

## BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	REINSTATEMENT
Registered Nurse License Number 737682	§	AGREED ORDER
& Vocational Nurse License Number 191591	§	
issued to JAMES LITUNYA	§	
	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the Petition for Reinstatement, hereinafter referred to as the Petition, of Registered Nurse License Number 737682, and Vocational Nurse License Number 191591, held by JAMES LITUNYA, hereinafter referred to as Petitioner.

Petitioner waived notice and hearing and agreed to the entry of this Reinstatement Agreed Order approved by Kristin K. Benton, DNP, RN, Executive Director, on March 13, 2025.

### FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Petitioner waived notice and hearing, and agreed to the entry of this Reinstatement Agreed Order.
3. Petitioner received a Certificate in Vocational Nursing from El Centro College, Dallas, Texas, on August 4, 2003. Petitioner received an Associate Degree in Nursing from El Centro College, Dallas, Texas, on December 14, 2006. Petitioner was licensed to practice vocational nursing in the State of Texas on November 4, 2003. Petitioner was licensed to practice professional nursing in the State of Texas on February 1, 2007.
4. Petitioner's nursing employment history includes:

2006 – 2009	RN	Baylor Medical Hospital Carrollton, Texas
2009 – 2010	RN	Reliant Rehabilitation Hospital Plano, Texas

Petitioner's nursing employment history continued:

2011 – 2019	RN	Cherengany Nursing Home Kitale, Kenya
2019 – 2020	RN	Crystal Cottage Hospital And Clinic Limited Kitale, Kenya
2020 – Present	RN	Kitale County Hospital Kitale, Kenya

5. On or about June 12, 2012, Petitioner's licenses to practice nursing in the State of Texas were Revoked through an Order of the Board. A copy of the June 12, 2012, Order is attached and incorporated herein by reference as part of this Reinstatement Agreed Order.
6. On or about August 26, 2024, Petitioner submitted a Petition for Reinstatement of License to practice nursing in the State of Texas.
7. Petitioner presented the following in support of said petition:
  - A. Letter dated August 20, 2024, from Dr. Makali Wekesa Kitale County Hospital Psychiatry regarding mental assessment report Dr. Wekesa states Petitioner has been on treatment for Alcohol Use Disorder since August 2022 and has been abstinent from substance use since August 2022.
  - B. Therapy report received from Teresa Achieng indicating Petitioner received therapy until termination and was alcohol free, per the toxicology report. Petitioner was dismissed from therapy November 2024.
  - C. A personal statement from Petitioner, which states he had relocated to Kenya in February 2011, prior to the Board's hearing. Since this time, Petitioner states he matured, committed his life to Christ, has taken a mental assessment in the psychiatry unit at Kitale County Hospital and drug screenings; which were negative.
  - D. Letter dated August 21, 2024, from Reverend Aggrey Olumola Obanda states he has witnessed Petitioner's journey from alcoholism to a sober member of their congregation. Reverend Obanda states Petitioner works in their Youth Department and with their Outreach Programs and serves as a role model inspiring others with his story of redemption.

- E. Letter of experience dated August 21, 2024, from Makokha Pauline, Human Resources Officer with Cherangany Nursing Home which states Petitioner was an employee in the capacity of a nurse from September 2011 to June 2019.
  - F. Certificate of Employment dated August 21, 2024, which states Petitioner was an employee of Crystal Cottage Hospital and Medical Clinic Limited, Kitale Kenya from November 2019 to May 2020 as a nurse.
  - G. Documentation of the 20 required continuing education contact hours.
- 8. The Executive Director considered evidence of Petitioner's past behavior in light of the factors set out in 22 TEX. ADMIN. CODE §213.27 and determined that Petitioner currently demonstrates the criteria required for relicensure.
  - 9. The Executive Director considered evidence of Petitioner'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.
  - 10. The Executive Director considered evidence of Petitioner's mental illness and subsequent treatment as provided in 22 TEX. ADMIN. CODE §213.29 and in accordance with 22 TEX. ADMIN. CODE §213.33.
  - 11. Relicensure of Petitioner poses no direct threat to the health and safety of patients or the public provided Petitioner complies with the stipulations outlined in this Order.
  - 12. The Executive Director's review of Petitioner's eligibility for relicensure has been made on the basis of Petitioner's disclosures.

#### CONCLUSIONS OF LAW

- 1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
- 2. This reinstatement is made pursuant to Sections 301.453(c) and 301.467, Texas Occupations Code and 22 TEX. ADMIN. CODE §213.26.
- 3. The Board may relicense 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.

4. The Board may license an individual who has a history of mental illness and 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.
5. This Order is conditioned upon the accuracy and completeness of Petitioner's disclosures. Any subsequently discovered discrepancies will result in investigation and possible disciplinary action, up to revocation of Petitioner's license(s).
6. 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. REINSTATEMENT OF LICENSURE AND APPLICABILITY**

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that the petition of JAMES LITUNYA for reinstatement of license to practice nursing in the State of Texas be **GRANTED** and Registered Nurse License Number 737682, and Vocational Nurse License Number 191591 is/are hereby **REINSTATED** in accordance with the terms of this Order.

