



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 § AGREED
License Number 715250 §
issued to THOMAS WILLIAM MERRIGAN § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the B considered the matter of THOMAS WILLIAM MERRIGAN, Registered Nurse License Nu 715250, 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 informal proceedings, notice and hearing, and agreed to the entry of this Order offered on May 25, 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 nursing in the State of Texas.
4. Respondent received a Baccalaureate Degree in Nursing from Winona State University, Winona, Minnesota, on May 25, 1991. Respondent was licensed to practice professional nursing in the State of Texas on May 3, 2005.
5. Respondent's professional nursing employment history is unknown.
6. On or about May 3, 2005, Respondent was issued an Eligibility Agreed Order by the Texas Board of Nursing. A copy of the Findings of Fact, Conclusions of Law, and Eligibility Agreed Order dated May 3, 2005, is attached and incorporated, by reference, as part of this Order.

7. On or about December 19, 2008, Respondent entered a plea of Nolo Contendere and was convicted of CRIMINAL TRESPASS (a misdemeanor offense committed on May 7, 2008), in the County Court at Law No. 3, Travis County, Texas, under Cause No. C-1-CR-08-402981. As a result of the conviction, Respondent was sentenced to confinement in the Travis County Jail for a period of two hundred thirty-four (234) days, with credit for all time of confinement from the date of his arrest, 7 May 2008, through the date of his release, 4 September 2008.

8. In response to Finding of Fact Number Seven (7), Respondent states: "He and his wife separated on February 3, 2008. In April 2008, his wife shut off his cell phone, so he could no longer contact his children. In April 2008, he contacted Child Protective Services and the Austin Police Department to see about visiting his children. He was told that there was nothing prohibiting or restricting contact between him and his children. As he could not afford an attorney, he finally called his wife and told her he would be coming to visit the children.

On May 7, 2008, he went to his wife's rental house at a time he believed the children would be home from school. There was a strange pick-up truck in the driveway. He rang the bell and knocked but there was no answer. He became concerned that someone was holding his wife and children against their will. Since he no longer had a cell phone, he removed a screen from the backyard window. The window was not locked and opened easily. He opened it and called out, "Hello! Anybody home?" No one answered, so he entered and called out again. A man entered the room and identified himself as the owner of the truck. He recognized him as someone who had been working with his wife. He asked the man, Frank, if he was living there. Frank said no, and told Respondent that he could see his children in proportion to the degree that he contributed to their financial support. His wife came and asked what he was doing there. He told her he had come to see the children. She told him they were not home from school, and that he could not see them without a police order. He told her he had spoken with the Austin Police Department ten days earlier and they had told him he had every right to see his children. At no time did his wife ask him to leave. She told him she could call the police herself and find out if he had a right to see the children when they were in her custody. The police arrived and, without asking Respondent any questions or allowing him to offer to make a statement, they arrested him and charged him with trespassing. When he went before the judge, he acknowledged entering his wife's residence without her consent but he only did so because he was concerned for her and the children's safety. Respondent acknowledged that although the police told him he could visit his children, they did not give him permission to enter the house. He states he made an error in judgment and should have used a neighbor's phone to alert the police to his concerns that an intruder was holding his wife and children hostage. He is taking classes in conflict resolution and joint parenting through Travis County Domestic Relations. He and his wife are in the process of divorce mediation and are putting the needs of their children first."

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 Nurse License Number 715250, heretofore issued to THOMAS WILLIAM MERRIGAN, including revocation of Respondent's license to practice 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, 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 multistate licensure privilege, if any, to practice 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, 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 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://www.learningext.com/products/generalce/critical/ctabout.asp>.

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:

(3) 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.

(4) 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.

(5) 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.

(6) 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 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

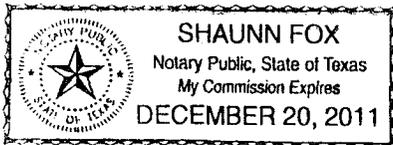
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violation alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid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

Signed this 13th day of July, 2009.

Thomas William Merrigan
THOMAS WILLIAM MERRIGAN, Respondent

Sworn to and subscribed before me this 13 day of July, 2009.

SEAL



Notary Public in and for the State of Texas

Approved as to form and substance.

Rick Reed
Rick Reed, Attorney for Respondent

Signed this 13th day of July, 2009.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 13th day of July, 2009, by THOMAS WILLIAM MERRIGAN, Registered Nurse License Number 715250, and said Order is final.

Effective this 18th day of August, 2009.



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 § ELIGIBILITY
THOMAS WILLIAM MERRIGAN §
APPLICANT for Eligibility for Licensure § AGREED ORDER

On the date entered below, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the Temporary License/Endorsement Application and supporting documents filed by THOMAS WILLIAM MERRIGAN, hereinafter referred to as APPLICANT, together with any documents and information gathered by staff and APPLICANT's Certificate contained herein. Information received by the Board produced evidence that APPLICANT may have violated Section 301.452(b)(3), Texas Occupations Code.

