



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 Registered Nurse License Number 723811 §
and Vocational Nurse License Number 131637 § AGREED
issued to THOMAS MARCELL CARROLL § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of THOMAS MARCELL CARROLL, Registered Nurse License Number 723811, and Vocational Nurse License Number 131637, hereinafter referred to as Respondent..

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on November 24, 2009, 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.
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 and vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Bergen Pines School of Practical Nursing, Paramus, New Jersey, on September 6, 1985, and an Associate Degree in Nursing from Galveston College, Galveston, Texas, on May 18, 2005. Respondent was licensed to practice vocational nursing in the State of Texas on March 4, 1991, and Respondent was licensed to practice professional nursing in the State of Texas on January 31, 2006.

5. Respondent's nursing employment history is unknown.
6. On or about September 14, 1999, Respondent was issued the sanction of an Enforced Suspension by the Board of Vocational Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law, and Order of the Board dated September 14, 1999, is attached and incorporated, by reference, as part of this Order.

On or about December 9, 2005, Respondent was issued a Conditional Eligibility Order by the Board of Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated December 9, 2005, is attached and incorporated, by reference, as part of this Order.

On or about July 17, 2008, Respondent was issued the sanction of a Warning With Stipulations by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated July 17, 2008, is attached and incorporated, by reference, as part of this Order.

7. On or about April 27, 2009, Respondent entered a plea of Guilty and was convicted of DWI (a Class B misdemeanor offense committed on December 29, 2008), in the County Court at Law No. 4 of Brazoria County, Texas, under Cause No. 169,937. As a result of the conviction, Respondent was sentenced to confinement in the Brazoria County Jail for a period of one hundred eighty (180) days; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of twelve (12) months. Additionally, Respondent was ordered to pay a fine and court costs.
8. In response to Finding of Fact Number Seven (7), Respondent states that he was arrested on December 29, 2008, for suspicion of DWI. He went to court on April 27, 2009, and plead guilty to the offense. He took sole responsibility for his actions. He was at a local eatery in Angleton for a holiday gathering. He is not a big drinker and had one too many. It was foggy and to get off the road, he attempted to cut through a parking lot and misjudged the turn, becoming stuck in a ditch. He was able to get the car out but the police arrived. He is currently on probation.
8. 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 violation of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered License Number 723811, and against Vocational License Number 131637, heretofore issued to THOMAS MARCELL CARROLL, including revocation of Respondent's licenses 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 Registered License Number 723811, and Vocational License Number 131637, previously issued to THOMAS MARCELL CARROLL, to practice nursing in Texas are hereby SUSPENDED for a period of three (3) years with the suspension STAYED and Respondent is hereby placed on PROBATION for three (3) years with the following agreed terms of probation:

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

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this order the Respondent may not work outside the State of Texas pursuant to a multistate licensure 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.

(1) 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.

(2) RESPONDENT SHALL deliver the wallet-sized licenses issued to THOMAS MARCELL CARROLL, to the office of the Texas Board of Nursing within ten (10) days of the date of this Order.

(3) RESPONDENT SHALL, within one (1) year of the suspension being stayed, 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>.

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 PROBATION CONDITIONS FOR THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(4) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the probation conditions 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 probation conditions 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.

(5) 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.

(6) For the first year of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse. Direct supervision requires another

professional nurse to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). The 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.

(7) For the remainder of the probation period, 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 NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Respondent is regularly assigned for one (1) year of employment as a nurse.

(9) RESPONDENT SHALL NOT practice as a nurse in any critical care area for one (1) year of employment as a nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(10) RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a nurse.

(11) 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 three (3) years of employment as a nurse.

(12) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.**

(13) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period,

random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the probation period, random screens shall be performed at least once every three (3) months. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis is the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the RESPONDENT's place of employment at any time during the probation period and require RESPONDENT to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the probation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license and multistate licensure privileges, if any, to practice nursing in the State of Texas.

(14) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. RESPONDENT 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 RESPONDENT. RESPONDENT 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.

