



BOARD OF NURSE EXAMINERS FOR THE STATE OF TEXAS

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KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR

May 29, 1998

Certified Mail No. Z 134 471 534
Return Receipt Requested

Tania Mari Roessner
#3 Winding Creek Court
Trophy Club, Texas 76262

Dear Ms. Roessner:

Please find enclosed your *Conditional Eligibility Order* regarding the Petition for Declaratory Order you filed with the Board of Nurse Examiners. I have also enclosed your *Graduate Nurse Permit* and a copy of the *Nursing Practice Act*.

Please note, your eligibility to take the NCLEX-RN may be affected by any inaccuracies in your petition, and any subsequent violation of the Nursing Practice Act may also affect your eligibility.

If you have any questions regarding scheduling your exam, please contact our office at 512/305-6817.

Sincerely,

Katherine A. Thomas, MN, RN
Executive Director

KAT:cs

Enclosure: Conditional Eligibility Order
Graduate Nurse Permit
Nursing Practice Act



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

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IN THE MATTER OF	§	BEFORE THE BOARD OF
TANIA MARI ROESSNER	§	NURSE EXAMINERS
PETITIONER FOR ELIGIBILITY	§	FOR THE
OF INITIAL LICENSURE	§	STATE OF TEXAS

CONDITIONAL ELIGIBILITY ORDER

On the date entered below, the Executive Director of the Board of Nurse Examiners, Katherine A. Thomas, MN, RN, considered the Petition for Declaratory Order and supporting documents filed by TANIA MARI ROESSNER together with any documents and information gathered by staff, and makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Tania Mari Roessner (Petitioner) submitted a petition and supporting documents requesting a determination of eligibility for licensure.
2. Staff's review of the grounds for potential ineligibility has been made on the basis of the information provided by Petitioner.
3. Petitioner has been advised that any information found to be incomplete, incorrect, or misleading will be considered and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through misrepresentation.
4. Petitioner provided an affirmative answer to the inquiry authorized by Rule 213.29 (b) (2) at 22 Texas Administrative Code and presented evidence of current fitness to practice professional nursing.
5. Licensure of Petitioner poses no direct threat to the health and safety of patients or the public.

CONCLUSIONS OF LAW

1. The Board of Nurse Examiners has jurisdiction over this matter pursuant to Article 4525(a), Texas Revised Civil Statutes, Annotated, as amended.
2. Petitioner submitted a petition in accordance with Article 4519a(a), TEX. REV. CIV. STAT. ANN., as amended.

3. The Board of Nurse Examiners may license an individual who has presented an evaluation substantiating current fitness if, after consideration of the criteria set out in 22 Texas Administrative Code §213.29, the Board determines there is no direct threat to the health and safety of patients or the public.

IT IS THEREFORE CONSIDERED, that:

TANIA MARI ROESSNER

IS DECLARED CONDITIONALLY ELIGIBLE FOR LICENSURE SUBJECT TO THE RESERVATIONS AND REQUIREMENTS SET OUT IN THIS ORDER:

1. Petitioner shall, upon graduation from an accredited school of nursing, satisfy all requirements for entrance to the National Council Licensure Examination for Registered Nurses (NCLEX-RN), and licensure by the Board.
2. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Article 4525(b), TEX. REV. CIV. STAT. ANN., as amended.
3. The Board shall determine eligibility for licensure in accordance with Article 4525(a), TEX. REV. CIV. STAT. ANN., as amended, at the time of application for examination and licensure. Any disclosure by an individual in the Declaratory Order process later found to be incomplete or incorrect or any subsequent conduct or condition constituting a basis for ineligibility shall be considered by the Board in evaluating a graduate nurse's ultimate eligibility.
4. Upon authorization to practice professional nursing in Texas, Petitioner shall comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas Article 4513 et seq., the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 Texas Administrative Code §211.01 et seq., and this Order.

PETITIONER'S CERTIFICATE

I am the Petitioner in this matter. I have fully and truthfully disclosed all relevant information in conformity with Rule 213.29 at 22 Texas Administrative Code. I certify that my past behavior, except as disclosed in my Petition for Declaratory Order, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of conviction, such as: conditional discharge, deferred adjudication, or dismissal. I have no criminal prosecution pending in any jurisdiction.

In connection with my petition, I acknowledge that I have read and I understand Articles 4519a(a) and 4525(a) and (b), Texas Revised Civil Statutes, Annotated, as amended, and Board Rules 213.27, 213.28, and 213.29 at 22 Texas Administrative Code, which are incorporated by reference as a part of this Order. I agree with all terms of this Order, including the Findings of Fact and Conclusions of Law and any stipulations. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to registering for the NCLEX-RN or accepting any permit or license from the Board of Nurse Examiners.

