

In the Matter of § BEFORE THE TEXAS
Permanent Registered Nurse §
License Number 923394 §
Issued to MISTY MARIE MORRIS, §
Respondent § BOARD OF NURSING

ORDER OF TEMPORARY SUSPENSION

TO: MISTY MORRIS
C/O ELISABETH SMITH
1602 E. 7TH STREET
AUSTIN, TEXAS 78702

A public meeting of the Texas Board of Nursing was held on November 24, 2020 at 333 Guadalupe, Room 3-460, Austin, Texas, in which the Temporary Suspension of Permanent Registered Nurse License Number 923394, issued to MISTY MARIE MORRIS 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 MISTY MARIE MORRIS and whether her continued practice as a nurse would constitute a continuing and imminent threat to the public welfare.

After review and due consideration of the evidence and information presented, the Board finds that the following charge is substantiated:

CHARGE I.

On or about July 23, 2020, Respondent became non-compliant with the Confidential Eligibility Agreed Order for Peer Assistance Program issued to her by the Texas Board of Nursing on April 21, 2015. Noncompliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) participation agreement, in that Respondent failed to abstain from the consumption of alcohol. On February 25, 2019 and June 15, 2020, Respondent produced urine specimens for random drug screens that resulted positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), which are metabolites of Alcohol (ethanol). Stipulation number three (3) of the Confidential Eligibility Agreed Order for Peer Assistance Program dated April 21, 2015, states:

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

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1),(9)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(1)(A),(4),(5),(9),(10)(D)&(11)(B).

The Texas Board of Nursing further finds that, given the nature of the charges concerning her fitness to practice, the continued practice of nursing by MISTY MARIE MORRIS constitutes a continuing and imminent threat to public welfare and that the temporary suspension of Permanent Registered Nurse License Number 923394, is justified pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE.

NOW, THEREFORE, IT IS ORDERED that Permanent Registered Nurse License Number 923394, issued to MISTY MARIE MORRIS, to practice nursing in the State of Texas be, and the same is/are, hereby SUSPENDED IMMEDIATELY in accordance with Section 301.4551, TEXAS OCCUPATIONS CODE.

IT IS FURTHER ORDERED that a probable cause hearing be conducted in accordance with Section 301.455(c) not later than seventeen (17) days following the date of the entry of this order, and a final hearing on the matter be conducted in accordance with 301.455(d) not later than the 61st day following the date of the entry of this order.

Entered this 24th day of November, 2020

TEXAS BOARD OF NURSING

BY:

A handwritten signature in black ink, appearing to read "Katherine A. Thomas", written over a horizontal line.

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

**In the Matter of
Permanent Registered Nurse
License Number 923394
Issued to MISTY MARIE MORRIS,
Respondent**

§
§ **BEFORE THE TEXAS**
§
§ **BOARD OF NURSING**
§

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MISTY MARIE MORRIS, is a Registered Nurse holding license number 923394 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 July 23, 2020, Respondent became non-compliant with the Confidential Eligibility Agreed Order for Peer Assistance Program issued to her by the Texas Board of Nursing on April 21, 2015. Noncompliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) participation agreement, in that Respondent failed to abstain from the consumption of alcohol. On February 25, 2019 and June 15, 2020, Respondent produced urine specimens for random drug screens that resulted positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), which are metabolites of Alcohol (ethanol). Stipulation number three (3) of the Confidential Eligibility Agreed Order for Peer Assistance Program dated April 21, 2015, states:

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The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1),(9)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(1)(A),(4),(5),(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) and/or privilege(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.

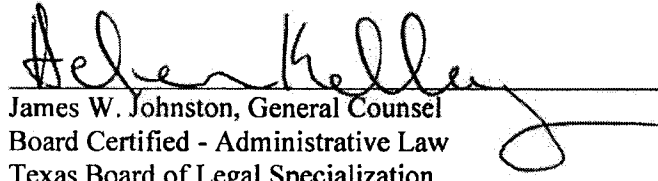
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, located at 22 TEX. ADMIN. CODE §213.33(b), which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, www.bon.texas.gov.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order(s) of the Board dated April 21, 2015.

Filed this 24th day of November, 2020.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Abel, Deputy General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 24036103

Helen Kelley, Assistant General Counsel
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Brian L. Miller, Jr., Assistant General Counsel
State Bar No. 24117478

JoAnna Starr, Assistant General Counsel
State Bar No. 24098463

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John Vanderford, Assistant General Counsel
State Bar No. 24086670

333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
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Attachment(s): Order(s) of the Board dated April 21, 2015.

D(2020.08.19)

BEFORE THE TEXAS BOARD OF NURSING

| | | |
|--|---|--------------------------|
| In the Matter of | § | CONFIDENTIAL ELIGIBILITY |
| MISTY MARIE MORRIS, | § | AGREED ORDER FOR |
| PETITIONER for Eligibility for Licensure | § | PEER ASSISTANCE PROGRAM |

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 MISTY MARIE MORRIS, 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 offered under the authority of Section 301.466(d), Texas Occupations Code, and approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on January 9, 2015.