(15) RESPONDENT SHALL CAUSE his probation officer to submit written reports on forms provided to the Respondent by the Board. The reports shall indicate the RESPONDENT's compliance with the court ordered probation. The reports shall be furnished each and every three (3) month period until RESPONDENT is released from probation.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license, the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

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

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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 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 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 licenses to practice nursing in the State of Texas, as a consequence of my noncompliance.

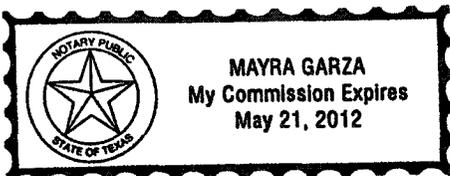
Signed this 03 day of Feb, 2010.

Thomas Carroll
THOMAS MARCELL CARROLL, Respondent

Sworn to and subscribed before me this 03 day of Feb, 2010.

SEAL

Mayra Garza
Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 3rd day of February, 2010, by THOMAS MARCELL CARROLL, Registered Nurse License Number 723811, and Vocational Nurse License Number 131637, and said Order is final.

Effective this 23rd day of March, 2010.



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

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

August 12, 1999

Mary M. Strange, R.N., B.S.N., C.N.A.
Executive Director
Board of Vocational Nurse Examiners
333 Guadalupe, 3-400
Austin, Texas 78701

HAND DELIVERY

RE: Docket No. 511-99-1159; In the Matter of Thomas Marcell Carroll
BVNE No. 131637

Dear Ms. Strange:

Enclosed please find a Proposal for Decision and a proposed Final Order in the above-referenced cause for the consideration of the Board of Vocational Nurse Examiners. Copies of the Proposal and proposed Order are being sent to Kay Johnsonius, agency counsel, and to Thomas Marcell Carroll, Respondent in this matter. For reasons discussed in the Proposal, I have recommended that Respondent's license be suspended until he completes the required continuing education and pays an administrative penalty of \$250.

Pursuant to the Administrative Procedure Act, each party has the right to file exceptions to the Proposal, accompanied by supporting briefs. Exceptions, replies to the exceptions, and supporting briefs must be filed with the Board according to the agency's rules, with a copy to the State Office of Administrative Hearings. A party filing exceptions, replies, and briefs must serve a copy on the other party hereto.

Sincerely,

Sarah G. Ramos
Senior Administrative Law Judge

SGR/et
Enclosures

cc: Kay Johnsonius, Office of the Attorney General, Administrative Law Section, 300 W. 15th St., 12th Floor, Austin, Texas 78711 - **HAND DELIVERY**
Thomas Marcell Carroll, 2300 Buchta Road, Apt. 210, Angleton, Texas 77515 - **CERTIFIED MAIL NO. Z 567 739 638. RETURN RECEIPT REQUESTED**
Rommel Corro, Docket Clerk, State Office of Administrative Hearings
William P. Clements Building
Post Office Box 13025 ♦ 300 West 15th Street, Suite 502 ♦ Austin Texas 78711-3025
(512) 475-4993 Docket (512) 475-3445 Fax (512) 475-4994

DOCKET NO. 511-99-1159

**BOARD OF VOCATIONAL
NURSE EXAMINERS**

VS.

**THOMAS MARCELL CARROLL
LVN #131637**

§
§
§
§
§
§
§

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Board of Vocational Nurse Examiners (Staff) brought this case against Thomas Marcell Carroll (Respondent), alleging that he failed to complete the requisite number of continuing education hours and falsely represented he had completed the hours, and thus, engaged in unprofessional or dishonorable conduct that is likely to deceive, defraud, or injure the public. Respondent failed to appear at the hearing, either in person or through counsel. Staff recommended that Respondent's license be suspended until he completes the required continuing education and pays an administrative penalty of \$250, and this proposal agrees with the recommendation.

