



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.
Patricia P. Roman
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse § AGREED
License Number 648569 §
issued to LISA MARIE LAROCCA § ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 648569, issued to LISA MARIE LAROCCA, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

The Board makes the following Findings of Fact and Conclusions of Law.

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 a Baccalaureate Degree in Nursing from Texas Woman's University, Denton, Texas, on May 1, 1997. Respondent was licensed to practice professional nursing in the State of Texas on February 17, 1998.
5. Respondent's complete professional nursing employment history includes:

02/1998-2004	RN	Methodist Hospital Dallas, Texas
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Respondent's complete professional nursing employment history includes (continued):

2004-2005	RN	Southwest Infectious Disease Dallas, Texas
2005-2007	RN	Baylor Specialty Hospital Dallas, Texas
2007-2008	RN	Baylor Plano Hospital Plano, Texas
2008-05/09	RN	Presbyterian Hospital of Plano Plano, Texas
05/09-Present	RN	Maxim Healthcare Dallas, Texas
11/09-05/09	RN	Forest Park Medical Center Dallas, Texas

6. On January 20, 1998, Respondent was issued an Order of Conditional Eligibility by the Board of Nurse Examiners for the State of Texas. A copy of the January 20, 1998, Agreed Order, Findings of Fact and Conclusions of Law, is attached and incorporated, by reference, as part of this Order.
7. At the time of the incidents in Findings of Fact Numbers Eight (8) through Ten (10), Respondent was employed as a Registered Nurse with Forest Park Medical Center, Dallas, Texas, and had been in this position for approximately six (6) months.
8. On or about May 23, 2010, while employed as a Registered Nurse with Forest Park Medical Center, Dallas, Texas, Respondent lacked fitness to practice nursing in that while on duty she showed signs of impaired behavior including, being found slumped over and asleep, exhibiting slurred speech, an inability to form complete sentences, confused, swaying while standing, and falling asleep while talking. Additionally, when requested to take a drug screen, Respondent refused. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
9. On or about May 23, 2010, while employed as a Registered Nurse with Forest Park Medical Center, Dallas, Texas, Respondent engaged in the intemperate use of Morphine, Lorazepam and Hydromorphone in that numerous empty vials of Morphine, Lorazepam, and Hydromorphone were found in a patient restroom along with her keys, cell phone, and

purse. Possession of Morphine, Lorazepam, and Hydromorphone is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Morphine, Lorazepam, and Hydromorphone by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, 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.

10. On or about May 23, 2010, while employed as a Registered Nurse with Forest Park Medical Center, Dallas, Texas, Respondent misappropriated Morphine, Lorazepam, and Hydromorphone belonging to the facility or patients thereof or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
11. In Response to Findings of Fact Numbers Eight (8) through Ten (10), Respondent states that the allegations are accurate and true. Respondent stated she had clocked out and was off duty when this occurred and that with deep regret, she made an extremely poor decision and has regretted it ever since. Additionally, Respondent has not sought employment since the incident, has started going back to Alcoholics Anonymous (AA), attending daily, as well as seeing a psychologist and psychiatrist on a very regular basis.
12. On or about September 7, 2010, Respondent verbally informed the staff of the Texas Board of Nursing that she wished to voluntarily surrender her license to practice professional nursing in the State of Texas.
13. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license to practice professional nursing in the State of Texas.
14. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
15. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

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 violations of Section 301.452(b)(9),(10)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(A)&(B),(4),(5),(6) (G), (10)(A)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 648569, heretofore issued to LISA MARIE LAROCCA, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Registered Nurse License Number 648569, heretofore issued to LISA MARIE LAROCCA, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing.

In connection with this acceptance, the Board imposes the following conditions:

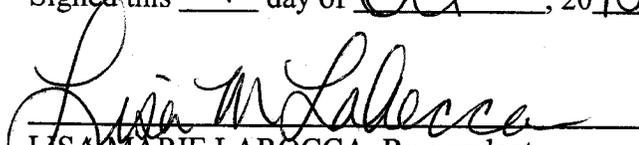
1. RESPONDENT SHALL NOT practice professional nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying herself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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.

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 violations 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 becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 7 day of Oct, 2010.


LISA MARIE LAROCCA, Respondent

Sworn to and subscribed before me this 7 day of October, 2010.

