



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	§	REINSTATEMENT
Vocational Nurse License Number 215813	§	
issued to NOE JUAN CORTEZ	§	AGREED ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board considered the Petition for Reinstatement of Vocational Nurse License Number 215813, held by NOE JUAN CORTEZ, hereinafter referred to as Petitioner. Petitioner waived notice and hearing and agreed to the entry of this Order approve by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on May 30, 2017.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Petitioner waived notice and hearing, and agreed to the entry of this Order.
3. Petitioner received a Certificate in Vocational Nursing from Valley Grande Institute For Academic Studies, Weslaco, Texas on December 8, 2007. Petitioner was licensed to practice vocational nursing in the State of Texas on May 8, 2008.

4. Petitioner's vocational nursing employment history includes:

05/08 - 11/10	Field Nurse	Trans Atlantic Home Health Edinburg, Texas
10/08 - 03/12	Field Nurse	New Hope Home Health Mission, Texas
10/10 - 02/12	LVN	El Sendero Adult Day Care Mission, Texas

Petitioner's vocational nursing employment history continued:

02/12 - 08/12	Field Nurse	Texas Tender Care Home Health McAllen, Texas
09/12 - 03/13	LVN	San Juan Nursing Home San Juan, Texas
03/13 - 07/13	LVN	Colonial Manor Nursing Home McAllen, Texas
08/13 - 02/16	LVN	Alfredo Gonzalez Nursing Home McAllen, Texas
02/16 - Present	Not Employed in Nursing	

5. On or about April 17, 2008, Petitioner was issued an Order of Conditional Eligibility by the Board. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated April 17, 2008, is attached and incorporated, by reference, as part of this Order.
6. On or about June 21, 2016, Petitioner voluntarily surrendered his license to practice nursing through an Order of the Board. A copy of the Findings of Fact, Conclusions of Law, and Order dated June 21, 2016, is attached and incorporated, by reference, as part of this Order.
7. On or about June 21, 2017, Petitioner submitted a Petition for Reinstatement of License to practice vocational nursing in the State of Texas.
8. Petitioner presented the following in support of said petition:
 - 8.1. Letter of support, dated April 18, 2017, from Rev. Max Grubb, First Christian Church, McAllen, Texas, states he has had the pleasure of knowing Petitioner for over two (2) years. During that time Petitioner has grown spiritually and morally. As a sober member of AA Petitioner has accepted the principles of the program as the Foundation for his everyday living. Petitioner has come to accept the concept of AA that asserts "Spiritual life is not a theory> You have to live it".
 - 8.2. Letter of support, dated March 30, 2017, from David A. Ewers, Attorney, McAllen, Texas, states he has known Petitioner for one (1) year. They met in the AA program in McAllen. Petitioner freely and openly disclosed the loss of his nursing license as a consequence of his alcoholism. His experience was a true inspiration as Mr. Ewers, too is dependent on a professional license from the State of Texas for his livelihood. Moreover, Petitioner's story of recovery has been a guide and model for Mr. Ewers in his own recovery program.

- 8.3. Letter of support, dated May 20, 2017, from DeWitt S. Davenport, States he has known Petitioner since he first arrived in their AA group, otherwise known as the Fern Sunrise Group. Mr. Davenport has been in this program long enough (greater than 8 years) to have a good feeling for those who are going to make it and those who are not. Petitioner has done everything there is to achieve and maintain sobriety and he understands that this is a lifelong process.
- 8.4. Petitioner provides a sobriety date of June 16, 2015
- 8.5. Documentation of regular support group attendance 6/2016 - 6/17
- 8.6. Documented proof of at least one (1) consecutive year of sobriety through RecoveryTrek
- 8.7. Documentation of the required continuing education contact hours
9. 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 and relicensure.
10. Relicensure 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.
11. The Executive Director's review of Petitioner's eligibility for relicensure has been made on the basis of Petitioner's disclosures.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Pursuant to Section 301.467, Texas Occupations Code, the Board may refuse to issue or renew a license, and may set a reasonable period that must lapse before reapplication. Pursuant to 22 TEX. ADMIN. CODE §213.26, the Board may impose reasonable conditions that a Petitioner must satisfy before reissuance of an unrestricted license.
3. 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.

4. 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. REINSTATEMENT OF LICENSURE

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that the petition of NOE JUAN CORTEZ for reinstatement of license to practice nursing in the state of Texas be **GRANTED** and Vocational Nurse License Number 215813 is hereby **REINSTATED** in accordance with the terms of this Order.

