



Texas Board of Nursing

333 Guadalupe Street, Ste. 3-460, Austin, Texas 78701
Phone: (512) 305-7400 Fax: (512) 305-7401 www.bon.texas.gov

Katherine A. Thomas, MN, RN, FAAN
Executive Director

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

July 19, 2021

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Return Receipt Requested, Copy Via USPS First Class Mail

Hilton Jay Ferguson
c/o Deborah Goodall, Attorney At Law
2626 Cole Avenue
Suite 300
Dallas, TX 75204

Dear Mr. Ferguson:

Your Petition for Licensure Reinstatement and the supporting information related to your potential ineligibility for relicensure was considered by the Executive Director.

Pursuant to the Occupations Code Chapter 53 and §§301.257, 301.452, and 301.453, you have been found to be ineligible for reinstatement of licensure as a nurse in the State of Texas based upon the grounds discussed below. **This is a final determination of licensure reinstatement denial.**

Our records indicate the following:

- On or about September 16, 2013, you entered a plea of "Nolo Contendere" to and were convicted of FORG COMM INST/CHECK, a State Jail Felony offense committed on August 31, 2012, in the 227th District Court, Bexar County, Texas, under Cause No. 2013CR3635. As a result of the conviction, you were placed on probation for a period of five (5) years and ordered to pay a fine and court costs.
- On or about September 16, 2013, you entered a plea of "Guilty" to and were convicted of CREDIT/DEBIT CARD ABUSE-ELDERLY, a Third Degree Felony offense committed on March 19, 2013, in the 227th District Court, Bexar County, Texas, under Cause No. 2013CR6861W. As a result of the conviction, you were sentenced to confinement in the Institutional Division of the Texas Department of Criminal Justice (TDCJ), for a period of five (5) years (to run concurrent with Cause No. 2013CR3635); however, the imposition of the sentence of confinement was suspended, and you were placed on probation for a period of five (5) years, and ordered to pay restitution in the amount of two hundred fifty dollars and seventy-one cents (\$250.71), along with fines and court costs.
- On or about September 16, 2013, as a condition of the plea agreement in the aforementioned causes, you voluntarily agreed to surrender any license issued by the Texas Board of Nursing, and you permanently waived your right to ever apply for a license or authorization issued by the Texas Board of Nursing.

You are subject to denial of licensure for this conduct pursuant to the following subsections of the Occupations Code §301.452(b):

- §301.452(b)(3): "a conviction for, or placement on deferred adjudication community supervision or deferred disposition for, a felony or for a misdemeanor involving moral turpitude;"

Kathleen Shipp, MSN, RN, FNP
Lubbock, *President*

Allison Porter-Edwards, DrPH, MS, RN, CNE
Bellaire, *Vice-President*

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Further, the Board has adopted rules, located at 22 Tex. Admin. Code §213.28, including the Board's Disciplinary Guidelines for Criminal Conduct, that set forth the considerations and criteria for determining the effect of criminal offenses on the eligibility of a person to obtain a license. An individual is subject to denial of licensure or to disciplinary action for a conviction for, or placement on deferred adjudication community supervision or deferred disposition for, a felony that is directly related to the practice of nursing or for a misdemeanor involving moral turpitude that is directly related to the practice of nursing. Further, the Board's Rules apply to crimes that have been adjudicated through agreement or judicial order by a state or federal criminal justice system, without re-litigation of the underlying factual basis for the agreement or judicial order. A review of your file indicates that you are ineligible for licensure based upon the factors set forth in §213.28.

The Board has determined that your criminal conviction(s) are directly related to the practice of nursing using the following factors: the nature and seriousness of the crime, the relationship of the crime to the purposes for requiring a license to engage in the occupation, the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved, the relationship of the crime to the ability or capacity required to perform the duties and discharge the responsibilities of the licensed occupation, and any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation (as required by Occupations Code §53.022). In determining whether to take action on your directly related conviction(s), the Board has considered the following factors: the extent and nature of the your past criminal activity, your age when the crime was committed, the amount of time that has elapsed since your last criminal activity, your conduct and work activity before and after the criminal activity, evidence of your rehabilitation or rehabilitative effort while incarcerated or after release, and evidence of your fitness, including letters of recommendation (as required by Occupations Code §53.023).

The Board also requires petitioners to demonstrate their ability to consistently conform to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice; to possess good professional character; and to pose no threat to the health and safety of patients and the public. The Board has adopted a rule, located at 22 Tex. Admin. Code §213.27, that sets forth the factors and disciplinary and eligibility policies and guidelines that must be used in evaluating good professional character in eligibility and disciplinary matters. Based upon the factors specified in §213.27, you have failed to provide sufficient evidence of good professional character required by §213.27.

Texas Occupations Code Chapters 53 and 301, as well as the Board's rules, 22 Tex. Admin. Code §213.27 - §213.33, the Board's Disciplinary Sanction Policies, and the Board's Disciplinary Guidelines for Criminal Conduct are hereby incorporated by reference herein and may be located on the Board's website at www.bon.texas.gov.

Please refer to Occupations Code §53.052 and Government Code Chapter 2001. Further, Occupations Code §53.026 requires the State Auditor to develop and publish a guide of best practices for applicants with prior convictions to utilize when applying for licensure. A link to the State Auditor's Office may be found at: <https://www.sao.texas.gov/>.

You will not be allowed to petition for reinstatement until you resolve the probationary restriction in your plea agreement permitting you to reapply for nursing licensure in this State; at least one (1) year from the date of this denial has elapsed; and until you have satisfied any conditions outlined in your order and any requirements required by law at the time of your application.

Due to this denial, you have the right to a public hearing before an Administrative Law Judge with the State Office of Administrative Hearings. Should you decide to appeal the decision to deny you licensure, please

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submit a written request for a public hearing, to the attention of Office of General Counsel, 333 Guadalupe, Suite 3-460, Austin, Texas, 78701. Your written request to appeal this decision must be received in our office within sixty (60) days of the date of this letter. Further, if this office receives information regarding additional criminal conduct or behavior that has not been previously disclosed to or discovered by this office, please be advised that evidence of such additional criminal conduct or behavior may be used against you during the public hearing in this matter to show that you lack the good professional character and other requirements for licensure.

Further, should the decision to deny your licensure be upheld by the State Office of Administrative Hearings, you will be entitled to judicial review by filing an action in the district court of Travis County, Texas. A petition for such an action must be filed not later than the 30th day after the date the licensing authority's decision is final and appealable.

If you have any questions, please contact Enforcement at (512) 305-6838.

Sincerely,



Katherine A. Thomas, MN, RN, FAAN
Executive Director

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