

In the Matter of
Permanent Vocational Nurse
License Number 316924
Issued to ADRIAN ALEJANDRO ARRIOLA,
Respondent

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§

BEFORE THE TEXAS

BOARD OF NURSING



Patricia Thomas
Executive Director of the Board

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.

ORDER OF TEMPORARY SUSPENSION

TO: ADRIAN ALEJANDRO ARRIOLA
10716 DONNA MARIA
EL PASO, TX 79927

A public meeting of the Texas Board of Nursing was held on June 5, 2015 at 333 Guadalupe, Room 3-460, Austin, Texas, in which the Temporary Suspension of Permanent Vocational Nurse License Number 316924, issued to ADRIAN ALEJANDRO ARRIOLA 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 ADRIAN ALEJANDRO ARRIOLA 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 April 30, 2015, Respondent became noncompliant with the Agreed Eligibility Order issued to him by the Texas Board of Nursing on June 24, 2013. Noncompliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses' (TPAPN) participation agreement. Respondent failed to maintain participation in an Aftercare Program, failed to submit required meeting logs and self reports, and failed to maintain an active account with Recovery Trek. Stipulation Number Four (4) of the Agreed Eligibility Order, dated June 24, 2013, states:

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

On or about April 30, 2015, Respondent was dismissed from TPAPN and referred back to the Board of Nursing.

A copy of the Findings of Fact, Conclusions of Law, and Agreed Order, dated November 13, 2014, is attached and incorporated, by reference, as part of this Order.

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(9)&(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 ADRIAN ALEJANDRO ARRIOLA constitutes a continuing and imminent threat to public welfare and that the temporary suspension of Permanent Vocational Nurse License Number 316924, is justified pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE.

NOW, THEREFORE, IT IS ORDERED that Permanent Vocational Nurse License Number 316924, issued to ADRIAN ALEJANDRO ARRIOLA, 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 5th day of June, 2015.

TEXAS BOARD OF NURSING

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

In the Matter of § BEFORE THE TEXAS
Permanent Vocational Nurse §
License Number 316924 §
Issued to ADRIAN ALEJANDRO ARRIOLA, §
Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, ADRIAN ALEJANDRO ARRIOLA, is a Vocational Nurse holding License Number 316924, 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 April 30, 2015, Respondent became noncompliant with the Agreed Eligibility Order issued to him by the Texas Board of Nursing on June 24, 2013. Noncompliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses' (TPAPN) participation agreement. Respondent failed to maintain participation in an Aftercare Program, failed to submit required meeting logs and self reports, and failed to maintain an active account with Recovery Trek. Stipulation Number Four (4) of the Agreed Eligibility Order, dated June 24, 2013, states:

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

On or about April 30, 2015, Respondent was dismissed from TPAPN and referred back to the Board of Nursing.

A copy of the Findings of Fact, Conclusions of Law, and Agreed Order, dated November 13, 2014, 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(9)&(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.

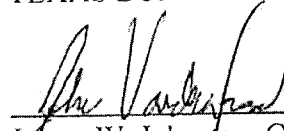
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, which can be found at the Board's website, www.bon.texas.gov.

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 which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order dated June 24, 2013.

Filed this 5th day of June, 2015.

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

Natalie E. Adelaja, Assistant General Counsel
State Bar No. 24064715

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

333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-8657
F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Board dated June 24, 2013
D(2015.02.24)



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 TEXAS BOARD OF NURSING

In the Matter of § AGREED
ADRIAN ALEJANDRO ARRIOLA, §
PETITIONER for Eligibility for Licensure § ELIGIBILITY ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the Petition for Declaratory Order and supporting documents filed by ADRIAN ALEJANDRO ARRIOLA, 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 ineligible for licensure pursuant to Sections 301.452(b)(9)&(10) 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 April 12, 2013.

FINDINGS OF FACT

1. On or about August 15, 2011, 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. Petitioner received a certificate in vocational nursing from Midland College, Midland, Texas, on August 19, 2011.

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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. Petitioner disclosed that in January 2002, while serving in the U.S. Navy, he was found to have used Cocaine. He received non-judicial punishment through a Captain's Mast, and was reduced in rank, confined to the ship for a period of forty-five (45) days, and given extra duty of a period of forty-five (45) days. Petitioner subsequently received a discharge from the U.S. Navy under other than honorable conditions.

B. On or about February 10, 2010, Petitioner pled Nolo Contendere to and was convicted of DEADLY CONDUCT, a misdemeanor offense committed on May 17, 2005, in the County Court of Midland County, Texas, under Cause No. 108159. As a result of the conviction, Petitioner was ordered to pay a fine and court costs.

C. On or about April 17, 2008, Petitioner pled Guilty to and was convicted of DRIVING WHILE INTOXICATED a Class B misdemeanor offense committed on January 1, 2007, in the County Court at Law No. 2 of El Paso County, Texas, under Cause No. 20070C14654. As a result of the conviction, Petitioner was sentenced to confinement in the El Paso County Jail for a period of one hundred eighty (180) days; however, imposition of the sentence of confinement was suspended, and Petitioner was placed on probation for a period of fifteen (15) months and ordered to pay a fine and court costs. On or about July 24, 2009, Petitioner was discharged from probation.

6. After submitting the Petition for Declaratory Order, on or about July 1, 2012, Petitioner was arrested by the Socorro Police Department, Socorro, Texas, for DRIVING WHILE INTOXICATED 3RD OR MORE, a 3rd Degree felony offense. Petitioner was

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subsequently charged under Cause No. 20130C02547, for DRIVING WHILE INTOXICATED 2ND, a Class A misdemeanor offense. The case is currently pending.

7. There is no evidence of any subsequent criminal conduct.
8. Petitioner completed the Petition for Declaratory Order and answered "Yes" to the question which reads as follows: *"Within the past five (5) years have you been addicted to and/or treated for the use of alcohol or any other drug?"*
9. In response to Finding of Fact Number Eight (8), Respondent states he has been sober since October 2012. He checked himself into a rehabilitation facility called Outcry in the Barrio, in San Antonio, Texas, and successfully completed the program. With regard to his pending criminal charge, he states he has been court ordered to follow certain guidelines to help him abstain from drinking.
10. 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.
11. 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.
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. 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.
15. 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.
16. Petitioner's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.
17. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.

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18. 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.
19. 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 August 15, 2011, 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 denial of a license under Section 301.452(b)(9)&(10), 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

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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.

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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) IT IS FURTHER AGREED, SHOULD PETITIONER 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 PETITIONER's license(s) to practice nursing in the State of Texas.

(2) PETITIONER SHALL, within forty-five (45) days of licensure, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00) payable to TPAPN.

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

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

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

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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.

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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 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.

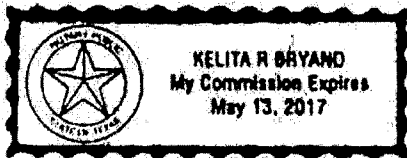
Signed this 18 day of June, 2013.


ADRIAN ALEJANDRO ARRIOLA, PETITIONER

Sworn to and subscribed before me this 18 day of June, 2013.

SEAL

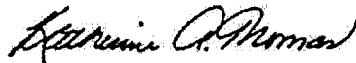

Notary Public in and for the State of Texas



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WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby ratify and adopt the Agreed Eligibility Order that was signed on the 18th day of June, 2013, by ADRIAN ALEJANDRO ARRIOLA, PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this 24th day of June, 2013.



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

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