II. COMPLIANCE WITH LAW AND APPLICABILITY

While under the terms of this Order, PETITIONER agrees to obtain, read, and 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. 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.
- B. This Order SHALL be applicable to PETITIONER's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. 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 relicensure, 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.*

IV. MONITORING FEE

PETITIONER SHALL **pay a monitoring fee in the amount of three hundred fifty dollars (\$350.00) within forty-five (45) days of relicensure.** Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

V. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, PETITIONER must work as a nurse in the State of Texas, providing direct patient care in a clinical healthcare setting, **for a minimum of**

sixty-four (64) hours per month for twelve (12) quarterly periods [three (3) years] of employment. This requirement will not be satisfied until twelve (12) quarterly periods of employment as a nurse have elapsed. Periods of unemployment or of employment that do not require the use of a registered nurse (RN) or a vocational nurse (LVN) license, as appropriate, will not apply to this period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** PETITIONER SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, PETITIONER SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** PETITIONER SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. PETITIONER SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.
- C. **Indirect Supervision:** PETITIONER SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse, who is on the premises. The supervising nurse is not required to be on the same unit or ward as PETITIONER, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the PETITIONER is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- D. **Nursing Performance Evaluations:** PETITIONER SHALL CAUSE each employer to submit, on forms provided to the PETITIONER by the Board, periodic reports as to PETITIONER'S capability to practice nursing. These reports shall be completed by the nurse who supervises the PETITIONER and these reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month quarterly period for twelve (12) quarters [three (3) years] of employment as a nurse.

VI. DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, PETITIONER SHALL abstain from the use of alcohol, nalbuphine, propofol and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, PETITIONER SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and PETITIONER SHALL submit to a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.
- B. While working as a nurse under the terms of this Order, PETITIONER SHALL submit to random periodic screens for alcohol, nalbuphine, propofol and controlled substances. The Board will provide instructions on how to enroll in the Board's drug and alcohol testing program following the entry of this Order and screening will begin when PETITIONER obtains employment and submits the Notification of Employment form to the Board.
- For the first three (3) month [1st quarter] period PETITIONER works as a nurse under the terms of this Order, random screens shall be performed at least once per week.
 - For the next three (3) month [2nd quarter] period, random screens shall be performed at least twice per month.
 - For the next six (6) month period [3rd & 4th quarters], random screens shall be performed at least once per month.
 - For the remainder of the probation period, if any, random screens shall be performed at least once every three (3) month quarterly period.

All random screens SHALL BE conducted through urinalysis. Any test result for a period of time in which the PETITIONER is not working as a nurse under the terms of this Order will not count towards satisfaction of this requirement. All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. PETITIONER SHALL be responsible for the costs of all random drug screening during the stipulation/probation period.

Specimens shall be screened for any or all of the following substances and/or their metabolites:

Amphetamine	Methamphetamine	MDMA
MDA	Alprazolam	Diazepam
Alpha-o-alprazolam	Alpha-Hydroxytriazolam	Clonazepam
Desmethyldiazepam	Lorazepam	Midazolam
Oxazepam	Temazepam	Amobarbital
Butabarbital	Butalbital	Pentobarbital
Phenobarbital	Secobarbital	Codeine
Hydrocodone	Hydromorphone	Methadone
Morphine	Opiates	Oxycodone
Oxymorphone	Propoxyphene	Cannabinoids
Cocaine	Phencyclidine	Ethanol
Heroin	Fentanyl	Tramadol
Meperidine	Carisoprodol	Butorphanol
Nalbuphine	Ketamine	Propofol

Upon enrollment in the Board's drug and alcohol testing program, **PETITIONER SHALL, on a daily basis, call or login online to the Board's designated drug and alcohol testing vendor to determine whether or not PETITIONER has been selected to produce a specimen for screening that day** and SHALL, if selected, produce a specimen for screening that same day at an approved testing location and/or comply with any additional instructions from the vendor or Board staff. Further, **a Board representative may appear** at the PETITIONER'S place of employment at any time during the probation period and require PETITIONER to produce a specimen for screening.

Consequences of Positive or Missed Screens. Any positive result for which PETITIONER does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject PETITIONER to further disciplinary action, including TEMPORARY 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. Further, failure to report for a drug screen, excessive dilute specimens, or failure to call in for a drug screen may be considered the same as a positive result or refusal to submit to a drug or alcohol screen.

- C. **While under the terms of this Order, PETITIONER SHALL attend at least two (2) support group meetings each week**, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. PETITIONER SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by PETITIONER. PETITIONER SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) month quarterly period. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

VII. PROBATION REPORTS

PETITIONER SHALL CAUSE his/her probation officer to submit written reports on forms provided to the PETITIONER by the Board. The reports shall indicate the PETITIONER'S compliance with the court ordered probation. The reports shall be furnished each and every three (3) month period until PETITIONER is released from probation.

