



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	§	ELIGIBILITY AGREED ORDER
JAMES SCOTT NEWBERRY,	§	FOR
Registered Nurse License Number 882933,	§	DISCIPLINE &
APPLICANT for Renewal of License	§	RENEWAL OF LICENSE

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of Registered Nurse License Number 882933 and the Application for RN Renewal and supporting documents filed by JAMES SCOTT NEWBERRY, 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 subject to discipline and ineligible for licensure renewal pursuant to Sections 301.452(b)(3) 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 November 19, 2021.

FINDINGS OF FACT

1. On or about November 1, 2021, 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 an Associate Degree in Nursing from Blinn College, Bryan, Texas, on May 1, 2015. Applicant was licensed to practice professional nursing in the State of Texas on July 7, 2015.
4. Applicant's license to practice as a professional nurse in the State of Texas is in current status.

5. Applicant's nursing employment history includes:

7/2015 – 7/2016	Registered Nurse	St. Joseph Emergency Department Bryan, Texas
8/2016 – 9/2021	Registered Nurse	UT Health East Texas Athens Emergency Department Athens, Texas
9/2021 – Present	Registered Nurse	Freestone Medical Center Fairfield, Texas

6. Applicant completed the Application 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.)*

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

On or about July 15, 2021, Applicant pleaded guilty to ASSAULT FAM/HOUSE MEM IMPEDE BREATH/CIRCULAT, a 3rd degree offense committed on July 15, 2016 in the 361st District Court of Brazos County, Texas, under Cause No. 16-04402-CRF-361. As a result of the plea, the proceedings against Applicant were deferred without entering an adjudication of guilt and he was sentenced to five (5) years community supervision and ordered to pay a one thousand dollars (\$1000) in fine.

8. Applicant provided letters of support of Application to the Board: Applicant's ex-wife, counselor, employer, criminal defense attorney, and current and former colleagues provided letters attesting to Applicant's character and nursing ability and supporting Applicant's license renewal. Applicant also provided documentation of completion of anger management courses as well as a battering intervention and prevention program.

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's review of the grounds for potential ineligibility has been made on the basis of Applicant's disclosures.
12. 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.
13. 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 November 1, 2021, Applicant submitted the Application requesting a determination of eligibility for licensure renewal.
3. Applicant's history reflects conduct which may constitute grounds for discipline and denial of license renewal under Section 301.452(b)(3), 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 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 his conduct to the requirements of the

Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

7. 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).
8. 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 JAMES SCOTT NEWBERRY for Renewal of License to practice nursing in the State of Texas be **GRANTED** and Registered Nurse License Number 882933, previously issued to JAMES SCOTT NEWBERRY, to practice nursing in the State of Texas is hereby **SUSPENDED** and said suspension is **STAYED**, and APPLICANT is hereby placed on **PROBATION** for a minimum of two (2) years **AND** until APPLICANT fulfills the additional requirements of this Order.

- A. Until successfully completed, this Order SHALL apply to any and all future licenses issued to APPLICANT to practice nursing in the State of Texas.
- B. 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.
- C. 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 license.

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 Agreed Order.

III. 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 effective date of this Order, 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.*

IV. 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 eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) 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. **Indirect Supervision:** 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.
- D. **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 eight (8) quarters [two (2) years] of employment as a nurse.

V. 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.

VI. SUBSEQUENT CRIMINAL PROCEEDINGS

IT IS FURTHER AGREED, should the APPLICANT'S conduct, as outlined in the findings of fact of this Agreed Order, 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.

VII. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Agreed Order, 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

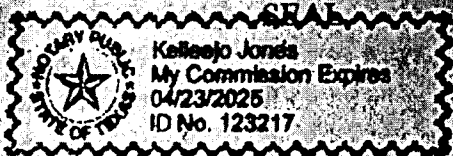
I understand this Order is conditioned upon the accuracy and completeness of my application and disclosures. I further understand that subsequently discovered discrepancies in my application and/or disclosures will result in investigation and possible disciplinary action, up to revocation of my license(s).

I have reviewed this Order. I understand that I have the right to legal counsel prior to signing this Order. 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 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 23 day of NOVEMBER, 2021.

J. Newberry
JAMES SCOTT NEWBERRY, APPLICANT

Sworn to and subscribed before me this 23 day of November, 2021.



Kellee Jones 4/23/25 exp
Notary Public in and for the State of TX Freestone County

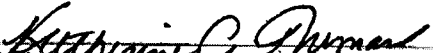
Approved as to form and substance.

Laura Diamond
Laura Diamond, Attorney for Applicant

Signed this 23 day of November, 2021.

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 23rd day of November, 2021, by JAMES SCOTT NEWBERRY, Registered Nurse License Number 882933, APPLICANT for Renewal of License, and said Agreed Order is final.

Effective this 14th day of December, 2021.


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