I understand that I can be represented by an attorney in this matter. I waive representation, notice, and hearing and request that the Executive Director of the Board of Nurse Examiners enter this Order.

Signed this 20 day of May, 1998.
Tania Mari Roessner
TANIA MARI ROESSNER

Sworn to and subscribed before me by the said Tania Roessner this 20 day of May, 1998.

Betty Parkinson
Notary Public in and for the State of Texas



Entered this 29th day of May, 19 98.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS



By: Katherine A. Thomas, MN, RN
Executive Director
On behalf of said Board

- Attachments: [1] Article 4519a(a), Texas Revised Civil Statutes, Annotated, as amended
[2] Article 4525(a) and (b), Texas Revised Civil Statutes, Annotated, as amended
[3] Rule 213.27 at 22 Texas Administrative Code
[4] Rule 213.28 at 22 Texas Administrative Code
[5] Rule 213.29 at 22 Texas Administrative Code

Article 4519a. DECLARATORY ORDERS OF ELIGIBILITY FOR LICENSURE.

- (a) An individual enrolled or planning to enroll in an educational program that prepares an individual for an initial license as a registered nurse who has reason to believe that the individual is ineligible for the license may petition the board for a declaratory order as to the individual's eligibility. The petition must state the basis for the individual's potential ineligibility. The board shall have the same powers to investigate the petition and the individual's eligibility that it has to investigate a person applying for a license. The petitioning individual or the board may amend the petition at any time before a final determination is made to include additional grounds for potential ineligibility.

Article 4525. DISCIPLINARY PROCEEDINGS

(a) The Board may refuse to admit persons to the licensing examination, to issue or renew a license, or to issue a temporary permit for any of the reasons for which the Board may take disciplinary action against a registered nurse under Subsection (b) of this article. If the Board proposes to refuse to admit a person to the examination, to issue or renew a license, or to issue a temporary permit, the Board shall notify the person of the basis for its decision. A person who is refused admittance to the examination or the renewal or issuance of a license or temporary Permit is entitled to a hearing before an administrative law judge of the State Office of Administrative Hearings.

(b) The Board may take disciplinary action against a registered nurse for any of the following reasons:

(1) The violation of any of the provisions of this law, any rule, regulation not inconsistent with this law, or order issued hereinunder.

(2) Fraud or deceit in procuring or attempting to procure a license to practice professional nursing.

(3) Conviction of a crime of the grade of felony, or a crime of lesser grade which involves moral turpitude, or any conduct-resulting in the revocation or probation imposed pursuant to such conviction.

(4) The use of any nursing license, certificate, diploma or permit, or transcript of such license, certificate, diploma or permit, which has been fraudulently purchased, issued, counterfeited, or materially altered.

(5) The impersonation of, or the acting as a proxy for, another in any examination required by law to obtain a license to practice professional nursing.

(6) Aiding or abetting, directly or indirectly, or in any manner whatsoever, any unlicensed person in connection with the unauthorized practice of professional nursing.

(7) Revocation, suspension, or denial of or any other action relating to the license to practice nursing in another jurisdiction. Certified copy of the order of denial, suspension, revocation, or any other action shall be conclusive evidence thereof.

(8) Intemperate use of alcohol or drugs that the Board determines endangers or could endanger patients. Intemperate use includes but is not limited to practicing professional nursing or being on duty or call while under the influence of alcohol or drugs.

(9) Unprofessional conduct which, in the opinion of the Board, is likely to deceive, defraud, or injure patients or the public.

(10) Adjudication of mental incompetency.

(11) Lack of fitness to practice by reason of mental or physical health that could result in injury to patients or the public.

(12) Failing to care adequately for patients or to conform to the minimum standards of acceptable professional nursing practice that, in the opinion of the Board, exposes a patient or other person unnecessarily to risk of harm.

213.27. Good Professional Character.

(a) Good professional character is the integrated pattern of personal, academic and occupational behaviors which, in the judgment of the Board, indicates that an individual is able to consistently conform his or her conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice including, but not limited to, behaviors indicating: honesty, accountability, trustworthiness, reliability and integrity.

(b) Factors to be used in evaluating good professional character in eligibility and disciplinary matters are:

(1) Good professional character is determined through the evaluation of behaviors demonstrated by an individual in his or her personal, academic and occupational history. An individual's age, education and experience necessarily affect the nature and extent of behavioral history; and, therefore shall be considered in each evaluation.

