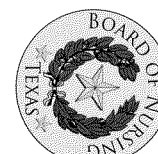




Texas Board of Nursing

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

August 10, 2020

Certified Mail No. 9214 8901 9403 8300 0018 0437 91
Return Receipt Requested, Copy Via USPS First Class Mail

Jacob Cannon
5253 W 40th
Odessa, TX 79764

Dear Ms. Cannon:

Your Petition for Licensure Reinstatement and the supporting information related to your potential ineligibility for relicensure was considered by the Executive Director on August 6, 2020.

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 October 3, 2017, you pleaded and were convicted of DRIVING WHILE INTOXICATED WITH CHILD PASSENGER, a state jail felony offense committed on March 11, 2017 in the 112th District Court, Crockett County, Texas, under Case No. 02968. As a result of the conviction, you were sentenced to confinement in the State Jail Division of the Texas Department of Criminal Justice for a period of six hundred (600) days; however, imposition of confinement was suspended and You were placed on community supervision for a period of three (3) years, and order to pay sixty (\$60) dollars, along with a fine and court costs. On or about April 1, 2020, You were released from the state contracted ISF at the East Texas Treatment Facility, in Henderson, Texas. You were released to a duly-authorized representative of the East Texas Treatment Facility and back to the Crockett County Community Supervision and Corrections Department as part of the Continuum of Care program.

On or about July 23, 2020, Respondent presented to Frank A. Pugliese, Ph.D., P.C., Temple, Texas, for psychological testing, an interview, and a polygraph examination. As a result, Dr. Pugliese was able to offer the following Conclusion and Recommendation: ...The evaluation revealed generally a well-adjusted and adaptable individual who seems to have made some substantive changes in his behavior since being incarcerated a few years ago.... Although it is apparent he has made some significant positive changes in his life during the past several months, there were strong indications he was not completely honest during the course of the polygraph examination completed by Mr. St. John on June 23rd this year since deception was

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noted by the examiner. In light of these observations, it is my impression that there is a strong probability Jacob Cannon would not be able to consistently behave in accordance with the requirements of Board Rules 213.27 – 213.29 as well as the minimum standards set forth in Board Rule 217.11. Moreover, it is my opinion that there is little probability Jacob would be able to consistently avoid behaviors identified by the Board as constituting unprofessional conduct. I strongly recommend he be encouraged to obtain therapeutic assistance for at least six months to gain additional insight into some of his maladaptive behavior prior to reapply for reinstatement of his license with the Board in the future.

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;"
- §301.452(b)(12): "lack of fitness to practice because of a mental or physical health condition that could result in injury to a patient or the public;"

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 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. The Board has also adopted a rule, located at 22 Tex. Admin. Code §213.29, regarding fitness to practice. You have failed to provide sufficient evidence of current fitness to practice based upon the criteria set forth in this rule.

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

Jacob Cannon
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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).

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 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.

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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J5(2020.08.06)