



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

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In the Matter of  
SUMMER LYN SWISTAK,  
PETITIONER for Eligibility for Licensure

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AGREED  
ELIGIBILITY ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the Petition for Declaratory Order, hereinafter referred to as the Petition, and supporting documents filed by SUMMER LYN SWISTAK, hereinafter referred to as PETITIONER, 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, 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 notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on June 8, 2017.

FINDINGS OF FACT

1. On or about November 27, 2016, Petitioner submitted the Petition requesting a determination of eligibility for licensure.
2. Petitioner was not enrolled in a Vocational Nursing Program at the time of this petition.
3. Petitioner completed the Petition 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.)"*

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

A. On or about November 10, 2006, Petitioner entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED/OPEN ALCH CONTAINER, a Class B misdemeanor offense committed on February 23, 2006, in the County Court at Law No. 6, Collin County, Texas, under Cause No. 006-81280-06. As a result of the conviction, Petitioner was sentenced to confinement in the Collin County Jail for a period of sixty (60) days with sixteen (16) days credit given for time already served; however, imposition of the sentence of confinement was suspended, and Petitioner was placed on probation for a period of twelve (12) months, and ordered to pay a fine and court costs.

On or about May 16, 2008, Petitioner's probation granted under Cause No. 006-81280-06 was revoked and Petitioner was sentenced to confinement for a period of forty (40) days.

B. On or about November 10, 2006, Petitioner entered a plea of Guilty or Nolo Contendere to POSS CS PG 3<28G, a Class A misdemeanor offense committed on February 23, 2006, in the County Court at Law No. 6, Collin County, Texas, under Cause No. 006-81278-06. 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 eighteen (18) months, and ordered to pay a fine and court costs.

On or about May 16, 2008, Respondent's probation granted under Cause No. 006-81278-06 was revoked. As a result, Respondent was adjudged guilty of POSS CS PG 3<28G, a Class A misdemeanor offense committed on February 23, 2006, and sentenced to confinement for a period of forty (40) days with fifty-one (51) day's credit given for time already served.

- C. On or about November 10, 2006, Petitioner entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED/OPEN ALCH CONTAINER, a Class B misdemeanor offense committed on April 25, 2006, in the County Court at Law No. 6, Collin County, Texas, under Cause No. 006-82771-06. As a result of the conviction, Petitioner was sentenced to confinement in the Collin County Jail for a period of sixty (60) days with seventeen (17) days credit given for time already served; however, imposition of the sentence of confinement was suspended, and Petitioner was placed on probation for a period of twelve (12) months, and ordered to pay a fine and court costs.

On or about May 16, 2008, Petitioner's probation granted under Cause No. 006-82771-06 was revoked and Petitioner was sentenced to confinement for a period of forty (40) days.

- D. On or about November 10, 2006, Petitioner entered a plea of Guilty or Nolo Contendere to POSS CS PG3< 28G, a Class A misdemeanor offense committed on April 25, 2006, in the County Court at Law No. 6, Collin County, Texas, under Cause No. 006-82764-06. 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 eighteen (18) months, and ordered to pay a fine and court costs.

On or about May 16, 2008, Petitioner's probation granted under Cause No. 006-82764-06 was revoked. As a result, Respondent was adjudged guilty of POSS CS PG 3< 28G, a Class A misdemeanor offense committed on April 25, 2006, and sentenced to confinement for a period of forty (40) days with fifty-one (51) day's credit given for time already served.

- E. On or about November 10, 2006, Petitioner entered a plea of Guilty or Nolo Contendere to POSS CS PG 3<28G, a Class A misdemeanor offense committed on April 25, 2006, in the County Court at Law No. 6, Collin County, Texas, under Cause No. 006-82765-06. 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 eighteen (18) months, and ordered to pay a fine and court costs.

On or about May 16, 2008, Petitioner 's probation granted under Cause No. 006-82765-06 was revoked. As a result, Petitioner was adjudged guilty of POSS CS PG 3<28G, a Class A misdemeanor offense committed on April 25, 2006, and sentenced to confinement for a period of forty (40) days.

5. There is no evidence of any subsequent criminal conduct.

6. On or about May 5, 2017, Petitioner presented to Brandon Bates, Psy.D., of Graham Psychological Associates, Graham, Texas, for chemical dependency evaluation. As a result, Dr. Bates was able to offer the following Conclusion and Recommendation: While Petitioner certainly has a history of a substance abuse disorder that would negatively affect her ability to work as a nurse, she has been sober for five years, has held a productive job during that time, and appears committed to sobriety. As long as Petitioner maintains sobriety she does not appear to have a chemical dependency issue that would prevent her from practicing nursing with reasonable skill and safety to her patients at this point in time.
7. 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.
8. The Executive Director considered evidence of Petitioner's substance use disorder, and subsequent rehabilitation as provided in 22 TEX. ADMIN. CODE §213.29 and in accordance with 22 TEX. ADMIN. CODE §213.33.
9. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.
10. 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.
11. 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 November 27, 2016, Petitioner submitted the Petition 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 use disorder 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. 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).

### TERMS OF ORDER

#### I. **ELIGIBILITY FOR LICENSURE**

IT IS THEREFORE AGREED and ORDERED that the Petition of PETITIONER is hereby **GRANTED**, and 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.

- A. 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.
- B. Upon payment of any required fees and upon attaining a passing grade on the applicable National Council Licensure Examination, PETITIONER shall be issued the applicable license(s) to practice nursing in the State of Texas.

## II. COMPLIANCE WITH LAW AND APPLICABILITY

While under the terms of this Order, PETITIONER agrees to 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.

- A. Until successfully completed, any and all licenses issued to Petitioner shall be subject to the terms of this Order.
- B. This Order SHALL be applicable to PETITIONER'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. As a result of this Order, PETITIONER'S license will be designated "single state" and PETITIONER may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where PETITIONER wishes to work.

## III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, Petitioner SHALL successfully complete the following remedial education course(s) **within one (1) year of licensure, unless otherwise specifically indicated:**

- A. **A Board-approved course in Texas nursing jurisprudence and ethics** that 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. Home study courses and video programs will not be approved.
- B. The course **"Sharpening Critical Thinking Skills,"** a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension.

In order to receive credit for completion of this/these course(s), Petitioner SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. Petitioner SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at [www.bon.texas.gov/compliance](http://www.bon.texas.gov/compliance).*

**IV. RESTORATION OF UNENCUMBERED LICENSE(S)**

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.

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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/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, 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 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(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas, as a consequence of my noncompliance.

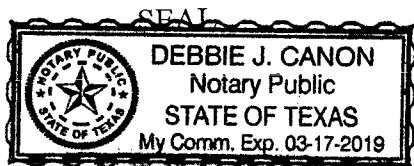
I understand that I can be represented by an attorney in this matter. I waive representation by counsel, notice, administrative hearing, and judicial review of this Order and request that the Texas Board of Nursing ratify this Order.

Signed this 8 day of August, 2017

Summer Lyn Swistak  
SUMMER LYN SWISTAK, PETITIONER

Sworn to and subscribed before me this 8 day of August, 2017.

Debbie J. Canon  
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 accept and enter the Agreed Eligibility Order that was signed on the 8th day of August, 2017, by SUMMER LYN SWISTAK, PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this 25th day of August, 2017.



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