



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	§	AGREED ORDER
DELILAH JEANNINE SOUTER,	§	FOR
Privilege to Practice from Wisconsin	§	DISCIPLINE & ELIGIBILITY
Registered Nurse License Number 147939 and	§	
PETITIONER for Eligibility for Licensure	§	

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of Privilege to Practice from Wisconsin Registered Nurse License Number 147939 and the Endorsement Application, which has been processed as a Petition for Declaratory Order, hereinafter referred to as the Petition, pursuant to 22 TEX. ADMIN. CODE §217.5(f) and §213.30, and supporting documents filed by DELILAH JEANNINE SOUTER, hereinafter referred to as PETITIONER, requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.257, and 301.260, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §217.5(f) and §213.30, together with any documents and information gathered by staff and Petitioner's Certification contained herein.

Information received by the Board produced evidence that PETITIONER may be subject to discipline and ineligible for licensure pursuant to Sections 301.452(b)(10)&(13), 301.453 and 304.001, Article 5, Texas Occupations Code.

PETITIONER waived notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on October 20, 2016.

FINDINGS OF FACT

1. On or about August 17, 2015, PETITIONER submitted the Petition requesting a determination of eligibility for licensure.

2. Respondent received an Associate Degree in Nursing from Gateway Technical College, Kenosha, Wisconsin, on May 17, 2004. Petitioner was licensed to practice professional nursing in the State of Wisconsin on June 17, 2004.
3. Petitioner completed the Petition and answered "yes" to the question which reads as follows:
"For any criminal offense, including those pending appeal, have you:
 - A. *been arrested and have a pending criminal charge?*
 - B. *been convicted of a misdemeanor?*
 - C. *been convicted of a felony?*
 - D. *pled nolo contendere, no contest, or guilty?*
 - E. *received deferred adjudication?*
 - F. *been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?*
 - G. *been sentenced to serve jail time, prison time, or court-ordered confinement?*
 - H. *been granted pre-trial diversion?*
 - 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 or offenses previously disclosed to the Texas Board of Nursing on an initial licensure or renewal application.)"*
4. Petitioner disclosed the following criminal history, to wit:
 - A. On May 30, 1996, Petitioner was convicted of OPERATING A VEHICLE WITHOUT OWNER'S CONSENT, a felony offense committed on August 29, 1995, in Milwaukee County, Wisconsin, under Case Number 1995CF955376. Petitioner was sentenced to one (1) year imprisonment. The imprisonment was stayed, and Petitioner was placed on probation for a period of five (5) years, and ordered to pay restitution in the amount of two thousand (\$2000.00) dollars. On or about April 24, 2002, Petitioner was discharged from probation.
5. There is no evidence of any subsequent criminal conduct.
6. On or about September 8, 2015, through September 21, 2015, while utilizing a Privilege to Practice (PTP) nursing from the State of Wisconsin and employed as a Registered Nurse with StoneGate Care Team, Irving, Texas, Respondent falsely documented in the medical records of three (3) patients that she provided nursing care that she did not perform. Respondent's conduct created inaccurate medical records and was likely to injure the patients in that subsequent care givers would rely on her documentation to further administer care to the patients.

7. On or about March 24, 2016, through April 19, 2016, while employed as a Registered Nurse with Paloma Home Health Agency, Carrollton, Texas, Respondent practiced as a Registered Nurse in violation of the Nurse Licensure Compact. Respondent had previously established residency in the State of Texas but continued to use her Privilege to Practice from the State of Wisconsin after her temporary Texas license expired. Respondent's conduct was likely to deceive the Board regarding her primary state of residence and was likely to deceive her employer regarding Respondent's compliance with nurse licensure compact requirements and provisions, in that they relied on the Multistate Licensure Compact Privilege associated with Respondent's Wisconsin license to continue her employment as a Registered Nurse.
8. Regarding the conduct outlined in Finding of Fact Number Six (6), Respondent does not admit any wrongdoing and believes she has provided information that refutes the Board's finding.
9. Petitioner has sworn that, with the exception of matters disclosed in connection with the Petition, her past behavior conforms to the Board's professional character requirements at 22 TEX. ADMIN. CODE §213.27.
10. The Executive Director considered evidence of Petitioner's past behavior in light of the character factors set out in 22 TEX. ADMIN. CODE §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character.
11. The Executive Director considered evidence of Petitioner'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.
12. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.
13. Petitioner 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.
14. Petitioner 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. The Board has jurisdiction over this matter pursuant to Sections 301.452 and 301.453, Texas Occupations Code.