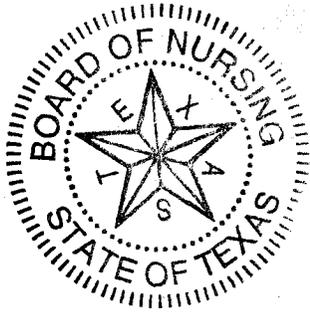
SEAL





Notary Public in and for the State of TX

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Registered Nurse License Number 648569, previously issued to LISA MARIE LARocca.



Effective this 15th day of October, 2010.

Katherine A. Thomas

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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of	§	
LISA MARIE HLINICAN	§	ORDER
Petitioner for Eligibility for	§	OF ELIGIBILITY
Licensure	§	

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 LISA MARIE HLINICAN, together with any documents and information gathered by staff, and Petitioner's Certificate contained herein, and makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On or about February 18, 1997, Petitioner submitted a Petition for Declaratory Order in compliance with Article 4519a(a), Texas Revised Civil Statutes, Annotated, as amended.
2. On or about May 10, 1997, Petitioner received a Baccalaureate Degree in Nursing from Texas Woman's University, School of Nursing, Denton, Texas.
3. Petitioner disclosed the following:
 - On or about February 1, 1988, in the County Criminal Court Number Three of Tarrant County, Texas, in Cause Number 322379, Petitioner was convicted of the offense of Driving While Intoxicated. The offense occurred on or about September 20, 1987. Petitioner was fined and placed on probation for 24 months. Petitioner met the conditions of the Court on or about August 31, 1989.
 - On or about January 27, 1997, in the County Criminal Court Number Three of Tarrant County, Texas, in Cause Number 0632868, Petitioner was convicted of the offense of Driving While Intoxicated Misdemeanor Repetition. The offense occurred on or about September 15, 1996. Petitioner was fined and sentenced to 30 days confinement in jail (credit for time served).

4. There is no evidence of any subsequent arrest or conviction.
5. The Executive Director considered the evidence of Petitioner's convictions and evaluated the direct relationship of the crimes committed by Petitioner to the practice of nursing pursuant to the requirements of Article 6252-13c (b), Tex. Rev. Civ. Stat. Ann., as amended, and the factors enumerated in 22 Texas Administrative Code, §213.28 (c), including but not limited to the nature and circumstances of the offense and the absence of any conviction subsequent to the one listed in findings of fact number 3 above.
6. On a sworn affidavit dated March 4, 1997, Petitioner provided an affirmative answer to the question authorized by Rule 213.29(b)(1), 22 Texas Administrative Code.
7. Petitioner's sobriety date is October 15, 1996.
8. Petitioner provided satisfactory proof that she has been abstinent from alcohol for a minimum of twelve consecutive months.
9. Petitioner is 29 years old.
10. The Board received letters of support/recommendation for Petitioner from:
 - In a letter dated May 6, 1997, Barbara Mathews Blanton, MSN, RN, of Texas Woman's University, Dallas, Texas, states in pertinent part:

" ... It is quite obvious to me that sobriety/abstinence, AA and recovering is the centerpiece of her life. Her rehabilitation is an issue she addresses every day in many ways. The recovering vocabulary is threaded through all her conversations. She is accepting the consequences of her addiction and working through them every day. I know it must be painful beyond belief but she never complains or whines and always accepts responsibility for her former, current and future actions..."
 - In a letter dated July 2, 1997, Jeanne K. Bruner, Assistant Clinical Professor, Texas Woman's University, Dallas, Texas,

"...She always came to clinical prepared, and consistently provided safe care for the patients assigned to her ... Never did Lisa appear in the clinical setting in an impaired state. She was always sober, and never demonstrated an inability to safely carry out her responsibilities while in the clinical setting. She actively participated in post clinical conferences as well. She was consistently on time ..."

11. The safety of patients and the public requires that all persons licensed to practice nursing be fit, sober, and able to consistently practice nursing in autonomous roles under demanding and stressful conditions.
12. The Executive Director considered evidence of Petitioner's alcohol abuse and subsequent rehabilitation as provided in 22 Texas Administrative Code, §213.29.
13. The Board of Nurse Examiners has determined that a petitioner for licensure who has not been fit and sober for a period of at least five (5) continuous years (60 continuous months), poses a direct threat to the health and safety of patients and the public and should not be issued an unencumbered license.
14. 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 October 15, 1996, which is inconsistent with the Board's character requirements in 22 Texas Administrative Code §213.27.
15. The Executive Director finds that the stipulations hereinafter set forth are necessary to assure that patients and the public will be protected and that the Petitioner will continue to conform her conduct to the requirements of the Board's practice standards.
16. Petitioner's compliance with the stipulations set out below will ensure that she remains abstinent, sober, and substance free.
17. Petitioner waived notice and hearing.
18. The Board's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.
19. 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.

