



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.
William R. Plummer
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Permanent Vocational Nurse §
License Number 185518 and Applicant for §
Registered Nurse Licensure by Examination, §
issued to MATTHEW EMBRY LOWERY §

ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 185518, issued to MATTHEW EMBRY LOWERY, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent's license to practice vocational nursing in the State of Texas is currently in suspended status.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing.
3. Respondent received a Certificate in Vocational Nursing from Army Practical Nurse Course, Fort Sam Houston, Texas, on June 14, 2002. Respondent received a Diploma in Nursing from Methodist Hospital, Lubbock Texas, on May 31, 2013. Respondent was licensed to vocational nursing in the State of Texas on September 18, 2002.
4. Respondent's complete nursing employment history is unknown.
5. On or about September 30, 2013, Respondent was issued a Confidential Agreed Order by the Board which required him to participate and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Finding of Fact, Conclusions of Law and Confidential Agreed Order dated September 30, 2013, is attached and incorporated herein by reference as part of this Order.

6. On or about February 24, 2014, Respondent was issued an Order of Temporary Suspension by the Board. A copy of the Order of Temporary Suspension is attached and incorporated, by reference, as part of this Order.
7. Formal Charges were filed on February 24, 2014. A copy of the Formal Charges is attached and incorporated, by reference, as part of this Order.
8. Formal Charges were mailed to Respondent on February 24, 2014.
9. On March 7, 2014, the Board received a notarized statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's notarized statement, dated March 5, 2014, is attached and incorporated herein by reference as part of this Order.
10. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
11. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.12(9), (11)(B) & (13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1) & (10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 185518, heretofore issued to MATTHEW EMBRY LOWERY, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER


NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 185518, heretofore issued to MATTHEW EMBRY LOWERY, to practice nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice vocational nursing, use the title of "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying himself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

Effective this 7th day of March, 2014.

TEXAS BOARD OF NURSING

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

March 5, 2014

To whom it may concern;

My name is Matthew E. Lowery, LVN #185518. At present my license is currently under temporary suspension. As of today, March 5th 2014, I hereby voluntarily surrender my LVN license to practice in the state of Texas.

Respectfully,

Matthew E. Lowery

Matthew E. Lowery

Any questions or correspondence may be directed to me at:

[Redacted]

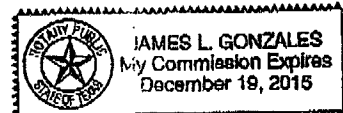
Address: 4432 Kemper St.

Lubbock, TX 79416

James L. Gonzales
Lubbock, TX

03/09/14

Alliance FOU
806-998-5554



BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	CONFIDENTIAL AGREED ORDER
MATTHEW EMBRY LOWERY,	§	FOR PEER ASSISTANCE
Vocational Nurse License Number 185518 and	§	PROGRAM & 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 185518 and the Petition for Declaratory Order and supporting documents filed by MATTHEW EMBRY LOWERY, 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 offered under the authority of Section 301.466(d), Texas Occupations Code, and approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on August 27, 2013.

FINDINGS OF FACT

1. On or about March 1, 2013, PETITIONER submitted a Petition for Declaratory Order 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 §213.30.
2. Petitioner waived representation by counsel, informal proceedings, notice and hearing, and consented to the entry of this Order.

3. Respondent received a Certificate in Vocational Nursing from Army Practical Nurse Course, Fort Sam Houston, Texas, on June 14, 2002. Respondent was licensed to vocational nursing in the State of Texas on September 18, 2002.
4. Petitioner completed the Petition for Declaratory Order and answered "Yes" to the question which reads 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 have 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?*

(You may only exclude Class C misdemeanor traffic violations.)"
5. Petitioner disclosed the following criminal history, to wit:
 - A. On or about November 21, 2012, Respondent pled Guilty and was convicted of UNLAWFUL CARRYING WEAPON, a Class A misdemeanor offense committed on June 10, 2012, in the County Court at Law No. 2 of Lubbock County, Texas, under Cause No. 12-470652. As a result of the conviction, Respondent was sentenced to confinement in the Lubbock County Jail for a period of one hundred eighty (180) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of twenty-four (24) months and ordered to pay a fine and court costs.
6. On or about June 30, 2013, Respondent was arrested by the Lubbock Police Department for POSS MARIJ<=2OZ DRUG FREE ZONE, a Class A misdemeanor offense. Disposition unknown to this office, case is still pending.
7. There is no evidence of any subsequent criminal conduct.
8. On or about March 22, 2013 through April 5, 2013, while employed as a Licensed Vocational Nurse in the Rehabilitation Unit at Trust Point Hospital, Lubbock, Texas, Respondent removed Dilaudid 4mg Tab from the Med Dispense system for Medical Record No. 004956, but failed to accurately and completely document the administration of Dilaudid in patients' Medication Administration Record, Nurses Notes, or both. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on his documentation to further medicate the patients which could result in an overdose.