2. On or about August 17, 2015, Petitioner submitted the Petition requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.257, and 301.260, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §217.5(f) and §213.30.
3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.11(1)(A), (1)(B) & (1)(D) and 22 TEX. ADMIN. CODE §217.12(1)(A), (1)(B), (4), (6)(A) & (6)(H).
4. Petitioner's history reflects conduct which may constitute grounds for discipline and denial of a license under Section 301.452(b)(10)&(13), 301.453 and 304.001, Article 5, Texas Occupations Code.
5. The Board may probate the denial of a license under conditions for a specified term pursuant to Section 301.453, Texas Occupations Code.
6. 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, if applicable, Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.
7. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 TEX. ADMIN. CODE §213.27, and pursuant to 22 TEX. ADMIN. CODE §213.33, the Board is satisfied that the individual is able to consistently conform her conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.
8. 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).

TERMS OF ORDER

I. ELIGIBILITY FOR LICENSURE

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board, that PETITIONER SHALL receive the sanction of **WARNING WITH STIPULATIONS AND A FINE** and the Petition is hereby **GRANTED**, and upon payment of any required fees and meeting all other applicable requirements, PETITIONER SHALL be issued the applicable license to practice

nursing in the State of Texas, all in accordance with the terms of this Order.

II. COMPLIANCE WITH LAW AND APPLICABILITY

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 Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Order.

- A. Until successfully completed, any and all licenses issued to Petitioner shall be subject to the terms of this Order.
- B. This Order SHALL be applicable to PETITIONER'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. As a result of this Order, PETITIONER'S license(s) will be designated "single state" and PETITIONER may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where PETITIONER wishes to work.

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 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 courses and video programs will not be approved.

- B. A Board-approved course in nursing documentation that shall be a minimum of six (6) hours in length. The course's content shall include: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. Home study courses and video programs will not be approved.
- C. 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), 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.*

IV. MONETARY FINE

PETITIONER SHALL pay a monetary fine in the amount of five hundred dollars (\$500.00) within forty-five (45) days of entry of this Order. 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 four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until four (4) quarterly periods of employment as a nurse have elapsed. Any quarterly period without continuous employment with the same employer for all three (3) months will not count towards completion of this requirement. 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, as applicable, 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, as applicable, 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. **Indirect Supervision:** 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 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.
- D. **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 nurse who supervises the Petitioner and these reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month quarterly period for four (4) quarters [one (1) year] of employment as a nurse.

VI. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Order, all encumbrances will be removed from PETITIONER'S license(s) to practice nursing in the State of Texas and PETITIONER may be eligible for nurse licensure compact privileges, if any.

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PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past conduct which could constitute grounds for licensure ineligibility, and I have caused a complete and accurate criminal history to be submitted to the Texas Board of Nursing from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. I certify that my past behavior, except as disclosed in my application/petition, has been in conformity with the Board's character rule. I have provided the Board with complete and accurate documentation of my past conduct 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 application, I acknowledge that I have read and I understand Sections 301.157(d), 301.252, 301.253, 301.257, 301.258, 301.260, 301.452, and 301.453, Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and 22 TEX. ADMIN. CODE §§213.27, 213.28, 213.29, and 213.30. I agree with all terms of this Order, including the Findings of Fact and Conclusions of Law and any stipulations as set out in this Order. I acknowledge that this Order is stipulated and I understand that I am not eligible to receive a Temporary Permit to practice nursing. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to accepting any license from the Texas Board of Nursing.

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 nurse licensure compact privileges, if any, to practice nursing in the State of Texas, as a consequence of my noncompliance.

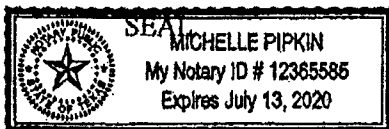
I understand that I can be represented by an attorney in this matter. I waive notice, administrative hearing, and judicial review of this Order and request that the Texas Board of Nursing ratify this Order.

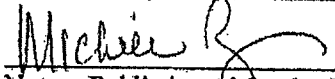
Signed this 12 day of December, 2016.



DELILAH JEANNINE SOUTER, PETITIONER

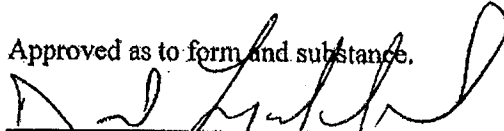
Sworn to and subscribed before me this 12 day of December, 2016.





Notary Public in and for the State of TEXAS

Approved as to form and substance.



David Langenfeld, Attorney for Petitioner

Signed this 12th day of Dec., 2016

WHEREFORE PREMISES CONSIDERED, the Texas Board of Nursing does hereby accept and enter the Agreed Order for Discipline and Eligibility that was signed on the 12th day of December, 2016, by DELILAH JEANNINE SOUTER, Privilege to Practice from Wisconsin Registered Nurse License Number 147939 and PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this 19th day of January, 2017.

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

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