CONCLUSIONS OF LAW

1. The Board of Nurse Examiners (Board) has jurisdiction over this matter pursuant to Texas Revised Civil Statutes, Annotated, as amended, Article 4525(a).
2. Petitioner submitted a petition in compliance with Article 4519a(a), Tex. Rev. Civ. Stat. Ann., as amended.

3. The Board may license an individual who has been previously convicted of a crime upon consideration of the factors set out in 22 Texas Administrative Code §213.28 and evaluating the direct relationship to nursing according to Article 6252-13c(b), Tex. Rev. Civ. Stat. Ann., as amended.
4. Petitioner's alcohol abuse and lack of fitness is a ground for denial of licensure under Article 4525(b)(8) and (1) Tex. Rev. Civ. Stat. Ann., as amended.
5. The Board may license an individual who has a history of alcohol abuse and lack of fitness if, after consideration of the criteria set out in 22 Texas Administrative Code §213.29, the Board determines the individual does not currently pose a direct threat to the health and safety of patients or the public.
6. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 Texas Administrative Code §213.27, 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 including, but not limited to, behaviors indicating: honesty, accountability, trustworthiness, reliability and integrity.

NOW, THEREFORE, IT IS ORDERED that LISA MARIE HLINICAN, 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 subject to the reservations set out above and subject to the following STIPULATIONS:

1. Within one year of Petitioner's initial licensure date, Petitioner shall successfully complete a Board approved course in Nursing Jurisprudence.

Petitioner shall remain in compliance with the following stipulations for twenty-four (24) continuous months of employment as a registered nurse in a clinical practice setting.

2. If already employed in a health-care profession in Texas, at the time of licensure as a professional nurse, Petitioner:

- SHALL IMMEDIATELY NOTIFY each present employer in professional nursing of this Order of the Board and the stipulations on her license.
- SHALL PRESENT a copy of this Order to each present employer.

If not employed at the time of licensure, before accepting an offer of employment as a professional nurse, Petitioner SHALL

- NOTIFY the potential employer, in professional nursing, of this Order of the Board and the stipulations on her license.
- PRESENT a copy of this Order to the potential employer.

3. Within TEN (10) DAYS of employment as a professional nurse in Texas, Petitioner:

- SHALL CAUSE each present employer in professional nursing to submit the Notification of Employment form to the Board's office.
- SHALL CAUSE each potential employer to submit the Notification of Employment form to the Board's office.

4. For TWO (2) YEARS under this stipulation period and upon employment as a professional nurse in Texas, Petitioner:

- SHALL CAUSE each employer to submit, on forms provided by the Board, periodic reports as to Petitioner's capability to practice professional nursing. These reports shall be completed by the registered nurse who supervises the Petitioner. These reports shall be submitted to the office of the Board at the END OF EACH THREE (3) MONTH OF THIS STIPULATION PERIOD.

5. For the FIRST (1) YEAR of practice under this stipulation period, Petitioner:

- MUST HAVE the direct supervision of an experienced registered nurse. direct supervision means an RN is readily available on the same unit or ward for consultation and assistance.
- SHALL NOT practice as a professional nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the assigned unit(s).

- SHALL NOT practice as a professional nurse in any critical care area. Critical care areas include, but are not limited to, intensive care unit, emergency room, operating room, telemetry, recovery room, and labor and delivery units.
- WORK ONLY regularly assigned, identified and predetermined unit(s).
- SHALL NOT be employed by a nurse registry, temporary nurse employment agency or home health agency.
- SHALL NOT be self employed or contract for services.
- SHALL NOT have multiple employers.

For the SECOND YEAR of practice under this stipulation period, Petitioner:

- SHALL be supervised by a registered nurse who is on the premises. The supervising RN 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.
- WORK ONLY regularly assigned, identified and predetermined unit(s).
- SHALL NOT be employed by a nurse registry, temporary nurse employment agency or home health agency.
- SHALL NOT be self employed or contract for services.
- SHALL NOT have multiple employers.

6. For the FIRST YEAR of employment as a professional nurse under this Order, Petitioner:

- SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan or other synthetic opiates.

7. Petitioner:

- SHALL ABSTAIN from the consumption of alcohol, Nubain, Stadol, Dalgan or other synthetic opiates, and/or the use of 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.