9. On or about March 13, 2013 through April 5, 2013, while employed as a Licensed Vocational Nurse in the Rehabilitation Unit at Trust Point Hospital, Lubbock, Texas, Respondent removed Dilaudid from the Med Dispense system for Medical Record No. 004956, but failed to follow the facility's policy and procedure regarding wastage of any of the unused portions of the medications. Respondent's conduct above was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substance Act).
10. On or about March 13, 2013 through April 5, 2013, while employed as a Licensed Vocational Nurse in the Rehabilitation Unit at Trust Point Hospital, Lubbock, Texas, Respondent removed Dilaudid from the Med Dispense system for Medical Record No. 004956, in excess frequency of the physicians' orders. Respondent's conduct was likely to injure the patients in that the administration of Dilaudid without the benefit of a physician's expertise, could result in the patient suffering from adverse reactions.
11. On or about April 2, 2013 through April 5, 2013, while employed as a Licensed Vocational Nurse in the Rehabilitation Unit at Trust Point Hospital, Lubbock, Texas, Respondent removed Dilaudid from the Med Dispense system for Medical Record No. 004956, on days that Respondent was not scheduled to work. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
12. On or about March 13, 2013 through April 5, 2013, while employed as a Licensed Vocational Nurse in the Rehabilitation Unit at Trust Point Hospital, Lubbock, Texas, Respondent misappropriated Dilaudid from the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
13. On or about March 13, 2013 through April 5, 2013, while employed as a Licensed Vocational Nurse in the Rehabilitation Unit at Trust Point Hospital, Lubbock, Texas, Respondent removed twenty-two (22) Tabs of Dilaudid from the Med Dispense system for Medical Record No. 004956, even though Respondent was not assigned to or provided nursing care for the patient. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
14. The safety of patients and the public requires that all persons licensed to practice nursing be fit, sober, and able to consistently practice nursing in autonomous roles under demanding and stressful conditions.
15. Petitioner has sworn that, with the exception of matters disclosed in connection with the Petition for Declaratory Order, his past behavior conforms to the Board's professional character requirements at 22 TEX. ADMIN. CODE §213.27.
16. Petitioner presented no evidence of behavior which is inconsistent with good professional character.

17. 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.
18. The Executive Director considered evidence of Petitioner's past criminal conduct in light of the considerations and criteria provided in 22 TEX. ADMIN. CODE §§213.28 & 213.33, and, if applicable, Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.
19. The Executive Director considered evidence of Petitioner's substance abuse/chemical dependency, and subsequent rehabilitation as provided in 22 TEX. ADMIN. CODE §213.29 and in accordance with 22 TEX. ADMIN. CODE §213.33.
20. Petitioner's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.
21. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.
22. 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.
23. 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 March 1, 2013, PETITIONER submitted a Petition for Declaratory Order 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 §213.30.
3. Petitioner's history reflects conduct which may constitute grounds for discipline and denial of a license under Section 301.452(b)(10)&(13), Texas Occupations Code.
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 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 TEX. ADMIN. CODE §213.28 and evaluating the direct relationship to nursing according to 22 TEX. ADMIN. CODE §213.28 and, if applicable, Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.
6. The Board may license an individual who has a history of substance abuse and/or chemical dependency after consideration of the criteria set out in 22 TEX. ADMIN. CODE §213.29 if the Board determines the individual does not pose a direct threat to the health and safety of patients or the public.
7. 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.
8. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.
9. 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

NOW, THEREFORE, IT IS AGREED that, 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.

NOW, THEREFORE, IT IS FURTHER AGREED and ORDERED that PETITIONER SHALL comply with the following conditions for such a time as is required for PETITIONER to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) PETITIONER SHALL, within forty-five (45) days of entry of this Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement and complete the enrollment process, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, PETITIONER SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Texas Board of Nursing.

(3) PETITIONER SHALL comply with all requirements of the TPAPN contract during its term.

(4) PETITIONER SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN contract.

(5) IT IS FURTHER AGREED, SHOULD RESPONDENT be convicted of or receive a deferred order for the offense(s) as outlined in Finding of Fact Number SIX (6), said judicial action will result in further disciplinary action, up to and including Revocation of Respondent's license(s) to practice nursing in the State of Texas.

IT IS FURTHER AGREED that, while PETITIONER remains in compliance with the terms of this Order, this Order shall remain confidential in accordance with the authority outlined in Section 301.466(d), Texas Occupations Code. However, should PETITIONER fail to successfully complete the terms of this Order or should PETITIONER commit a subsequent violation of the Nursing Practice Act or Board Rules, this Order shall be treated as prior disciplinary action and will become public information.

IT IS FURTHER AGREED, SHOULD PETITIONER fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or revocation of PETITIONER'S license(s) and nurse compact licensure privileges, if any, to practice nursing in the State of Texas.

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 do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of my potential ineligibility for licensure through peer assistance.

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 EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of my license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas, as a consequence of my noncompliance.

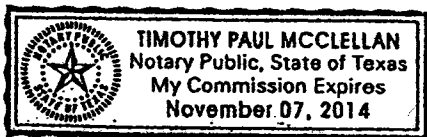
I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Texas Board of Nursing ratify this Order.