I. PROCEDURAL HISTORY

There are no contested issues of notice or jurisdiction in this proceeding. The hearing convened on July 13, 1999, and concluded the same day. Assistant Attorney General Kay Johnsonius represented Staff. Because the hearing proceeded on a default basis and Staff's factual allegations are deemed admitted as true, those allegations have been incorporated into the findings of fact without further discussion.

II. FINDINGS OF FACT

1. Thomas Marcell Carroll (Respondent) holds License Number 131637 issued to him by the Board of Vocational Nurse Examiners (the Board).
2. On April 15, 1999, the staff of the Board (Staff) filed a sworn complaint against Respondent. A copy of the complaint was served on Respondent by certified mail, return receipt requested, and by regular mail at his address set out in the Board's investigative file. The complaint was returned to the Board by the United States Postal Service marked, "Unclaimed."
3. On June 17, 1999, Staff issued a notice of hearing to Respondent, advising him of a hearing on the complaint to be held on July 12, 1999. The notice was sent by certified mail, return receipt requested, and by regular mail to Respondent at his most recent address set out in the Board's investigative file. As of the hearing date, neither the notice nor the return receipt had been received by the Staff.

4. The hearing in this case was held on July 13, 1999. Staff appeared through its counsel and participated in the hearing. Respondent did not appear, either in person or by authorized representative.
5. On or about August 11, 1998, Respondent submitted his license renewal form to the Board office. On said form, Respondent falsely answered "yes" to the question: "Have you acquired twenty (20) contact hours of continuing education in the renewal period just completed?"
6. Respondent failed to complete twenty contact hours of continuing education between August 1, 1996, and July 31, 1998.
7. At hearing, Staff moved for a default judgment.

III. CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to TEX. REV. CIV. STAT. ANN. art. 4528c § 10 (Vernon 1976 & Supp. 1999).
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision containing findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003 (Vernon 1999).
3. Proper and timely notice of the hearing was effected on Respondent pursuant to TEX. GOV'T CODE ANN. ch. 2001 (Vernon 1999), 1 TEX. ADMIN. CODE § 155.55(d) (1999), and 22 TEX. ADMIN. CODE § 239.23 (1999), which provides that service of notice of hearing shall be complete and effective if the document to be served is sent by registered or certified mail to the respondent at his or her most recent address as shown in the investigative records of the Board.
4. A sworn complaint against Respondent was filed with the Board in accordance with TEX. REV. CIV. STAT. ANN. art. 4528c, § 10(d) (Vernon 1976 & Supp. 1999).
5. Based on Findings of Fact Nos. 5 and 6, and 22 TEX. ADMIN. CODE § 237.14 (1999), Respondent violated 22 TEX. ADMIN. CODE § 239.11(26) (1999) by failing to comply with the Board's rules regarding continuing education and knowingly providing false information regarding completion of educational programs.
6. Based on Conclusion of Law No. 5, Respondent has engaged in unprofessional or dishonorable conduct that is likely to deceive, defraud, or injure the public, in violation of TEX. REV. CIV. STAT. ANN. art. 4528c § 10(a)(9) (Vernon 1976 & Supp. 1999).

7. Based on Finding of Fact Nos. 5 - 6 and Conclusions of Law Nos. 5 - 6, the Board would be justified in suspending Respondent's license until he comes into compliance with the Board's rules regarding continuing education and pays a \$250.00 administrative fine. TEX. REV. CIV. STAT. ANN. art. 4528c §§ 10 and 10E (Vernon 1976 & Supp. 1999) and 22 TEX. ADMIN. CODE § 239.19 (1999).

SIGNED this 12th day of August 1999.



SARAH G. RAMOS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

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DOCKET NO. 511-99-1159

IN THE MATTER OF PERMANENT	§	BEFORE THE BOARD OF
LICENSE NUMBER 131637	§	VOCATIONAL NURSE EXAMINERS
ISSUED TO	§	IN AND FOR
THOMAS MARCELL CARROLL	§	THE STATE OF TEXAS

ORDER OF THE BOARD

TO: THOMAS MARCELL CARROLL
 2300 BUCHTA RD., NO. 210
 ANGLETON, TX 77515

During open meeting at Austin, Texas, the Board of Vocational Nurse Examiners finds that after proper and timely notice was given, the above-styled case was heard by an Administrative Law Judge who made and filed a proposal for decision containing the Administrative Law Judge's findings of fact and conclusions of law. The proposal for decision was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein.