8. During this stipulation period, Petitioner:

- SHALL SUBMIT to random periodic screens for controlled substances and alcohol.
- FOR THE FIRST THREE (3) month period, random screens shall be performed at least ONCE PER MONTH.
- FOR THE REMAINDER of the stipulation period, random screens shall be performed at least ONCE EVERY THREE (3) MONTHS.
- Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cocaine Metabolites	Opiates
Ethanol	Phencyclidine
Hydrocodone	Propoxyphene
Marijuana Metabolites	

A Board representative may appear at the Petitioner's place of employment at any time during the stipulation period and collect a specimen for screening. That specimen will be screened for all of the above substances as well as Butorphanol Tartrate (Stadol), Dezocine (Dalgan), and Nalbuphine Hydrochloride (Nubain).

All screens shall be properly monitored and production of specimen personally observed by the employer's designee. A complete chain of custody shall be maintained for each specimen obtained and analyzed.

9. During this stipulation period, Petitioner:

- SHALL CAUSE the employer/laboratory to send the written results of each random screen to the Office of the Board within five (5) days of the date that the screen is analyzed. If any screen tests positive for alcohol and/or

controlled substances Nubain, Stadol, Dalgan or other synthetic opiates, for which the Petitioner does not have a valid prescription, the employer/laboratory shall report such results to the Board Office on the day that the results are received by calling (512) 305-6834 and reporting the positive results to the Monitoring Investigator.

10. During this Stipulation period, Petitioner:

- SHALL PARTICIPATE in therapy with a "professional counselor" possessing credentials approved by the Board.
- 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 professional nursing. The report must indicate whether or not the Petitioner's stability is sufficient to provide direct patient care safely. Such REPORTS ARE TO BE FURNISHED EACH AND EVERY MONTH FOR THREE (3) MONTHS.

IF THERAPY IS RECOMMENDED BEYOND THREE (3) MONTHS, the reports shall then be required at the END OF EACH THREE (3) MONTH PERIOD for the DURATION of the stipulation probation period, OR UNTIL Petitioner is DISMISSED from therapy.

11. During this stipulation period, Petitioner:

- SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and 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.
- SHALL submit the required evidence on the forms provided by the Board at the END OF EVERY THREE (3) MONTHS. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

12. Petitioner shall comply with all requirements listed in stipulations 2 - 11. After said compliance, Petitioner shall apply to and be accepted into the Board's APPROVED Peer Assistance Program.

13. Upon acceptance into the Board's APPROVED Peer Assistance Program, Petitioner shall waive confidentiality and cause said program to provide a copy of the executed contract to the Board of Nurse Examiners.
14. Petitioner SHALL COMPLY with all contract requirements of the Board's APPROVED Peer Assistance Program during its term.
15. Petitioner SHALL CAUSE the Board's APPROVED Peer Assistance Program to notify the Board of Nurse Examiners of any violation of Petitioner's contract.

IT IS FURTHER ORDERED, that upon authorization to practice professional nursing in Texas, 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., and this Order.

UPON COMPLIANCE with the terms of this Order, LISA MARIE HLINICAN shall be issued an unencumbered license to practice nursing in the State of Texas.

PETITIONER'S CERTIFICATION

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 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.

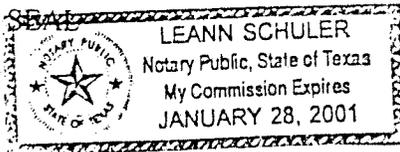
In connection with my petition, I acknowledge that I have read and understand Articles 4519a(a) and 4525(a) and (b), Texas Revised Civil Statutes, Annotated, as amended, and Board Rules 213.27, 213.28, and 213.29 at 22 Texas Administrative Code, which are incorporated by reference as a part of this Order. 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 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 waive notice and hearing and request that the Executive Director of the Board of Nurse Examiners enter this Order.

Signed this 22 day of Dec, 1997.

Lisa Marie Hlinican
LISA MARIE HLINICAN

Sworn to and subscribed before me by the said Lisa Marie Hlinican this 22nd day of December, 1997.



[Signature]
Notary Public in and for the State of TEXAS

Approved as to form and substance:

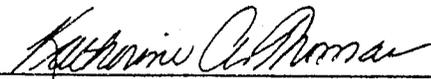
Patricia A. Becker
Patricia A. Becker, Attorney for Petitioner

Signed this 9th day of January, 1998.

Entered this 20th day of January, 19 98

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

BY:



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

- Enclosures:
- [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 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.

- (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 of 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 or dishonorable 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. (11/96)

§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.