- A. PETITIONER SHALL submit an application for licensure renewal/reactivation, as applicable, and pay all re-registration fees, if any, and PETITIONER'S licensure status in the State of Texas will be activated and updated to current status and to reflect the applicable conditions outlined herein.
- B. Until successfully completed, this Order SHALL apply to any and all future licenses issued to PETITIONER to practice nursing in the State of Texas.
- C. Until successfully completed, this Order SHALL be applicable to PETITIONER'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- D. Until successfully completed, PETITIONER may not practice nursing in the State of Texas except in accordance with the terms of this Order.
- E. As a result of this Order, PETITIONER'S license(s) will be designated "single state" as applicable and PETITIONER 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, PETITIONER 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 Reinstatement Agreed Order.

## III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, PETITIONER SHALL successfully complete the following remedial education course(s) **within one (1) year of relicensure, 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 "Righting a Wrong,"** a 3.0 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) International Center for Regulatory Scholarship (ICRS).

In order to receive credit for completion of this/these course(s), PETITIONER 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. PETITIONER 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](http://www.bon.texas.gov/compliance).*

**IV. MONITORING FEE**

PETITIONER SHALL pay a monitoring fee in the amount of five hundred dollars (\$500.00) within forty-five (45) days of relicensure. 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.

**V. EMPLOYMENT REQUIREMENTS**

In order to complete the terms of this Order, PETITIONER 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:** PETITIONER 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, PETITIONER 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:** PETITIONER 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. PETITIONER 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, PETITIONER 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 PETITIONER is regularly assigned.

- D. **No Critical Care:** For the first year [four (4) quarters] of employment as a Nurse under this Order, PETITIONER 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, PETITIONER 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, PETITIONER 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 PETITIONER and immediately available to provide assistance and intervention. PETITIONER SHALL work only on regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- G. **Indirect Supervision:** For the remainder of the stipulation/probation period, PETITIONER 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 PETITIONER, 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 PETITIONER is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- H. **Nursing Performance Evaluations:** PETITIONER SHALL CAUSE each employer to submit, on forms provided to the PETITIONER by the Board, periodic reports as to PETITIONER'S capability to practice nursing. These reports shall be completed by the individual who supervises the PETITIONER 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.

## VI. DRUG AND ALCOHOL RELATED REQUIREMENTS

A. While under the terms of this Order, PETITIONER 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, PETITIONER 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 PETITIONER 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, PETITIONER 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 PETITIONER obtains employment and submits the Notification of Employment form to the Board.

- For the first three (3) month [1<sup>st</sup> quarter] period PETITIONER 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 [2<sup>nd</sup> quarter] period, random screens shall be performed at least twice per month.
- For the next six (6) month period [3<sup>rd</sup> & 4<sup>th</sup> 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 initially conducted through urinalysis, and subsequent testing or required re-tests, when applicable, may be obtained through blood, hair/nail, and/or breathalyzer, as directed by the Board's drug and alcohol testing program. Any test result for a period of time in which the PETITIONER 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. PETITIONER 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, **PETITIONER SHALL, on a daily basis, call or login online to the Board's designated drug and alcohol testing vendor to determine whether or not PETITIONER 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 PETITIONER'S place of employment at any time during the probation period and require PETITIONER to produce a specimen for screening.

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

PETITIONER 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 PETITIONER. PETITIONER 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.

## **VII. THERAPY REPORTS**

**While working as a nurse under the terms of this Order, PETITIONER SHALL participate in therapy with a professional counselor with credentials approved by the Board.** PETITIONER SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the PETITIONER'S progress in therapy, rehabilitation and capability to safely practice nursing. The report must indicate whether or not the PETITIONER'S stability is sufficient to provide direct patient care safely. For the first three (3) month quarterly period PETITIONER works as a nurse under the terms of this Order, reports are to be submitted to the Board each and every month. If therapy is recommended by the counselor for an additional period of time, the reports shall then be submitted to the Board at the end of each three (3) month quarterly period in which the PETITIONER is working as a nurse under the terms of this Order, for the remainder of the term of the Order, or until PETITIONER is dismissed from therapy, whichever is earlier.

## **VIII. RESTORATION OF UNENCUMBERED LICENSE(S)**

Upon full compliance with the terms of this Reinstatement Agreed Order, all encumbrances will be removed from PETITIONER'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, PETITIONER may be eligible for nurse licensure compact privileges, if any.

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**PETITIONER'S CERTIFICATION**

I understand this Order is conditioned upon the accuracy and completeness of my petition and disclosures. I further understand that subsequently discovered discrepancies in my petition 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.

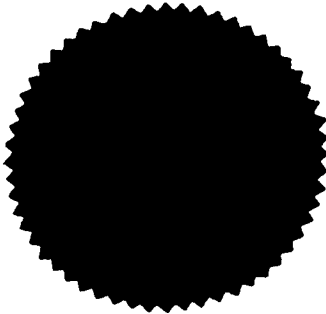
Signed this 10<sup>th</sup> day of June, 2025.

  
JAMES LITUNYA, PETITIONER

Sworn to and subscribed before me this 10<sup>th</sup> day of June, 2025.