The Board of Vocational Nurse Examiners, after review and due consideration of the proposal for decision, and exceptions and replies filed, if any, adopts the findings of fact and conclusions of law of the Administrative Law Judge as if fully set out and separately stated herein. All proposed findings of fact and conclusions of law not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that License Number 131637 heretofore issued to THOMAS MARCELL CARROLL to practice vocational nursing in the State of Texas be, and the same is hereby, suspended until he comes into compliance with the Board's rules regarding continuing education and pays a \$250.00 administrative fine.

Passed and approved at the regular meeting of the Board of Vocational Nurse Examiners in
and for the State of Texas at Austin, Texas, on the 14th day of September, 1999.

Betty E. Sims

[Signature]

Carla McCoar

[Signature]

Geneva Hawley

Ginger Brunner

Vangjel Perry

Kathleen Powell

Janette L. Bowers

Melody Hart

Cathy Pruitt

00131637

BOARD ORDER
RE: THOMAS MARCELL CARROLL, LVN #131637
PAGE: 3

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of September, 1999, a true and correct copy of the foregoing Order was served by placement in the U.S. Mail, first class, and addressed to the following person(s):

THOMAS CARROLL
2300 BUCHTA RD
NO 210
ANGLETON, TX 77515



Mary M. Strange, RN
Executive Director
Agent for the Board of Vocational Nurse Examiners

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of	§	
THOMAS MARCELL CARROLL	§	ORDER OF
Vocational License Number 131637	§	CONDITIONAL ELIGIBILITY
and PETITIONER for Eligibility for	§	
Licensure as a Professional Nurse		

On the date entered below, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the Application by Examination for Registered Nurses and supporting documents filed by THOMAS MARCELL CARROLL, hereinafter referred to as PETITIONER, together with any documents and information gathered by staff and PETITIONER's Certificate contained herein. Information received by the Board produced evidence that PETITIONER may have violated Section 301.452 *et seq.*, Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on November 10, 2005, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about June 7, 2005, Petitioner submitted an Application by Examination for Registered Nurses requesting a determination of eligibility for licensure in compliance with Section 301.257 *et seq.*, Texas Occupations Code.
2. Petitioner waived representation, notice, administrative hearing, and judicial review.
3. Petitioner graduated with an Associate Degree in Nursing from Galveston College, located in Galveston, Texas, in May 2005. Petitioner is currently licensed to practice vocational nursing in the State of Texas.
4. Petitioner completed the Application by Examination for Registered Nurses and answered "yes" to Question Number One (1), which reads as follows: *"Have you been convicted, adjudged guilty by a court, pled guilty, no contest or nolo contendere to any crime in any*

state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests (excluding minor traffic violations)? This includes expunged offenses and deferred adjudications with or without prejudice of guilt. Please note that DUI's, DWI's, PI's must be reported and are not considered minor traffic violations. (One time minor in possession [MIP] or minor in consumption [MIC] do not need to be disclosed, therefore, you may answer "No." If you have two or more MIP's or MIC's, you must answer "Yes".)

5. Petitioner disclosed the following criminal history, to wit:

On May 29, 2003, Petitioner plead Not Guilty to the misdemeanor Class B offense of Driving While Intoxicated in the County Court at Law No. 3 of Brazoria County, Texas. Petitioner then entered a plea of Guilty to the amended charge of misdemeanor Class B offense of Reckless Driving. Petitioner was assessed a fine and court costs in the amount of four hundred forty-one dollars (\$441.00).