VIII. 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

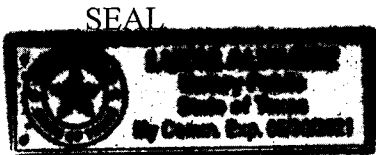
I understand that I have the right to legal counsel prior to signing this Reinstatement Agreed Order. I waive representation by counsel. I certify that my past behavior, except as disclosed in my Petition for Reinstatement of Licensure, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of convictions, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

I have reviewed this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to reinstating my license(s) to practice nursing in the state of Texas. I understand that if I fail to comply with all terms and conditions of this Order, my license(s) to practice nursing in the State of Texas will be revoked, as a consequence of my noncompliance.

Signed this 8 day of August, 2017

Noe Juan Cortez
NOE JUAN CORTEZ, Petitioner

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



David Lee
Notary Public in and for the State of Texas 05/30/2021

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 8th day of August, 2017, by NOE JUAN CORTEZ, Vocational Nurse License Number 215813, and said Order is final.

Effective this 12th day of September, 2017.



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



Executive Director of the Board
accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of
Vocational Nurse License Number 215813
issued to NOE JUAN CORTEZ

§ AGREED
§
§ ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of NOE JUAN CORTEZ, Vocational Nurse License Number 215813, hereinafter referred to as Respondent.

This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Order.

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

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Respondent waived notice and hearing, and agreed to the entry of this Order.
3. Respondent's license to practice as a vocational nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Valley Grande Institute For Academic Studies, Weslaco, Texas on December 8, 2007. Respondent was licensed to practice vocational nursing in the State of Texas on May 8, 2008.
5. Respondent's nursing employment history is currently unknown.
6. On or about April 17, 2008, Respondent was issued an Order of Conditional Eligibility by the Texas Board of Nursing. A Copy of the Findings of Fact, Conclusions of the Law, and Agreed Order dated April 17, 2008 is attached and incorporated, by reference, as part of this Order.

7. On or about October 1, 2015, Respondent entered a plea of Guilty and was convicted of INTOXICATION ASSAULT W/VEHICLE SBI and DRIVING WHILE INTOXICATED THIRD OR MORE, both Third Degree Felony offenses committed on October 20, 2014, in the 398th District Court of Hidalgo County under Cause Number CR-1635-15-I. As a result of the conviction, Respondent was sentenced to confinement in the Institutional Division of the Texas Department of Criminal Justice for a period of ten (10) years; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of ten (10) years and ordered to pay a fine and court costs.
8. In response to Finding of Fact Number Seven (7), Respondent states he had been drinking the morning he was arrested and went to the store to purchase more alcohol. Respondent was in a car accident on the way. He states no injuries were sustained by either party involved. Respondent has had Intaxolock installed into his vehicle in addition to the requirements of community supervision.
9. Respondent, by his/her signature to this Order, expresses his/her desire to voluntarily surrender his/her license(s) to practice nursing in the State of Texas.
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(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(3)&(10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 215813, heretofore issued to NOE JUAN CORTEZ, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

6. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
7. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
8. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

TERMS OF ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Vocational Nurse License Number 215813, heretofore issued to NOE JUAN CORTEZ, to practice nursing in the State of Texas, is accepted by 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 "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying herself/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:
 - A. One (1) year has elapsed from the date of this Order; and,
 - B. 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.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

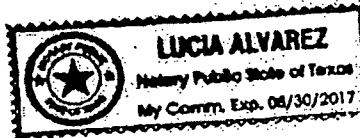
Signed this 14 day of June, 2016.

Noe J. Cortez
NOE JUAN CORTEZ, Respondent

Sworn to and subscribed before me this 14 day of June, 2016.

SEAL

Lucia Alvarez
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 the voluntary surrender of Vocational Nurse License Number 215813, previously issued to NOE JUAN CORTEZ.

Effective this 21st day of June, 2016.



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

BEFORE THE
TEXAS BOARD OF NURSING

In the Matter of
NOE JUAN CORTEZ
PETITIONER for Eligibility for
Licensure

§
§
§
§

ORDER OF
CONDITIONAL ELIGIBILITY

On the date entered below, the Texas Board of Nursing, hereinafter referred to as the Board, considered the Petition for Declaratory Order and supporting documents filed by NOE JUAN CORTEZ, hereinafter referred to as PETITIONER, together with any documents and information gathered by staff and PETITIONER's Certificate contained herein. Information received by the Board produced evidence that PETITIONER may have violated Section 301.452 *et seq.*, Texas Occupations Code.