FINDINGS OF FACT

1. On or about April 1, 2014, 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 not enrolled in a professional nursing program 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 February 10, 2004, Petitioner was arrested by the Denison Police Department, Denison, Texas, for POSS MARIJUANA < 2 OZ, a Class B misdemeanor offense.

On or about October 1, 2004, Petitioner entered a plea of Guilty to POSSESSION OF MARIJUANA UNDER 2OZ, a Class B misdemeanor offense, committed on February 10, 2004, in the County Court at Law No. 2 of Grayson County, Texas, under Cause No. 2004-2412. 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 six (6) months. On or about April 1, 2005, Petitioner was discharged from probation.

- B. On or about September 20, 2004, Petitioner was arrested by the Sherman Police Department, Sherman, Texas, for BURGLARY OF COIN OPERATED COLLECTION MACHINE, a Class A misdemeanor offense.

On or about June 20, 2005, Petitioner entered a plea of Guilty to BURGLARY OF COIN OPERATED/COLLECTION MACHINE, a Class A misdemeanor offense, committed on September 20, 2004, in the County Court at Law No. 1 of Grayson County, Texas, under Cause No. 2005-1154CR. 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 one (1) year. On or about June 20, 2006, Petitioner was discharged from probation.

- C. On or about May 28, 2010, Petitioner was arrested by the Denison Police Department, Denison, Texas, for POSS MARIJ <= 50 LBS >5 LBS, a Second degree felony offense.

On or about January 20, 2011, Petitioner entered a plea of Guilty to POSSESSION OF MARIJUANA >5LBS <=50LBS, a Third Degree felony offense committed on May 28, 2010, in the 397th District Court of Grayson County, Texas, under Cause No. 059825. 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 five (5) years. On or about February 28, 2014, Petitioner was discharged from probation.

6. There is no evidence of any subsequent criminal conduct.
7. On November 25, 2014, Petitioner was seen by John Lehman, Ph.D., to undergo a chemical dependency evaluation. Dr. Lehman states that Petitioner meets the criteria for a Severe Marijuana Use Disorder in reported long-term remission. At present, Petitioner is pregnant and a low risk to relapse. However, when stressed with life, her coping skills are somewhat untested since she is now off probation. She seems to have straightened out her life and is headed in a positive direction. No other acute mental disorders are noted. Dr. Lehman does not believe Petitioner meets the criteria for an antisocial personality and does not feel she is likely to engage in criminal behavior again. Due to the severity of the history with marijuana, Dr. Lehman thinks a referral to TPAPN should be a stipulation of her declaratory order. Dr. Lehman initially felt that possibly only monitoring would be needed, but upon further review of the history and the recent nature of the heavy use, Dr. Lehman concludes TPAPN is a better, safer choice.
8. 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.
9. Petitioner has sworn that, with the exception of matters disclosed in connection with the Petition for Declaratory Order, her past behavior conforms to the Board's professional character requirements at 22 TEX. ADMIN. CODE §213.27.
10. Petitioner presented no evidence of behavior which is inconsistent with good professional character.
11. 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.
12. 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.

13. 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.
14. Petitioner's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.
15. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.
16. 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.
17. 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 April 1, 2014, 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 her conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.
8. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.
9. This Order is conditioned upon the accuracy and completeness of Petitioner's disclosures. Any subsequently discovered discrepancies will result in investigation and possible disciplinary action, up to revocation of Petitioner's license(s).

ORDER

NOW, THEREFORE, IT IS AGREED that, upon meeting the requirements for graduation of an appropriate program in nursing education and payment of any required fees, PETITIONER is ELIGIBLE to sit for the National Council Licensure Examination for Practical Nurses (NCLEX-PN® Examination) and/or the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination), as applicable.

IT IS FURTHER AGREED that PETITIONER SHALL NOT be eligible for temporary authorization to practice as a Graduate Vocational Nurse (GVN) and/or as a Graduate Nurse (GN), as applicable, in the State of Texas.

IT IS FURTHER AGREED that, upon payment of any required fees and upon attaining a passing grade on the appropriate National Council Licensure Examination, PETITIONER shall be issued the applicable license to practice nursing in the State of Texas, and while under the terms of this Order all licenses issued to PETITIONER shall be subject to the following stipulations:

PETITIONER SHALL obtain and read the Texas Nursing Practice Act and the Rules and Regulations Relating to Nurse Education, Licensure, and Practice.

PETITIONER SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.*, and this Order.

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

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

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

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

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

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

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

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

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

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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.

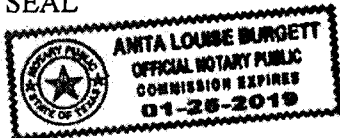
I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Texas Board of Nursing ratify this Order.

Signed this 15TH day of April, 2015.

Misty Marie Morris
MISTY MARIE MORRIS, PETITIONER

Sworn to and subscribed before me this 15TH day of April, 2015

SEAL



Anita Louise Burgett
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby ratify and adopt the Confidential Eligibility Agreed Order for Peer Assistance Program that was signed on the 15th day of April, 2015, by MISTY MARIE MORRIS, PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this 21st day of April, 2015.

A handwritten signature in cursive script, appearing to read "Katherine A. Thomas".

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