6. There is no evidence of any subsequent criminal conduct.

7. Petitioner completed the Application by Examination for Registered Nurses and answered "yes" to Question Number Three (3), which reads as follows: "*Has any licensing authority refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, suspended, placed on probation, refused to renew a professional license or certificate held by you now or previously, or ever fined, censured, reprimanded or otherwise disciplined you?*"

8. On September 17, 1999, the Board of Vocational Nurse Examiners for the State of Texas issued a Final Order suspending Petitioner's license based on the findings that Petitioner was not in compliance with rules regarding continuing education and falsely represented that he had completed the mandated hours. On March 15, 2000, Petitioner's license was reinstated.

9. In 2004, Petitioner completed his renewal application for licensure as a vocational nurse and did not disclose his 2003 conviction for the misdemeanor offense of Reckless Driving in Brazoria County, Texas.

10. Licensure of Petitioner poses no direct threat to the health and safety of patients or the public.

11. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Petitioner.

12. Petitioner has sworn that his past behavior conforms to the Board's professional character requirements. Petitioner presented no evidence of behavior which is inconsistent with good professional character.

13. 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.
14. On or about November 10, 2005, the Executive Director considered evidence of Petitioner's past behavior in light of the character factors set out in 22 Texas Administrative Code §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character.

CONCLUSIONS OF LAW

1. The Board of Nurse Examiners has jurisdiction over this matter pursuant to Section 301.453, Texas Occupations Code.
2. Petitioner has submitted a petition in compliance with Section 301.257 *et seq.*, Texas Occupations Code.
3. Petitioner's criminal history reflects criminal conduct which is grounds for denial of a license under Section 301.452 *et seq.*, Texas Occupations Code.
4. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452, Texas Occupations Code.
5. 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 Texas Administrative Code §213.28 and evaluating the direct relationship to nursing according to Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.
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 his conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

ORDER

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of any required fees, THOMAS MARCELL CARROLL, PETITIONER, is CONDITIONALLY ELIGIBLE to sit for the National Council Licensure Examination for

Registered Nurses (NCLEX-RN® Examination). PETITIONER SHALL NOT be eligible for temporary authorization to practice as a Graduate Nurse in the State of Texas.

IT IS FURTHER ORDERED that PETITIONER SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.*, and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to PETITIONER's multistate licensure privilege, if any, to practice professional nursing in the State of Texas.

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

IT IS FURTHER ORDERED that PETITIONER, upon attaining a passing grade on the NCLEX-RN®, shall be issued a license to practice nursing in the State of Texas which shall bear the appropriate notation and PETITIONER SHALL be subject to the following stipulations.

(1) PETITIONER SHALL, within one (1) year of initial licensure, successfully complete a course in Texas nursing jurisprudence. PETITIONER 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) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, and documentation of care. Courses focusing on malpractice issues will not be accepted. PETITIONER

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 PETITIONER'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 on the Board's website, www.bne.state.tx.us (under BNE events).*

(2) PETITIONER SHALL, within one (1) year of initial licensure, successfully complete a course in nursing ethics. PETITIONER 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) contact hours in length. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. PETITIONER SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify PETITIONER's successful completion of the course. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Board approved courses may be found on the Board's website, www.bne.state.tx.us (under BNE events).*

(3) PETITIONER SHALL pay a monetary fine in the amount of two hundred fifty dollars (\$250.00). PETITIONER SHALL pay this fine within within one (1) year of initial licensure. Payment is to be made directly to the Board of Nurse Examiners in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, PETITIONER SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional 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 criminal conduct, 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 adjudged guilty by way of conviction or deferred order. I certify that my past behavior, except as disclosed in my Application by Examination for Registered Nurses, 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 Section 301.257, Texas Occupations Code, Section 301.452(a), (b) and (c), Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and Board Rules 213.27, 213.28, and 213.29 at 22 Texas Administrative Code. 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 Graduate Nurse Permit to practice. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to registering for the NCLEX-RN® Examination or accepting any permit or license from the Board of Nurse Examiners.