A public meeting was held on March 18, 2008, by the Eligibility and Disciplinary Committee of the Texas Board of Nursing (Board), at 333 Guadalupe, Tower 3, Suite 460, Austin, Texas, in which the petition of NOE JUAN CORTEZ, PETITIONER, was considered.

PETITIONER appeared in person. PETITIONER was notified of his right to be represented by legal counsel and elected to waive representation by counsel.

Board Members in attendance were: Brenda Jackson, PhD, RN; Rachel Gomez, LVN; Deborah Hughes Bell, CLU; Marilyn J. Davis, RN, BSN, MPA; and Kristin K. Benton, RN, MSN. Staff present were: Katherine A. Thomas, MN, RN, Executive Director; James W. Johnston, General Counsel; Anthony L. Diggs, Director, Enforcement Division; and Cynthia LoCastro, Legal Assistant.

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FINDINGS OF FACT

1. On or about August 7, 2007, Petitioner submitted a Petition for Declaratory Order requesting a determination of eligibility for licensure in compliance with Section 301.257 *et seq.*, Texas Occupations Code.
2. Petitioner waived representation, notice, administrative hearing, and judicial review.
3. Petitioner received a Certificate in Vocational Nursing from Valley Grande Institute, Weslaco, Texas, in December 2007.
4. Petitioner completed the Petition for Declaratory Order and answered "yes" to the question which reads in part as follows: *"Have you ever been convicted, placed on community supervision whether or not adjudicated guilty, sentenced to serve jail or prison time or granted pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country, or received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests whether or not on appeal? This includes expunged offenses and deferred adjudication with or without a finding of guilt."*
5. Petitioner disclosed the following criminal history, to wit:
 - A. On February 12, 1989, Petitioner was charged with the misdemeanor offense of Possession of Marijuana in the County Court at Law No. 2 of Hidalgo County, Texas. Petitioner entered a plea of guilty and was sentenced to thirty (30) days confinement in the Hidalgo County Jail, which was probated to one hundred eighty (180) days.
 - B. On April 17, 1989, Petitioner was charged with the misdemeanor offense of Driving a Motor Vehicle While Intoxicated in a Public Place in the County Court at Law No. 2 of Hidalgo County, Texas. Petitioner entered a plea of guilty and was sentenced to thirty (30) days confinement in the Hidalgo County Jail, which was probated to two (2) years.
 - C. On January 18, 1990, Petitioner was charged with the misdemeanor offense of Possession of Marijuana in the County Court at Law No. 3 of Hidalgo County, Texas. Petitioner entered a plea of guilty and was sentenced to forty-five (45) days confinement in the Hidalgo County Jail, which was probated to one hundred eighty (180) days.
 - D. On June 1, 1990, Petitioner was charged with the misdemeanor offense of Resisting Arrest in the County Court at Law No. 3 of Hidalgo County, Texas. Petitioner entered a plea of guilty and was sentenced to forty-five (45) days confinement in the Hidalgo County Jail, which was probated to one (1) year.

- E. On May 9, 1995, Petitioner was charged with the misdemeanor offense of Driving While Intoxicated in the County Court at Law No. 1 of Hidalgo County, Texas. Petitioner entered a plea of guilty and was sentenced to ninety (90) days confinement in the Hidalgo County Jail, which was probated to two (2) years.
- F. On February 28, 1996, Petitioner was charged with the misdemeanor offense of Driving While License Suspended in the County Court at Law No. 2 of Hidalgo County, Texas. Petitioner entered a plea of guilty and was sentenced to fifteen (15) days confinement in the Hidalgo County Jail, which was probated to ninety (90) days.
- G. On November 12, 1998, Petitioner was charged with the misdemeanor offense of Driving While Intoxicated in the County Court at Law No. 3 of Hidalgo County, Texas. Petitioner entered a plea of guilty and was sentenced to one (1) year probation.
6. There is no evidence of any subsequent criminal conduct.
7. The Board received letters of support/recommendation for Petitioner from the following:
- A letter of reference dated July 18, 2007, was submitted to the Board on behalf of Petitioner by Christine Kidd, RN, Vocational Nursing Instructor, Valley Grande Institute for Academic Studies, Weslaco, Texas.
 - A letter of reference dated July 18, 2007, was submitted to the Board on behalf of Petitioner by Silvia Jupe, LVN, Vocational Nursing Instructor, Valley Grande Institute for Academic Studies, Weslaco, Texas.
 - A letter of reference dated February 12, 2008, was submitted to the Board on behalf of Petitioner by Irene Elizalde, RN, Vocational Nursing Instructor, Valley Grande Institute for Academic Studies, Weslaco, Texas.
 - A letter of reference was submitted to the Board on behalf of Petitioner by Sister Guadalupe Cortes, M.C.P., Missionary Catechists of the Poor, Iglesia de Nuestra Senora de Guadalupe, Mission, Texas.
 - A letter of reference dated February 15, 2008, was submitted to the Board on behalf of Petitioner by Rev. Roy L. Snipes, OMI.
 - A letter of reference dated February 28, 2008, was submitted to the Board on behalf of Petitioner by Celia T. Ojeaga, RN/MSN, Trans-Atlantic Home Health Care, Inc., Edinburg, Texas.
8. Licensure of Petitioner poses no direct threat to the health and safety of patients or the public.
9. The Committee's review of the grounds for potential ineligibility has been made on the basis of the information provided by Petitioner.

