



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
JAMES HOWARD GRAY,	§	
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 JAMES HOWARD GRAY, 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)(3),(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 February 1, 2012, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about October 27, 2015, 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 was enrolled in a professional nursing program at West Coast University, Dallas, Texas, at the time of this petition.

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 May 17, 2000, Petitioner was arrested by the Denton Police Department, Denton, Texas, for POSSESSION OF MARIJUANA < 2 OZ, a Class B misdemeanor offense.

On or about October 11, 2000, Petitioner entered a plea of Guilty to POSSESSION OF MARIJUANA < 2 OZ, a Class B misdemeanor offense committed on May 17, 2000, in the County Criminal Court No. 2 of Denton County, Texas, under Cause No. CR2000-04319B. As a result of the plea, the proceedings against Petitioner were deferred without entering an adjudication of guilt and Petitioner was placed on probation for a period of twelve (12) months. On or about March 3, 2015, Petitioner was granted an Order of Non -Disclosure.

- B. On or about July 26, 2000, Petitioner was arrested by the Denton County Sheriff's Office, Denton, Texas, for POSSESSION OF MARIJUANA < 2 OZ, a Class B misdemeanor offense.

On or about October 11, 2000, Petitioner entered a plea of Guilty to POSSESSION OF MARIJUANA < 2 OZ, a Class B misdemeanor offense committed on July 26, 2000, in the County Criminal Court No. 2 of Denton County, Texas, under Cause No. CR2000-06889B. As a result of the plea, the proceedings against Petitioner were deferred without entering an adjudication of guilt and Petitioner was placed on probation for a period of twelve (12) months. On or about March 3, 2015, Petitioner was granted an Order of Non -Disclosure.

- C. On or about June 1, 2005, Petitioner was arrested by the Dallas Police Department, Dallas, Texas, for POSSESSION OF A CONTROLLED SUBSTANCE PG 1 < 1 G, a State Jail felony offense.

On or about April 6, 2006, Petitioner entered a plea of Guilty to POSS CS, a State Jail felony offense committed on June 1, 2005, in the 203rd District Court of Dallas County, Texas, under Cause No. F-0553274. As a result of the plea, the proceedings against Petitioner were deferred without entering an adjudication of guilt and Petitioner was placed on probation for a period of two (2) years. On or about April 7, 2008, Petitioner completed the terms and conditions of probation and was discharged and the charge was dismissed.

- D. On or about April 23, 2009, Petitioner was arrested by the Denton Police Department, Denton, Texas, for POSSESSION OF A CONTROLLED SUBSTANCE PG 1 < 1 G, a State Jail felony offense.

On or about November 19, 2009, Petitioner entered a plea of Guilty to and was convicted of POSSESSION OF A CONTROLLED SUBSTANCE, a State Jail felony offense committed on April 23, 2009, in the 367th District Court of Denton County, Texas, under Cause No. F-2009-2050-E. As a result of the conviction, Petitioner was sentenced to confinement in the Texas Department of Criminal Justice - State Jail Division for a period of two (2) years; however, imposition of the sentence of confinement was suspended and Petitioner was placed on probation for a period of five (5) years.

On or about June 16, 2011, the probation granted Petitioner under Cause No. F-2009-2050-E, was revoked, in the 367th District Court of Denton County, Texas, based on findings by the Court that Petitioner had violated the terms and conditions of probation. As a result, Petitioner was sentenced to confinement in the Texas Department of Criminal Justice - State Jail Division for a period of six (6) months.

- E. On or about August 29, 2009, Petitioner was arrested by the Denton Police Department, Denton, Texas, and subsequently charged under Cause No. CR-2009-07355-B for POSSESSION OF DANGEROUS DRUG, a Class A misdemeanor offense committed on August 29, 2009. On or about December 14, 2009, Cause No. CR-2009-07355-B was dismissed in the County Court at Law No. 2 of Denton County, Texas, for the reason: Petitioner provided proof of a valid prescription for the drug at the time of the offense.

6. There is no evidence of any subsequent criminal conduct.
7. 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?"*

8. Petitioner attended AA meetings while incarcerated and submitted a drug screen result dated August 3, 2015.
9. 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.
10. 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.
11. Petitioner presented no evidence of behavior which is inconsistent with good professional character.
12. 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.
13. 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.
14. 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.
15. 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.
16. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.
17. 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.
18. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452(b), Texas Occupations Code.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Sections 301.452 and 301.453, Texas Occupations Code.

2. On or about October 27, 2015, 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)(3),(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. 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.

(1) PETITIONER SHALL, within one (1) year of licensure, successfully complete a course in Texas nursing jurisprudence and ethics. PETITIONER SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. PETITIONER SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify PETITIONER'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address:* <http://www.bon.texas.gov/disciplinaryaction/stipscourses.html>.

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(s) 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 terms of this Order

and said license(s) SHALL BE immediately SUSPENDED and said suspension is ENFORCED until PETITIONER complies with Stipulation Numbers Two (2) and Three (3) of this Order:

(2) PETITIONER SHALL apply to and be accepted into the TPAPN 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.

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

IT IS FURTHER AGREED, upon verification of compliance with Stipulation Numbers Two (2) and Three (3), the SUSPENSION will be stayed, and PETITIONER SHALL comply with the following conditions for such a time as is required for PETITIONER to successfully complete the TPAPN:

(4) PETITIONER SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep all applicable license(s) to practice nursing in the State of Texas current.

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

PETITIONER SHALL pay all re-registration fees, if applicable, and PETITIONER'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.

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 is 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.

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 further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of PETITIONER'S license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

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

BALANCE OF PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

PETITIONER'S CERTIFICATION

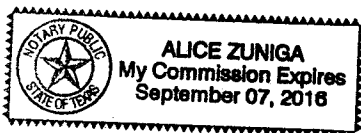
I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past conduct which could constitute grounds for licensure ineligibility, and I have caused a complete and accurate criminal history to be submitted to the Texas Board of Nursing from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. I certify that my past behavior, except as disclosed in my application, 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, 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.

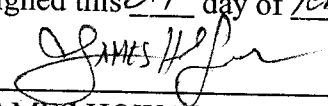
I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of my potential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



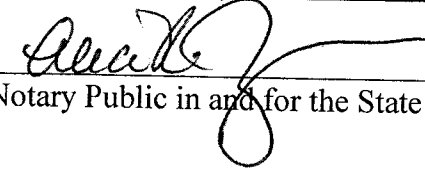
Signed this 29th day of February 2016.



JAMES HOWARD GRAY, PETITIONER

Sworn to and subscribed before me this 29th day of Feb, 2016.


SEAL



Notary Public in and for the State of TX

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 29th day of February, 2016, by JAMES HOWARD GRAY, PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this 8th day of March, 2016.



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