



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

Texas Board of Nursing

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

December 21, 2021

Certified Mail No. 9214 8901 9403 8300 0061 9555 22
Return Receipt Requested, Copy Via USPS First Class Mail

Rosario Janet Acosta
P.O. Box 1800
Gonzales, TX 78629

Dear Ms. Acosta:

Your Petition for Licensure Reinstatement and the supporting information related to your potential ineligibility for relicensure was considered by the Executive Director on November 15, 2021.

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 May 19, 2014, you entered a plea of Guilty to INJURY TO A CHILD, a 3rd Degree Felony offense committed on November 16, 2011, in the 2nd & 25th Judicial District Court of Gonzales County, Texas, under Cause No. 136-13-A. As a result of the plea the proceedings against you were deferred without entering an adjudication of guilt, and you were placed on probation for a period of five (5) years to run concurrent with Cause No. 5-13-A, and ordered to pay a fine and court costs. On February 21, 2019, you were discharged from community supervision.

On or about May 19, 2014, you entered a plea of Guilty to INJURY TO A CHILD, a 3rd Degree Felony offense committed on November 16, 2011, in the 2nd & 25th Judicial District Court of Gonzales County, Texas, under Cause No. 5-13-A. As a result of the plea the proceedings against you were deferred without entering an adjudication of guilt, and you were placed on probation for a period of five (5) years to run concurrent with Cause No. 136-13-A, and ordered to pay a fine and court costs. On February 21, 2019, you were discharged from community supervision.

On or about March 24, 2015, you voluntarily surrendered your license to practice vocational nursing in the State of Texas through an Agreed Order. As specified in that Agreed Order, you "SHALL NOT petition for reinstatement of licensure until at least five (5) years from the date the Respondent successfully completes and is dismissed from community supervision or parole has elapsed." Accordingly, you are not eligible to be considered for reinstatement of licensure until February 21, 2024.

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

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

Texas Occupations Code §301.4535 requires the denial of licensure for certain criminal history. Our records indicate that your criminal history falls within the requirements of §301.4535. Pursuant to §301.4535(b), may not issue a license to an applicant on proof that the applicant has been finally convicted or pled guilty or nolo contendere to an offense listed under section 301.4535(a)¹. Finally, subsection (c) of that law states that **a person is not eligible for an initial license or for reinstatement or endorsement of a license to practice nursing in this state before the fifth anniversary of the date the person successfully completed and was dismissed from community supervision or parole.**

Further, §213.28(k)(1) provides that the Board is required under Texas Occupations Code §301.4535(b) to deny an individual initial licensure or licensure renewal and to revoke an individual's nursing license or privilege to practice nursing in Texas upon a final conviction or a plea of guilty or nolo contendere for a criminal offense specified in §301.4535(a).

Further, the factors set out in 22 Texas Administrative Code §213.33 and §213.28(h) and Texas Occupations Code Chapter 53, specifically §53.022 and §53.023, do not apply in a case subject to Texas Occupations Code §301.4535. The State Office of Administrative Hearings has decided this question on several previous occasions.²

22 Tex. Admin. Code §213.28(k)(1) and Texas Occupations Code Chapter 301, are hereby incorporated by reference herein and may be located on the Board's website at www.bon.texas.gov.

You will not be allowed to petition for reinstatement until at least one (1) year from the date of this denial 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 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.

¹ TEX. OCC. CODE §301.4535 applies to an initial conviction, final conviction, or plea of guilty or nolo contendere for a crime listed in subsection (a) that occurred on or after September 1, 2005.

² See the following PFDs: Texas Board of Nursing v. Tina Gail Marek 507-16-1444, 507-16-1444, PFD filed on January 21, 2016; Texas Board of Nursing v. Tvarski Lashawn Stone 507-16-0557, PFD filed on April 11, 2016; Texas Board of Nursing v. Nathanael Shay McGrew 506-18-2492, PFD filed on March 23, 2018; Texas Board of Nursing v. Christopher R. Robbins 507-19-0028, PFD filed on September 26, 2018; Texas Board of Nursing v. Eric Michelle Jackson 507-18-3633, PFD filed on October 31, 2018; Texas Board of Nursing v. Derek K. Quillian 507-18-4086, PFD filed on December 5, 2018; Texas Board of Nursing v. Erin Jones 507-19-1152, PFD filed on December 19, 2018; Texas Board of Nursing v. Rene Ian Dominguez 507-19-3208, PFD filed on March 27, 2019.

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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,

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

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

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J5(2021.11.15)