SEAL

Notary Public in and for the State of \_\_\_\_\_



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 10th day of June, 2025, by JAMES LITUNYA, Registered Nurse License Number 737682, and Vocational Nurse License Number 191591, and said Reinstatement Agreed Order is final.

Effective this 17th day of July, 2025.

*Kristin K. Benton, DNP, RN*

\_\_\_\_\_  
Kristin K. Benton, DNP, RN  
Executive Director on behalf  
of said Board

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBERS 737682 & 191591  
ISSUED TO  
JAMES LITUNYA

§  
§  
§  
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§  
§

BEFORE THE ELIGIBILITY  
AND DISCIPLINARY  
COMMITTEE  
OF THE TEXAS  
BOARD OF NURSING



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.  
*Stephanie A. Thomas*  
Executive Director of the Board

### ORDER OF THE BOARD

TO: James Litunya  
14606 Dallas Parkway, #1108  
Dallas, TX 75254

During open meeting held in Austin, Texas, on Tuesday, June 12, 2012, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee of the Texas Board of Nursing finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's license to practice professional and vocational nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Eligibility and Disciplinary Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing [22 TEX. ADMIN.CODE § 213.16(j)]. All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Numbers 737682 & 191591, previously issued to JAMES LITUNYA, to practice professional and vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice professional and vocational nursing in the State of Texas.

Entered this 12th day of June, 2012.

TEXAS BOARD OF NURSING



BY:

KATHERINE A. THOMAS, MN, RN, FAAN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Attachment: Formal Charge filed May 10, 2012.

Re: Permanent Certificate Numbers 737682 & 191591  
Issued to JAMES LITUNYA  
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 14<sup>th</sup> day of June, 2012, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

James Litunya  
14606 Dallas Parkway, #1108  
Dallas, TX 75254

cc: 7001 W. Parker, Apt #312  
Plano, TX 75093

BY:

Katherine A. Thomas  
KATHERINE A. THOMAS, MN, RN, FAAN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD



In the Matter of Registered Nurse	§	BEFORE THE TEXAS
License Number 737682 & Vocational	§	
Nurse License Number 191591, Issued to	§	
JAMES LITUNYA, Respondent	§	BOARD OF NURSING

### FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, JAMES LITUNYA, is a Registered Nurse holding license number 737682, and a Vocational Nurse holding license number 191591, which are in delinquent status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

### CHARGE I.

On or about August 29, 2009, while employed as a Registered Nurse with Baylor Medical Center at Carrollton, Carrollton, Texas, Respondent lacked fitness to practice professional nursing in that while on duty, Respondent had blood shot eyes, slurred speech, slow gait, was unsteady, and had the smell of Alcohol on or about his person. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10),(12)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.11(1)(B)&(1)(T) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(E),(4),(5)&(10)(A).

### CHARGE II.

On or about August 29, 2009, while employed as a Registered Nurse with Baylor Medical Center at Carrollton, Carrollton, Texas, Respondent engaged in the intemperate use of Alcohol in that Respondent submitted a specimen for a drug screen which resulted positive for Alcohol. The use of Alcohol by a nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in patients' conditions, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(A),(4),(5)&(10)(A).

### CHARGE III.

On or about August 6, 2010, Respondent entered a plea of Guilty and was subsequently Convicted of INTERFERING WITH AN EMERGENCY CALL (a Class A Misdemeanor offense committed on June 20, 2010), which was filed in the Collin County Court at Law No. 3, McKinney, Texas, under Cause No. 003-85126-10. As a result of the Conviction, Respondent was placed on probation for a period of fifteen (15) months. Additionally, Respondent was ordered to pay a fine and court costs.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

### CHARGE IV.

On or about August 6, 2010, Respondent entered a plea of Guilty and was subsequently Convicted of ASSAULT CAUSES BODILY INJURY - FAMILY MEMBER (a Class A Misdemeanor offense committed on June 20, 2010), which was filed in the Collin County Court at Law No. 3, McKinney, Texas, under Cause No. 003-85127-10. As a result of the Conviction, Respondent was placed on probation for a period of fifteen (15) months. Additionally, Respondent was ordered to pay a fine and court costs.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

### CHARGE V.

On or about January 15, 2011, Respondent was arrested by the Addison Police Department, Addison, Texas, for DRIVING WHILE INTOXICATED - 2nd (a Class A Misdemeanor offense committed on January 15, 2011). This case has been filed in the Dallas County Criminal Court No. 7, Dallas, Texas, under Cause No. MA1111041, and is currently Pending.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(13).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's licenses to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1,200.00).

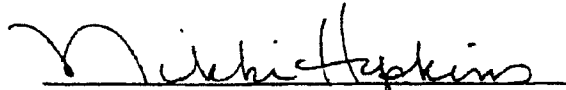
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Guidelines for Criminal Conduct and on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, which can be found at the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at [www.bon.texas.gov/disciplinaryaction/discp-matrix.html](http://www.bon.texas.gov/disciplinaryaction/discp-matrix.html).

Filed this 10<sup>th</sup> day of May, 2012.

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