

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse § AGREED
License Number 640981 §
issued to SHERRI STANFORD § ORDER



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

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of SHERRI STANFORD, Registered Nurse License Number 640981 hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on January 26, 2011, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

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 Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received an Associate Degree in Nursing from Navarro College, Corsicana, Texas, on May 1, 1997. Respondent was licensed to practice professional nursing in the State of Texas on June 17, 1997.
5. Respondent's professional nursing employment history includes:

1997 - 1998	RN	Navarro Regional Hospital Corsicana, Texas
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Respondent's professional nursing employment history continued:

1998 - 2000	RN	Methodist Central Hospital Dallas, Texas
1999 - 2003	RN	Favorite Nurses Agency Dallas, Texas
2001 - 2002	RN	Freseneous Medical Center Dallas, Texas
10/03 - 10/09	RN	ETMC Home Health Tyler, Texas
11/09 - Present	Unknown	

6. On or about April 29, 1997, Respondent was issued a CONDITIONAL ELIGIBILITY ORDER by the Board of Nurse Examiners for the State of Texas, Austin, Texas. A copy of the Findings of Fact, Conclusions of Law, and Order dated April 29, 1997, is attached and incorporated, by reference, as part of this order.
7. At the time of the initial incident, Respondent was employed as a registered nurse with East Texas Medical Center Home Health, Tyler, Texas, and had been in this position for six (6) years.
8. On or about October 15, 2009, while employed with East Texas Medical Center Home Health, Tyler, Texas, Respondent falsified a home health visit note for Patient Medical Record Number 10212. Additionally, Respondent submitted fraudulent time sheets for a home health visit she did not perform for Patient Medical Record Number 10212. Respondent's conduct created an inaccurate medical record and was likely to defraud the facility and patient thereof.
9. In response to the incident in Finding of Fact Number Eight (8), Respondent states that on the way to the patient's home, she had a accident and had to return to her own house to change. After changing, Respondent states she could not bring herself to return to the patient's home. Respondent states that it was a non-billable insurance visit and she wanted to get the patient re-certified to continue physical therapy services, so she completed a re-certification visit without actually seeing the patient.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(A)&(D) and 217.12(1)(A), (1)(C),(6)(A)&(6)(H).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 640981, heretofore issued to SHERRI STANFORD, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS AND A FINE, and RESPONDENT SHALL 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.

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

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It 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. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.*

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall

include Nurses. The course shall include content on the following: 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. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete 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 program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address: <http://learningext.com/hives/a0f6f3e8a0/summary>.*

(4) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500). RESPONDENT SHALL pay this fine 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.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE

STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT'S license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(6) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(7) RESPONDENT SHALL be supervised by a Registered Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, 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 Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(8) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT'S capability to practice nursing. These reports shall be completed by the Registered Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for one (1) year of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. 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 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) to practice nursing in the State of Texas, as a consequence of my noncompliance.

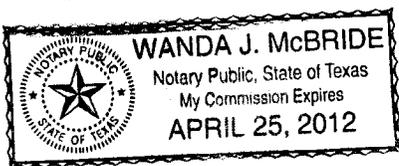
Signed this 22 day of March, 2011.

Sherrri Stanford
SHERRI STANFORD, Respondent

Sworn to and subscribed before me this 22 day of MARCH, 2011.

SEAL

Wanda J. McBride
Notary Public in and for the State of 4-25-2012



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 22nd day of March, 2011, by SHERRI STANFORD, Registered Nurse License Number 640981, and said Order is final.

Effective this 10th day of May, 2011.



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

IN THE MATTER OF	§	BEFORE THE BOARD OF
SHERRI LYNN STANFORD	§	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 SHERRI LYNN STANFORD together with any documents and information gathered by staff, the staff summary and Petitioner's certificate contained herein, and makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. On or about April 26, 1996, Petitioner filed a Petition for Declaratory Order in compliance with Article 4519a(a), Texas Revised Civil Statutes, Annotated, as amended.
2. Petitioner is currently enrolled in a Nursing Program at Navarro College, Corsicana, Texas. Petitioner's expected date of graduation is the Spring of 1997.
3. On or about October 29, 1981, in the 203rd Judicial District Court of Dallas County, Texas, in Cause Number F81-5607-RP, Petitioner was convicted of the offense of Credit Card Abuse. The offense occurred on or about April 23, 1981 when Petitioner was 18 years of age. Petitioner met the conditions of the Court on or about August 29, 1982.
4. The circumstances surrounding Petitioner's conviction on October 29, 1981 meet the parameters of youthful indiscretion as defined by the Board at 22 Texas Administrative Code, §213.28 (f) (12) and, therefore, should not present an impediment to licensure.
5. Petitioner provided an affirmative answer to the inquiry authorized by Rule 213.29 (b) (2) at 22 Texas Administrative Code.
6. Petitioner disclosed that she was diagnosed with Bipolar Disorder in 1984. Petitioner has been under the care of Steve Roche, MD, Dallas, Texas, since February 1993. In correspondence dated March 29, 1996, Dr. Roche stated in pertinent part: "...Ms. Stanford has been diagnosed with Bipolar Disorders -- she has done quite well, is stable on her medications ... I believe that Ms. Stanford currently has the central and cognitive stability to function as a nurse safely..."
7. Petitioner is 34 years of age.

