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Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	ELIGIBILITY AGREED ORDER
BRANDI LYNN HARBIN,	§	FOR
Vocational Nurse License Number 211146,	§	RENEWAL OF LICENSE
APPLICANT for Renewal of License	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the renewal application and supporting documents filed by BRANDI LYNN HARBIN, hereinafter referred to as Applicant, requesting a determination of eligibility for licensure renewal in compliance with Sections 301.252, 301.257 and 301.260, Texas Occupations Code, together with any documents and information gathered by staff and Applicant's Certification contained herein.

Information received by the Board produced evidence that Applicant may be ineligible for licensure renewal pursuant to Sections 301.452(b)(3)&(12) and 301.453, Texas Occupations Code.

Applicant waived notice and hearing and agreed to the entry of this Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on February 8, 2021.

FINDINGS OF FACT

1. On or about May 13, 2020, Applicant submitted the application requesting a determination of eligibility for licensure renewal.
2. Applicant waived notice and hearing, and agreed to the entry of this Agreed Order.
3. Applicant received a Certificate in Vocational Nursing from Grayson County College, Denison, Texas, on August 3, 2007. Applicant was licensed to practice vocational nursing in the State of Texas on August 16, 2007.
4. Applicant's license to practice as a vocational nurse in the State of Texas is in delinquent status.

5. Applicant completed the application and answered Yes to the question which reads as follows: *"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:*
 - A. been arrested and have any pending criminal charges*
 - B. been convicted of a misdemeanor?*
 - C. been convicted of a felony?*

6. Applicant disclosed the following criminal history, to wit:

On or about February 28, 2020, Applicant entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED 3RD OR MORE, a 3rd Degree felony offense, committed on November 28, 2018, in the 59th District Court at Law of Grayson County, Texas, under Cause No. 070473. As a result of the conviction, Applicant was sentenced to confinement in the Grayson County Jail for a period of eight (8) years and ordered to pay a fine and court costs.

7. Applicant completed the Application and answered Yes to the question which reads as follows: *"Have you, in the last 5 years, been addicted to and/or treated for the use of alcohol or any other drug?"*

Applicant disclosed that she is an alcoholic and has been sober since November 5, 2019. Applicant states she is currently in Recovery Court in Grayson County, Texas and is now in the last phase.

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. The Executive Director considered evidence of Applicant's past behavior in light of the factors set out in 22 TEX. ADMIN. CODE §213.27 and determined that Applicant currently demonstrates the criteria required for licensure.
10. The Executive Director considered evidence of Applicant'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.
11. The Executive Director considered evidence of Applicant'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.
12. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Applicant's disclosures.

13. Applicant 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.
14. Applicant 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. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. On or about May 13, 2020, Applicant submitted the Application requesting a determination of eligibility for licensure renewal.
3. Applicant's history reflects conduct which may constitute grounds for denial of license renewal under Section 301.452(b)(3)&(12), 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, as 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. The Board may license an individual upon evaluation of the factors in 22 TEX. ADMIN. CODE §213.27, and pursuant to 22 TEX. ADMIN. CODE §213.33, if 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. This Order is conditioned upon the accuracy and completeness of Applicant's disclosures. Any subsequently discovered discrepancies will result in investigation and possible disciplinary action, up to revocation of Applicant's license(s).

9. 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.

TERMS OF ORDER

I. RENEWAL OF LICENSURE AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that the Application of BRANDI LYNN HARBIN for Renewal of License to practice nursing in the State of Texas be **GRANTED** and Vocational Nurse License Number 211146, previously issued to BRANDI LYNN HARBIN, to practice nursing in the State of Texas is hereby **SUSPENDED** and said suspension is **ENFORCED** until APPLICANT:

- A. Completes an appropriate treatment program approved by the Board;
- B. Provides documentation of successful completion; and
- C. Obtains twelve (12) consecutive months of sobriety, which may be demonstrated by monthly urine drug screens consistent with the "DRUG AND ALCOHOL RELATED REQUIREMENTS" of this Order.

Any relapse prior to the completion of the required twelve (12) consecutive months of sobriety will result in revocation or, at a minimum, an extension of the enforced suspension until such twelve (12) consecutive months of sobriety and additional treatment have been attained.

IT IS FURTHER AGREED, upon verification of successful completion of the above requirements, the Suspension will be **STAYED**, and APPLICANT will be placed on **PROBATION** for a minimum of three (3) years **AND** until APPLICANT fulfills the additional requirements of this Order.

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

- C. Until successfully completed, this Order SHALL apply to any and all future licenses issued to APPLICANT to practice nursing in the State of Texas.
- D. Until successfully completed, this Order SHALL be applicable to APPLICANT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- E. As a result of this Order, APPLICANT'S license(s) will be designated "single state" as applicable and APPLICANT may not work outside the State of Texas in another nurse licensure compact party state using a Texas compact lice.

II. COMPLIANCE WITH LAW

While under the terms of this Order, APPLICANT agrees to comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Eligibility Agreed Order for Renewal of License.