(2) A person who seeks to obtain or retain a license to practice professional nursing shall provide evidence of good professional character which, in the judgment of the Board, is sufficient to insure that the individual can consistently act in the best interest of patients/clients and the public in any practice setting. Such evidence shall establish that the person:

(A) is able to distinguish right from wrong;

(B) is able to think and act rationally;

(C) is able to keep promises and honor obligations;

(D) is accountable for his or her own behavior;

(E) is able to practice nursing in an autonomous role with patients/clients, their families and significant others and members of the public who are or who may become physically, emotionally or financially vulnerable;

(F) is able to recognize and honor the interpersonal boundaries appropriate to any therapeutic relationship or health care setting; and

(G) is able to promptly and fully self-disclose facts, circumstances, events, errors and omissions when such disclosure could enhance the health status of patients/ clients or the public or could protect patients/clients or the public from unnecessary risk of harm.

§213.28. Licensure of Persons with Criminal Convictions.

(a) This section sets out the guidelines and criteria on the eligibility of persons with criminal convictions to obtain a license as a registered nurse. The Board may refuse to admit persons to its licensure examinations, may refuse to issue a license or certificate of registration, or may refuse to issue a temporary permit to any individual that has been convicted of a felony, a misdemeanor involving moral turpitude, or engaged in conduct resulting in the revocation of probation imposed pursuant to such conviction.

(b) The practice of nursing involves clients, their families and significant others and the public in diverse settings. The registered nurse practices in an autonomous role with individuals who are physically, emotionally and financially vulnerable. The nurse has access to personal information about all aspects of a person's life, resources and relationships. Therefore criminal behavior, whether violent or non-violent, directed against persons, property or public order and decency is considered by the Board as highly relevant to an individual's fitness to practice nursing.

(c) In considering whether a criminal conviction renders the individual ineligible for licensure as a registered nurse, the Board shall consider:

- (1) the knowing or intentional practice of professional nursing without a license issued under the NPA;
- (2) any felony or misdemeanor involving moral turpitude;
- (3) the nature and seriousness of the crime;
- (4) the relationship of the crime to the purposes for requiring a license to engage in professional nursing practice;
- (5) 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; and
- (6) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of professional nursing practice.

(d) In addition to the factors that may be considered under subsection (c) of this section, the Board, in determining the present fitness of a person who has been convicted of a crime, shall consider:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person at the time of the commission of the crime;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person prior to and following the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and
- (6) other evidence of the person's present fitness, including letters of recommendation from: prosecutorial, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff or chief of police in the community where the person resides; and any other persons in contact with the convicted person.

(e) It shall be the responsibility of the applicant, to the extent possible, to secure and provide to the Board the recommendations of the prosecution, law enforcement, and correctional authorities as required under this Act; the applicant shall also furnish proof in such form as may be required by the licensing authority that he or she has maintained a record of steady employment and has supported his or her dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted.

(f) Behavior that would otherwise bar or impede licensure may be deemed a "Youthful Indiscretion" as determined by an analysis of the behavior using the factors set out in §213.27 of this title (relating to Good Professional Character), subsections (a)-(e) of this section and at least the following criteria:

- (1) *age of 22 years or less at the time of the behavior;*
- (2) *absence of criminal plan or premeditation;*
- (3) *presence of peer pressure or other contributing influences;*
- (4) *absence of adult supervision or guidance;*
- (5) *evidence of immature thought process/judgment at the time of the activity;*
- (6) *evidence of remorse;*
- (7) *evidence of restitution to both victim and community;*
- (8) *evidence of personal accountability following the conduct;*
- (9) *absence of subsequent undesirable conduct;*
- (10) *evidence of having learned from past mistakes;*
- (11) *evidence of current support structures that will prevent future criminal activity; and*
- (12) *evidence of currently posing no threat to the public safety if allowed to practice nursing.*

§213.29. Eligibility and Disciplinary Criteria Regarding Intemperate Use and Lack of Fitness.

(a) Persons desiring to obtain or retain a license to practice professional nursing shall provide evidence of current sobriety and fitness.

(b) Such persons shall answer the following questions:

(1) I (have)(have not), within the past five years, been addicted to or treated for the use of alcohol or any other drug.

(2) I (have)(have not) been diagnosed with or treated or hospitalized in the past five years for schizophrenia and other psychotic disorders, major depression, bi-polar disorder, paranoid personality disorder, antisocial personality disorder, or borderline personality disorder.

(c) Such persons shall execute an authorization for release of medical, psychiatric and treatment records in relation to the conditions mentioned in subsection (b) of this section.

(d) Such persons shall submit to evaluation by a professional chosen by the Board to determine current sobriety and fitness which evaluation shall be limited to the conditions mentioned in subsection (b) of this section.

(e) Prior intemperate use or mental illness is relevant only so far as it may indicate current intemperate use or lack of fitness.

(f) No license shall be denied under this rule unless it is shown that the person seeking to obtain or retain the license poses a direct threat to the health and safety of patients/clients, their families or significant others or the public.