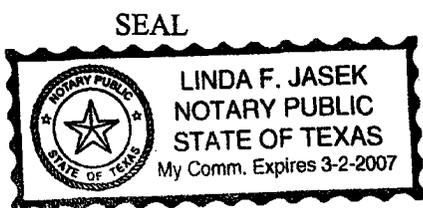
I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

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

Signed this 1ST day of December, 2005.

Thomas Marcell Carroll
THOMAS MARCELL CARROLL, PETITIONER

Sworn to and subscribed before me this 1 day of December, 2005.

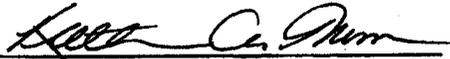


Linda F. Jasek
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Order of Conditional Eligibility that was signed on the 1st day of December, 2005, by THOMAS MARCELL CARROLL, PETITIONER, for Application by Examination for Registered Nurses, and said Order is final.

Entered this 9th day of December, 2005.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS



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

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Vocational Nurse § AGREED
License Number 131637 and §
Registered Nurse License Number 723811 §
issued to THOMAS MARCELL CARROLL § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of THOMAS MARCELL CARROLL, Vocational Nurse License Number 131637, and Registered Nurse License Number 723811, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(1) and (10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered March 18, 2008, 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.
2. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice vocational and professional nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Arkansas Valley Technical Institute, Ozark, Arkansas, on September 6, 1985. Respondent was licensed to practice vocational nursing in the State of Texas on March 4, 1991. Respondent received an Associate Degree in Nursing from Galveston College, Galveston, Texas, on May 18, 2005. Respondent was licensed to practice professional nursing in the State of Texas on January 31, 2006.

5. Respondent's complete vocational and professional nursing employment history is unknown.
6. On December 9, 2005, Respondent was issued an Order of Conditional Eligibility by the Board of Nurse Examiners for the State of Texas. A copy of the December 9, 2005, Order of Conditional Eligibility, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this Order.
7. On or about February 1, 2007, Respondent failed to comply with the Order of Conditional Eligibility issued to him on December 9, 2005, by the Board of Nurse Examiners for the State of Texas. Noncompliance is the result of his failure to comply with Stipulation Number One (1) of the Order which states, in pertinent part:

(1) PETITIONER SHALL, within one (1) year of initial licensure, successfully complete a course in Texas nursing jurisprudence....

8. On or about February 1, 2007, Respondent failed to comply with the Order of Conditional Eligibility issued to him on December 9, 2005, by the Board of Nurse Examiners for the State of Texas. Noncompliance is the result of his failure to comply with Stipulation Number Two (2) of the Order which states, in pertinent part:

(2) PETITIONER SHALL, within one (1) year of initial licensure, successfully complete a course in nursing ethics....

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)(1) and (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 131637, and Registered Nurse License Number 723811, heretofore issued to THOMAS MARCELL CARROLL, including revocation of Respondent's licenses to practice vocational and professional 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 RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice vocational and professional nursing in compact states.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure 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 pay a monetary fine in the amount of five hundred (\$500.00) dollars. 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.

(2) The Order of the Board issued to RESPONDENT on December 9, 2005, is still in effect in its entirety and RESPONDENT SHALL be responsible for completing the terms of that Order within six (6) months from the date of this Order.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued unencumbered licenses and multistate licensure privileges, if any, to practice vocational and professional nursing in the State of Texas.

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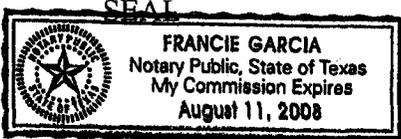
RESPONDENT'S CERTIFICATION

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 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 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 licenses to practice vocational and professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 10TH day of June, 2008.

Thomas Carroll
THOMAS MARCELL CARROLL, Respondent

Sworn to and subscribed before me this 10TH day of June, 2008.



Francie Garcia
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 10th day of June, 2008, by THOMAS MARCELL CARROLL, Vocational Nurse License Number 131637, and Registered Nurse License Number 723811, and said Order is final.



Effective this 17th day of July, 2008.


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