III. UNDERSTANDING BOARD ORDERS

Within thirty (30) days of entry of this Order, APPLICANT must successfully complete the Board's online course, "Understanding Board Orders", which can be accessed on the Board's website from the "Discipline & Complaints" drop-down menu or directly at: <http://www.bon.texas.gov/UnderstandingBoardOrders/index.asp>. Upon successful completion, APPLICANT must submit the course verification at the conclusion of the course, which automatically transmits the verification to the Board.

IV. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, APPLICANT SHALL successfully complete the following remedial education course(s) **within one (1) year of the suspension being stayed, 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 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), APPLICANT 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. APPLICANT 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.*

V. MONITORING FEE

APPLICANT SHALL **pay a monitoring fee in the amount of three hundred fifty dollars (\$350.00) within forty-five (45) days of the effective date of this Order.**

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.

VI. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, APPLICANT 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:** APPLICANT 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, APPLICANT 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:** APPLICANT 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. APPLICANT 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. **No Night or Rotating Shifts, Overtime, or On-Call:** For the first year [four (4) quarters] of employment as a Nurse under this Order, APPLICANT SHALL NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which APPLICANT is regularly assigned.
- D. **No Critical Care:** For the first year [four (4) quarters] of employment as a Nurse under this Order, APPLICANT SHALL NOT practice as a nurse in any critical care area. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.
- E. **No Administration of Controlled Medications:** For the first year [four (4) quarters] of employment as a Nurse under this Order, APPLICANT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, Propofol, or other synthetic opiates.
- F. **Direct Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this order, APPLICANT SHALL be directly 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. Direct supervision requires another nurse, as applicable, to be working on the same unit as APPLICANT and immediately available to provide assistance and intervention. APPLICANT SHALL work only on regularly assigned, identified and predetermined unit(s). APPLICANT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency.

APPLICANT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

- G. **Indirect Supervision:** For the remainder of the stipulation/probation period, APPLICANT 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 APPLICANT, 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 of experience in the same or similar practice setting to which the APPLICANT is currently working. APPLICANT SHALL work only regularly assigned, identified and predetermined unit(s). APPLICANT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. APPLICANT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- H. **Nursing Performance Evaluations:** APPLICANT SHALL CAUSE each employer to submit, on forms provided to the APPLICANT by the Board, periodic reports as to APPLICANT'S capability to practice nursing. These reports shall be completed by the individual who supervises the APPLICANT and these reports shall be submitted by the supervising individual 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.

VII. DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, APPLICANT 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, APPLICANT 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 the prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and APPLICANT 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, APPLICANT SHALL submit to random periodic screens for alcohol, nalbuphine, propofol and all 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 APPLICANT obtains employment and submits the Notification of Employment form to the Board.

- For the first three (3) month [1st quarter] period APPLICANT 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 APPLICANT 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. APPLICANT 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, **APPLICANT SHALL, on a daily basis, call or login online to the Board's designated drug and alcohol testing vendor to determine whether or not APPLICANT 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 APPLICANT'S place of employment at any time during the probation period and require APPLICANT to produce a specimen for screening.

Consequences of Positive or Missed Screens. Any positive result for which APPLICANT does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject APPLICANT to further disciplinary action, including TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Applicant'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, APPLICANT 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. APPLICANT 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 APPLICANT. APPLICANT 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.

VIII. PROBATION REPORTS

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

IX. SUBSEQUENT CRIMINAL PROCEEDINGS

IT IS FURTHER AGREED, should the APPLICANT'S conduct, as outlined in the findings of fact of this Eligibility Agreed Order for Renewal of License, result in subsequent judicial action, including a deferred disposition, APPLICANT may be subject

to further disciplinary action, up to, and including, revocation of APPLICANT'S license(s) to practice nursing in the State of Texas.

X. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Eligibility Agreed Order for Renewal of License, all encumbrances will be removed from APPLICANT'S license(s) and/or privilege(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, APPLICANT may be eligible for nurse licensure compact privileges, if any.

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APPLICANT'S CERTIFICATION

I understand this Order is conditioned upon the accuracy and completeness of my application and disclosures. I further understand that subsequently discovered discrepancies in my application and/or disclosures will result in investigation and possible disciplinary action, up to revocation of my license(s).

I have reviewed this Order. I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. 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, I will be subject to investigation and disciplinary sanction, including TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, and/or REVOCATION of my license(s) and/or nurse licensure compact privileges, if any, to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 21st day of April, 2021.

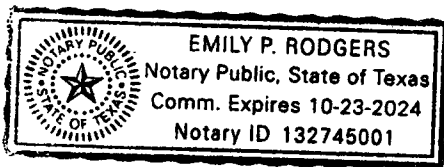
Brandi Lynn Harbin
BRANDI LYNN HARBIN, APPLICANT

Sworn to and subscribed before me this 21 day of April, 2021.

SEAL

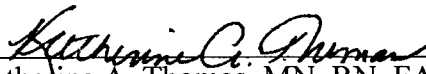
Emily Rodgers

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 Eligibility Agreed Order for Renewal of License that was signed on the 21st day of April, 2021, by BRANDI LYNN HARBIN, Vocational Nurse License Number 211146, APPLICANT for Renewal of License, and said Eligibility Agreed Order for Renewal of License is final.

Effective this 8th day of June, 2021.


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