreed Order, dated April 23, 2009, states:

“(6) RESPONDENT 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.”

A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated April 23, 2009, is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

The Texas Board of Nursing further finds that, given the nature of the charges concerning his fitness to practice, the continued practice of nursing by KEVIN EARL KOLLER constitutes a continuing and imminent threat to public welfare and that the temporary suspension of Permanent Registered Nurse License Number 812941, is justified pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE.

NOW, THEREFORE, IT IS ORDERED that Permanent Registered Nurse License Number 812941, issued to KEVIN EARL KOLLER, to practice nursing in the State of Texas be, and the same is/are, hereby SUSPENDED IMMEDIATELY in accordance with Section 301.4551, TEXAS OCCUPATIONS CODE.

IT IS FURTHER ORDERED that a probable cause hearing be conducted in accordance with Section 301.455(c) not later than seventeen (17) days following the date of the entry of this order, and a final hearing on the matter be conducted in accordance with 301.455(d) not later than the 61st day following the date of the entry of this order.

Entered this 6th day of June, 2013.

TEXAS BOARD OF NURSING

BY:



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR

In the Matter of	§	BEFORE THE TEXAS
Permanent Registered Nurse	§	
License Number 812941	§	
Issued to KEVIN EARL KOLLER,	§	
Respondent	§	BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, KEVIN EARL KOLLER, is a Registered Nurse holding License Number 812941, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about May 28, 2013, Respondent became noncompliant with the Agreed Order issued to him by the Texas Board of Nursing on April 23, 2009. Noncompliance is the result of Respondent's failure to abstain from the consumption of alcohol in that he produced a specimen for a random drug screen that resulted positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), which are both metabolites of Ethanol. Stipulation Number Six (6) of the Agreed Order, dated April 23, 2009, states:

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A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated April 23, 2009, is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, which can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.texas.gov/disciplinaryaction/discp-matrix.html.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order of Conditional Eligibility dated April 23, 2009.

Filed this 6th day of June, 2013.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Abel, Assistant General Counsel
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel
State Bar No. 24066924

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State Bar No. 24079751

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel
State Bar No. 24052269

John F. Legris, Assistant General Counsel
State Bar No. 00785533

TEXAS BOARD OF NURSING
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6811
F: (512) 305-8101 or (512) 305-7401

Attachments: Order of Conditional Eligibility dated April 23, 2009.
D/2012.06.19



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 NURSING
FOR THE STATE OF TEXAS

In the Matter of
KEVIN EARL KOLLER
PETITIONER for Eligibility for
Licensure

§
§
§
§

ORDER OF
CONDITIONAL ELIGIBILITY

On the date entered below, the Texas Board of Nursing, hereinafter referred to as the Board, considered the Petition for Declaratory Order and supporting documents filed by KEVIN EARL KOLLER, 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 January 6, 2009, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about August 28, 2008, Petitioner submitted a Petition for Declaratory Order requesting a determination of eligibility for licensure in compliance with Section 301.257 of the Texas Occupations Code and the Board's Rule at 22 Texas Administrative Code Section 213.30.
2. Petitioner waived representation, notice, administrative hearing, and judicial review.
3. Petitioner was not enrolled in a professional nursing program at the time of this petition.
4. On or about June 17, 2008, Petitioner completed the Petition for Declaratory Order and answered "yes" to the question which reads in part as follows: *"For any criminal offense, including those pending appeal, have you:*
A. *been convicted of a misdemeanor?*

- B. *been convicted of a felony?*
- C. *pled nolo contendere, no contest, or guilty?*
- D. *received deferred adjudication?*
- E. *been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?*
- F. *been sentenced to serve jail or prison time? court-ordered confinement?*
- G. *been granted pre-trial diversion?*
- H. *been arrested or any pending criminal charges?*
- I. *been cited or charged with any violation of the law?*
- J. *been subject of a court-martial; Article 15 violation, or received any form of military judgment/punishment/action?"*