Signed this 23 day of September, 2013.

Matthew Embry Lowery
MATTHEW EMBRY LOWERY, PETITIONER

Sworn to and subscribed before me this 23 day of September, 2013.

SEAL



[Signature]
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby ratify and adopt the Confidential Eligibility Agreed Order for Peer Assistance Program that was signed on the 23rd day of September, 2013, by MATTHEW EMBRY LOWERY, Vocational Nurse License Number 185518 and PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this 30th day of September, 2013.



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

In the Matter of Permanent Vocational Nurse § BEFORE THE TEXAS
License Number 185518 §
Issued to MATTHEW EMBRY LOWERY, §
Respondent, and Affecting the Respondent's Eligibility §
for RN Licensure § BOARD OF NURSING

ORDER OF TEMPORARY SUSPENSION

TO: MATTHEW EMBRY LOWERY
4432 KEMPER ST
LUBBOCK, TX 79416

A public meeting of the Texas Board of Nursing was held on February 24, 2014 at 333 Guadalupe, Room 3-460, Austin, Texas, in which the Temporary Suspension of Permanent Vocational Nurse License Number 185518, issued to MATTHEW EMBRY LOWERY 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 MATTHEW EMBRY LOWERY 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 charge is substantiated:

Charge:

On or about January 14, 2014, Respondent was noncompliant with the Confidential Agreed Order issued to him by the Texas Board of Nursing on September 30, 2013. Noncompliance is the result of Respondent's failure to sign and execute the Texas Peer Assistance Program for Nurses (TPAPN) participation agreement. Stipulation Number One (1) of the Confidential Agreed Order dated September 30, 2013, reads:

"PETITIONER SHALL, within forty-five (45) days of entry of this Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement and complete the enrollment process, which

SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500.00) payable to TPAPN."

On or about January 14, 2014, Respondent was dismissed from TPAPN and referred to the Texas Board of Nursing.


The Texas Board of Nursing further finds that, given the nature of the charge concerning his fitness to practice, the continued practice of nursing by MATTHEW EMBRY LOWERY constitutes a continuing and imminent threat to public welfare and that the temporary suspension of Permanent Vocational Nurse License Number 185518, is justified pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE.

NOW, THEREFORE, IT IS ORDERED that Permanent Vocational Nurse License Number 185518, issued to MATTHEW EMBRY LOWERY, 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 24th day of February, 2014.

TEXAS BOARD OF NURSING

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

In the Matter of Permanent Vocational Nurse § BEFORE THE TEXAS
License Number 185518 §
Issued to MATTHEW EMBRY LOWERY, §
Respondent, and Affecting the Respondent's Eligibility §
for RN Licensure § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MATTHEW EMBRY LOWERY, is a Vocational Nurse holding License Number 185518, 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 November 21, 2012, Respondent was convicted of UNLAWFULLY CARRYING WEAPON, a misdemeanor offense committed on June 10, 2012, in the County Court at Law No. 2, Lubbock County, Texas, under Cause No. 2012-470652. As a result of the conviction, Respondent was placed on probation for a period of twenty-four (24) months and ordered to pay a fine. On or about October 10, 2013, Respondent's probation granted under Cause No. 2012-470652 was revoked in the County Court at Law No. 2, Lubbock County, Texas. As a result, Respondent was sentenced to confinement in the Lubbock County Jail for a period of forty-five (45) days.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

CHARGE II.

On or about January 14, 2014, Respondent was noncompliant with the Confidential Agreed Order issued to him by the Texas Board of Nursing on September 30, 2013. Noncompliance is the result of Respondent's failure to sign and execute the Texas Peer Assistance Program for Nurses (TPAPN) participation agreement. Stipulation Number One (1) of the Confidential Agreed Order dated September 30, 2013, reads:

"PETITIONER SHALL, within forty-five (45) days of entry of this Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement and complete the enrollment process, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500.00) payable to TPAPN."

On or about January 14, 2014, Respondent was dismissed from TPAPN and referred to the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Confidential Agreed Order dated September 30, 2013, 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 and TEX. OCC. CODE Ch. 53. 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 Guidelines for Criminal Conduct and on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, and for Fraud, Theft and Deception, which can be found at the Board's website, www.bon.texas.gov.

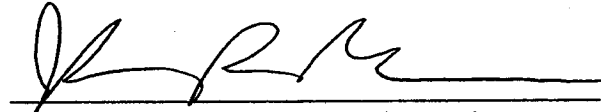
NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.texas.gov/disciplinaryaction/discp-matrix.html.

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 dated September 30, 2013.

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CONTINUED ON NEXT PAGE.

Filed this 24th day of February, 2014.

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

John R. Griffith, Assistant General Counsel
State Bar No. 24079751

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

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

John Vanderford, Assistant General Counsel
State Bar No. 24086670

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Austin, Texas 78701
P: (512) 305-6811
F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Board dated September 30, 2013

D/2013.11.19