10. Petitioner has sworn that his past behavior conforms to the Board's professional character requirements. Petitioner presented no evidence of behavior which is inconsistent with good professional character.
11. Petitioner has been advised that any information found to be incomplete, incorrect, or misleading will be considered and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through misrepresentation.
12. On March 18, 2008, the Eligibility and Disciplinary Committee of the Board considered evidence of Petitioner's past behavior in light of the character factors set out in 22 Texas Administrative Code §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character.

CONCLUSIONS OF LAW

1. The Texas Board of Nursing has jurisdiction over this matter pursuant to Section 301.453, Texas Occupations Code.
2. Petitioner has submitted a petition in compliance with Section 301.257 *et seq.*, Texas Occupations Code.
3. Petitioner's criminal history reflects criminal conduct which is grounds for denial of a license under Section 301.452 *et seq.*, Texas Occupations Code.
4. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452, 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 Texas Administrative Code §213.28 and evaluating the direct relationship to nursing according to Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.
6. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 Texas Administrative Code §213.27, 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.

ORDER

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of any required fees, NOE JUAN CORTEZ, PETITIONER, is CONDITIONALLY ELIGIBLE to sit for the National Council Licensure Examination for Practical Nurses (NCLEX-PN[®] Examination). PETITIONER SHALL NOT be eligible for temporary authorization to practice as a Graduate Vocational Nurse in the State of Texas.

IT IS FURTHER ORDERED that PETITIONER SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Vocational Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.*, and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to PETITIONER's multistate licensure privilege, if any, to practice vocational nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while PETITIONER's license is encumbered by this Order the PETITIONER may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas and the Board of Nursing in the party state where PETITIONER wishes to work.

IT IS FURTHER ORDERED that PETITIONER, upon attaining a passing grade on the NCLEX-PN[®], shall be issued a license to practice vocational nursing in the State of Texas which shall bear the appropriate notation and PETITIONER SHALL be subject to the following stipulations.

(1) PETITIONER SHALL, within one (1) year of initial licensure in the State of Texas, 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) contact 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 Chemical Dependency, 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.bne.state.tx.us/about/stipscourses.html>

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, PETITIONER SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice vocational nursing in the State of Texas.

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CONTINUED ON NEXT PAGE.

PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past criminal conduct, 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 Petition for Declaratory Order, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior 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 petition, I acknowledge that I have read and I understand Section 301.257, Texas Occupations Code, Section 301.452(a), (b) and (c), Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and Board Rules 213.27, 213.28, and 213.29 at 22 Texas Administrative Code. 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 Graduate Vocational Nurse Permit to practice. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to registering for the NCLEX-PN® Examination or accepting any permit or 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 to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

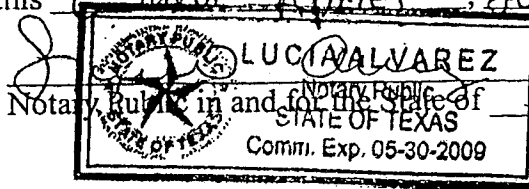
I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Executive Director of the Texas Board of Nursing enter this Order.

Signed this 6 day of April, 2008
Noe Juan Cortez

NOE JUAN CORTEZ, PETITIONER

Sworn to and subscribed before me this 6 day of April, 2008.

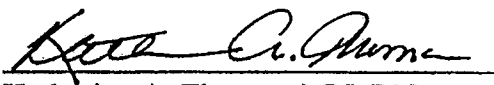
SEAL



WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby ratify and adopt the Order of Conditional Eligibility that was signed on the 6th day of April, 2008, by NOE JUÁN CORTEZ, PETITIONER, for Petition for Declaratory Order, and said Order is final.

Entered this 17th day of April, 2008.

TEXAS BOARD OF NURSING

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