



Texas Board of Nursing

333 Guadalupe Street, Ste. 3-460, Austin, Texas 78701
Phone: (512) 305-7400 Fax: (512) 305-7401 www.bon.texas.gov

Katherine A. Thomas, MN, RN, FAAN
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

July 3, 2013

Certified Mail No. **91 7199 9991 7032 9890 6534**
Return Receipt Requested

Joely Danielle Lopez
403 Atlas Avenue
Killeen, Texas 76542

Dear Joely Danielle Lopez:

Your Application for Licensure by Examination and the supporting information related to your potential ineligibility for licensure under the Nursing Practice Act and the Board's Rules and Regulations Relating to Nurse Education, Licensure and Practice was considered by the Executive Director on April 12, 2013, pursuant to the Occupations Code Chapter 53 and §§301.257, 301.452, and 301.453, and 301.4535. You have been found to be ineligible for licensure as a nurse in the State of Texas based upon the grounds discussed below.

Our records indicate the following:

1. On or about March 10, 2011, while employed as a licensed vocational nurse with Outreach Health Service, Killeen, Texas, and assigned to Patient J.F., a two (2) year old child, you bit the child on the right forearm leaving a bruise the size and shape of your mouth and teeth. Your conduct was likely to injure the patient in that it exposed the patient unnecessarily to a risk of experiencing physical, emotional and/or psychological harm.
2. On or about April 3, 2012, you entered a plea of Guilty to INJURY TO A CHILD, a 3rd Degree felony offense, under 22.04 Penal Code, in the 27th District Court of Bell County, Texas, under Cause No. 69227. As a result of the plea, the proceedings against you were deferred without entering an adjudication of guilt and you were placed on Community Supervision for a period of ten (10) years, and ordered to pay a fine and court costs.
3. On or about May 16, 2012, you were issued an Agreed Order by the Texas Board of Nursing, accepting the Voluntary Surrender of Vocational Nurse License Number 189384.

You are subject to denial of licensure for this conduct pursuant to the following subsections of the Occupations Code §301.452(b):

...(3) a conviction for, or placement on deferred adjudication community supervision or deferred disposition for, a felony or for a misdemeanor involving moral turpitude; and

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- ...(10) unprofessional or dishonorable conduct that, in the Board's opinion, is likely to deceive, defraud, or injure a patient or the public; and
- ...(13) failure to care adequately for a patient or to conform to the minimum standards of acceptable nursing practice in a manner that, in the Board's opinion, exposes a patient or other person unnecessarily to risk of harm.

Further, pursuant to §301.452(c), the Board may refuse to admit a person to a licensing examination for a ground described under §301.452(b).

Further, Texas Occupations Code §301.4535 requires the denial of licensure for certain criminal history. Our records indicate that your criminal history falls within the requirements of §301.4535. Pursuant to §301.4535(a)(7), **the Board shall refuse to issue a license to an applicant on proof that the applicant has been initially convicted of intentionally, knowingly, or recklessly injuring a child, elderly, or disabled individual under Section 22.04, Penal Code.** Subsection (b) of the Texas Occupations Code §301.4535 states that, upon the applicant's plea of guilty for an offense listed under section 301.4535(a),¹ the Board, as appropriate, may not issue a license to an applicant. Finally, subsection (c) of that law states that a person is not eligible for an initial license to practice nursing in this state before the fifth anniversary of the date the person successfully completed and was dismissed from community supervision or parole.

Further, the Board has adopted rules, located at 22 Tex. Admin. Code §213.28, that set forth the considerations and criteria for determining the effect of criminal offenses on the eligibility of a person to obtain a license. Specifically, §213.28(d) requires the Board to suspend a nurse's license, revoke a license, or deny issuing a license to an applicant upon proof of initial conviction for a crime listed in §213.28(b)(1)(A)(i) - (xxi), (b)(2)(A)(i) - (iii), and (b)(3)(A)(i). Our records indicate that your criminal history falls within the requirements of §213.28(d).

The Board also requires petitioners to demonstrate their ability to consistently conform to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice; to possess good professional character; and to pose no threat to the health and safety of patients and the public. The Board has adopted a rule, located at 22 Tex. Admin. Code §213.27, that sets forth the factors and disciplinary and eligibility policies and guidelines that must be used in evaluating good professional character in eligibility and disciplinary matters. Based upon the factors specified in §213.27, you have failed to provide sufficient evidence of good professional character required by §213.27. Further, based upon your criminal history, the Board's Disciplinary Guidelines for Criminal Conduct require the denial of your licensure.

The Board's rules, 22 Tex. Admin. Code §213.27 - §213.33, the Board's Disciplinary Sanction Policies, including the Board's Disciplinary Guidelines for Criminal Conduct, and the Occupations Code Chapter 53, are hereby incorporated by reference herein and may be located on the Board's website at www.bon.texas.gov.

Due to this denial, you have the right to a public hearing before an Administrative Law Judge with the State Office of Administrative Hearings. Should you decide to appeal the decision to deny you licensure, please submit a written request for a public hearing, to the attention of Patricia Vianes-Cabrera, Executive Assistant, Office of General Counsel, 333 Guadalupe, Suite 3-460, Austin, Texas, 78701. Your written

¹TEX. OCC. CODE §301.4535 applies to any plea of guilty for a crime listed in section (a) that occurred on or after September 1, 2005.

request to appeal this decision must be received in our office within sixty (60) days of the date of this letter. Further, if this office receives information regarding additional criminal conduct or behavior that has not been previously disclosed to or discovered by this office, please be advised that evidence of such additional criminal conduct or behavior may be used against you during the public hearing in this matter to show that you lack the good professional character and other requirements for licensure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Katherine A. Thomas".

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

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s.wpd(12-08-2011)