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

- A. On July 15, 1997, Petitioner was charged with the Class A Misdemeanor offense of Assault Causing Bodily Injury, in the County Court at Law of Collin County, Texas. Proceedings were deferred without an adjudication of guilt and Petitioner was placed on three (3) months probation.
- B. On July 1, 2001, Petitioner entered a plea of guilty to the Class B Misdemeanor offense of Driving While Intoxicated, Cause No. 4-83747-01, in the County Court at Law No. 4 of Collin County, Texas. Petitioner was sentenced to four (4) months confinement in the Collin County Jail with imposition of sentence suspended and Petitioner was placed on two (2) years probation. On October 16, 2002, Petitioner's probation was revoked and he was sentenced to forty-five (45) days confinement in the Collin County Jail.
- C. On October 25, 2001, Petitioner entered a plea of no contest to the Class B Misdemeanor offense of Possession of Marijuana, Cause No. 4-83831-01, in the County Court at Law No. 4 of Collin County, Texas. Proceedings were deferred without an adjudication of guilt.
- D. On October 16, 2002, Petitioner entered a plea of guilty to the Class B Misdemeanor offense of Possession of Marijuana, Cause No. 4-81133-02, in the County Court at Law No. 4 of Collin County, Texas. Petitioner as sentenced to forty-five (45) days confinement in the Collin County Jail.
- E. On November 6, 2003, Petitioner was arrested for the Second Degree Felony offense of Burglary of Habitation by the Richardson Police Department. On May 20, 2004, Petitioner entered a plea of guilty and was convicted of the lesser reduced Class A Misdemeanor offense of Assault Causing Bodily Injury, Cause No. 296-82575-03, in the 296th Judicial District Court of Collin County, Texas. Petitioner was sentenced to one hundred twenty (120) days confinement in the Collin County Jail.

6. There is no evidence of any subsequent criminal conduct.
7. 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.
8. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Petitioner.
9. 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.
10. 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.
11. On January 6, 2009, 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 Texas Board of Nursing has jurisdiction over this matter pursuant to Section 301.453, Texas Occupations Code.
2. Petitioner has submitted a Petition for Declaratory Order requesting a determination of eligibility for licensure in compliance with Section 301.257 of the Texas Occupations Code and the Board's Rule at 22 Texas Administrative Code Section 213.30.
3. Petitioner's criminal history reflects criminal conduct which constitutes 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, KEVIN EARL KOLLER, PETITIONER, is CONDITIONALLY ELIGIBLE to sit for the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination). PETITIONER SHALL NOT be eligible for temporary authorization to practice as a Graduate Nurse in the State of Texas.

IT IS FURTHER ORDERED that PETITIONER SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.*, and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to PETITIONER's multistate licensure privilege, if any, to practice professional 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-RN®, shall be issued a license to practice 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 in the State of Texas, 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) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with 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.state.tx.us/disciplinaryaction/stipscourses.html>.*

IT IS FURTHER AGREED, SHOULD PETITIONER PRACTICE AS A REGISTERED 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) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(2) PETITIONER SHALL notify all future employers in nursing of this Order of the Board and the stipulations on PETITIONER's license. PETITIONER SHALL present a complete copy of this Order to each future employer prior to accepting an offer of employment.

(3) 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.

(4) PETITIONER SHALL be supervised by a Registered 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.

(5) 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 Registered 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 of employment as a nurse.

(6) 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.**

(7) 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 next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis is the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates

Cocaine
Ethanol
tramadol hydrochloride (Ultram)

Phencyclidine
Propoxyphene

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. Failure to report for a drug screen may be considered the same as a positive result and may result in 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 professional 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 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 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 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-RN® Examination or accepting any permit or license from the Texas Board of Nursing.

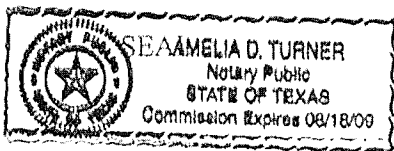
I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

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

Signed this 23 day of March, 2009.

Kevin E. Koller
KEVIN EARL KOLLER, PETITIONER

Sworn to and subscribed before me this 23 day of March, 2009



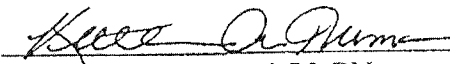
Amelia Turner
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Board of Nursing for the State of Texas does hereby ratify and adopt the Order of Conditional Eligibility that was signed on the 23rd day of March, 2009, by KEVIN EARL KOLLER, PETITIONER, for Declaratory Order, and said Order is final.

Entered this 23rd day of April, 2009.

BOARD OF NURSING
FOR THE STATE OF TEXAS

By:


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