8. Letters of reference were provided for Petitioner from:
 - Carmen M. Trammell, RNC, Coordinator ADN 1701, Navarro College, Corsicana, Texas;
 - Jerry D. Gentry, MS, RNC, Instructor, Navarro College, Corsicana, Texas;
 - Mary E. Nguyen, Nursing Instructor, Navarro College, Corsicana, Texas; and,
 - Donna Walls, MS, RN, Clinical Instructor, Texas Woman's University, Dallas, Texas.
9. The practice of nursing involves providing care and support to patients and members of the public who are or who may become physically, financially or emotionally vulnerable.
10. Based on this vulnerability, an individual seeking licensure as a registered nurse in Texas must be able to establish that he or she is able to perform the essential functions of professional nursing without posing a direct threat to patients or the public.
11. Based on the documentation provided by the Petitioner, Petitioner should not pose a direct threat to patients or the public so long as she remains compliant with the stipulations set out below.
12. Petitioner has sworn that with the exception of matters disclosed in connection with the Petition for Declaratory Order her past behavior conforms to the Board's professional character requirements. Petitioner presented no evidence of behavior since conviction on October 29, 1981 which is inconsistent with good professional character.
13. Petitioner waived representation, notice and hearing.
14. Review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures and professional evaluations.
15. Petitioner has been advised by the Board 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.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Article 4525(a), Texas Revised Civil Statutes, Annotated, as amended.
2. Petitioner has submitted a petition in accordance with Article 4519a(a), TEX. REV. CIV. STAT. ANN., as amended.
3. The Board may license individuals who have been previously convicted of a crime upon consideration of the factors set out in Article 6252-13c(b) TEX. REV. CIV. STAT. ANN., as amended, and 22 Texas Administrative Code, §213.27 and §213.28.

4. The Board may license individuals who have been previously convicted of a crime if upon consideration of the factors set out at 22 Texas Administrative Code, §213.28 (f) (12), the evidence provided to the Board is sufficient to establish that the conviction was a result of youthful indiscretion and that Petitioner does not presently represent a direct harm to patients or the public.
5. Petitioner diagnosis of Bipolar Disorders in 1984 and Petitioner's treatment for the disorder by Dr. Roche since February 1993, presents a ground for denial of a licensure due to a lack of mental fitness to practice professional nursing under Article 4525(b)(11), Tex. Rev. Civ. Stat. Ann., as amended.
6. The Board may license an individual who presents an evaluation establishing the presence of a mental disorder that would be grounds for denial under Article 4525(b)(11), Tex. Rev. Civ. Stat. Ann., as amended, if subsequent professional evaluations establish that the Petitioner, with or without stipulations on practice, will not pose a direct threat to patients or the public.

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of necessary fees, SHERRI LYNN STANFORD is declared CONDITIONALLY ELIGIBLE to sit for the National Council Licensure Examination for Registered Nurses (NCLEX-RN).

IT IS FURTHER ORDERED that upon attaining a passing grade on the NCLEX-RN, Petitioner shall be issued a CODED LICENSE to practice nursing in the State of Texas under the following STIPULATION:

1. Petitioner SHALL comply with the recommendations made by her physician. For TWO (2) YEARS, Petitioner SHALL cause her physician to provide the Board with quarterly reports confirming Petitioner's compliance with treatment and ability to practice safely.

IT IS FURTHER ORDERED, that Petitioner SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas, as amended, Article 4513 et seq., the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 Texas Administrative Code, §211.01 et seq.

IT IS FURTHER ORDERED, that upon full compliance with the terms of this Order Petitioner shall be issued an unencumbered license.

PETITIONER'S CERTIFICATE

I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past convictions and I have caused a complete and accurate criminal history to be submitted to the Board of Nurse Examiners from each jurisdiction in which I have been convicted. 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 Article 4519a, and Article 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 grounds for denial of licensure prior to registering for the NCLEX-RN or accepting any permit or license from the Board of Nurse Examiners.

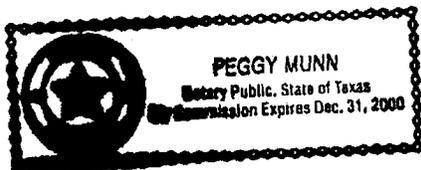
I understand that I can be represented by an attorney in this matter. I waive representation, notice and hearing and request that the Executive Director of the Board of Nurse Examiners enter this Order.

Signed this 13 day of April, 1997.

Sherrilyn Stanford
SHERRI LYNN STANFORD

Sworn to and subscribed before me by the said Sherrilyn Stanford this 13th day of April, 1997.

SEAL



Peggy Munn
Notary Public in and for the State of
Texas

Entered this 29th day of April, 1997.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS



By: Katherine A. Thomas, MN, RN
Executive Director

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

Article 4519a. DECLARATORY ORDERS OF ELIGIBILITY FOR LICENSE.

- (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.

- (b) If the Board proposes to find the petitioner ineligible for a license, the petitioner is entitled to a hearing before the Board in accordance with Subsection (b), Article 4525, Revised Statutes. The Board's order must set out each basis for potential ineligibility and the Board's determination as to eligibility. In the absence of new evidence known to but not disclosed by the petitioner or not reasonably available to the Board at the time the order is issued, the Board's ruling on the petition determines the individual's eligibility with respect to the basis for potential ineligibility set out in the order.

Article 4525. DISCIPLINARY PROCEEDINGS

(4525. (a)-(c) amended/added by HB 756) (4525. (e) amended/added by HB 2180)

(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 hereunder.

(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. [(f)Recommended by the Board September 19, 1996 - Published November 18, 1996, in the *Texas Register*.]

§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.