APPLICANT waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on May 2, 2005, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about March 25, 2005, Applicant submitted a Temporary License/Endorsement Application as a professional nurse in the State of Texas in compliance with Section 301.260 *et seq.*, of the Texas Occupations Code.
2. Applicant waived representation by counsel, informal conference, notice and hearing, and consented to the entry of this Order.
3. Applicant received a Baccalaureate Degree in Nursing from Winona State University, Winona, Minnesota, in May 1991.
4. Applicant completed the application for licensure by endorsement and answered "yes" to Question Number Thirteen (13), 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 arrest?.*"

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

In November 1983, Applicant was convicted of the misdemeanor offense of Trespassing in Walled Lake, Michigan.
6. Applicant failed to disclose the following criminal history, to wit:

On or about October 16, 1996, Applicant was charged with the misdemeanor offense of Solicitation of Prostitution in Billings, Montana, and sentenced to thirty (30) days house arrest and assessed a fine in the amount of four hundred fifteen dollars (\$415.00).
7. In a written statement to the Board, Applicant states that he failed to disclose this offense on his application for licensure by endorsement due to advice from his attorney, embarrassment, and his misunderstanding of Texas law pertaining to his licensure by endorsement.
8. Applicant has sworn that with the exception of matters disclosed in connection with the Temporary License/Endorsement Application his past behavior conforms to the Board's professional character requirements.
9. Applicant presented no evidence of behavior since his aforementioned criminal conduct which is inconsistent with good professional character.
10. On May 2, 2005, the Executive Director considered the evidence of the conviction and evaluated its direct relationship to nursing according to Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and 22 Texas Administrative Code §213.28, including the nature and circumstance of the offenses, and the absence of any subsequent conviction.
11. On May 2, 2005, the Executive Director considered evidence of Applicant's post conviction behavior in light of the character factors set out in 22 Texas Administrative Code §213.27 and determined that Applicant currently demonstrates the criteria required for good professional character.
12. Licensure of Applicant poses no direct threat to the health and safety of patients or the public.
13. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Applicant's disclosures.
14. Applicant has been advised by the Board that any information found to be incomplete, incorrect or misleading to the Board or a subsequent discovery of a basis of ineligibility will be considered by the Board and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through fraud or deceit.

CONCLUSIONS OF LAW

1. The Board of Nurse Examiners (Board) has jurisdiction over this matter pursuant to Section 301.453 *et seq.*, Texas Occupations Code.
2. Applicant has submitted an application in compliance with Section 301.260, Texas Occupations Code.
3. The evidence in Findings of Fact Numbers Five (5), Six (6), and Seven (7) is sufficient cause to take disciplinary action under Section 301.452 *et seq.*, Texas Occupations Code, and, therefore, sufficient cause to deny licensure.
4. The Board may probate the denial of a license under conditions for a specified term pursuant to Section 301.453, Texas Occupations Code.
5. This Order is conditioned upon the accuracy and completeness of Applicant's disclosures. Any subsequently discovered discrepancies will result in investigation and disciplinary action.
6. The Board may license individuals who have been previously convicted of a crime or received a deferred order upon consideration of the factors set out in 22 Texas Administrative Code §§213.27 and 213.28 and evaluating the direct relationship to nursing according to Chapter 53, Sec. 53.001 *et seq.*, Texas Occupations Code.
7. Applicant shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452 *et seq.*, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED that the application of THOMAS WILLIAM MERRIGAN, APPLICANT, is hereby conditionally GRANTED and shall be subject to the following conditions:

(1) APPLICANT SHALL obtain and read the Texas Nursing Practice Act, and the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice.

(2) Upon payment of the necessary fees, APPLICANT SHALL be issued a license to practice professional nursing in the State of Texas, which shall bear the appropriate notation.

(3) APPLICANT 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.

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

(5) IT IS FURTHER AGREED and ORDERED that while APPLICANT's license is encumbered by this Order the APPLICANT 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 APPLICANT wishes to work.

(6) APPLICANT SHALL, within one (1) year of licensure in the State of Texas, successfully complete a course in Texas nursing jurisprudence. APPLICANT SHALL obtain Board approval of the course prior to enrollment. 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. APPLICANT 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 APPLICANT'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).*

(7) APPLICANT SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in nursing ethics. APPLICANT SHALL obtain Board approval of the course prior to enrollment. 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. APPLICANT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify APPLICANT'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).*

(8) APPLICANT SHALL pay a monetary fine in the amount of two hundred fifty dollars (\$250.00). APPLICANT SHALL pay this fine within forty-five (45) days of entry of this Order. 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, APPLICANT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

APPLICANT'S CERTIFICATION

I am the Applicant 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 Temporary License/Endorsement Application 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 application, I acknowledge that I have read and I understand Sections 301.157(d), 301.252, 301.253, 301.260, and 301.452(b) of the Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, and Board Rules at 213.27, 213.28, and 213.29 22 Texas Administrative Code which are incorporated by reference as a part of this Order. I agree with all terms of this Order and any stipulations. I agree to inform the Board of any other grounds for denial of licensure prior to 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.

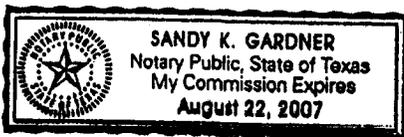
Signed this 3rd day of May, 2005.

Thomas William Merrigan
THOMAS WILLIAM MERRIGAN, APPLICANT

Sworn to and subscribed before me this 3rd day of May, 2005.

SEAL

Sandy K. Gardner
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 Eligibility Agreed Order that was signed on the 3rd day of May, 2005, by THOMAS WILLIAM MERRIGAN, APPLICANT, for Temporary License/Endorsement Application, and said Order is final.

Effective this 3rd day of May, 2005.

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