

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of
DOUGLAS GARRETT DICKEY
PETITIONER for Eligibility for
Licensure

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ORDER OF
CONDITIONAL ELIGIBILITY



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Katherine A. Thomas
Executive Director of the Board

On the date entered below, the Board of Nurse Examiners for the State of Texas hereinafter referred to as the Board, considered the Petition for Declaratory Order and supporting documents filed by DOUGLAS GARRETT DICKEY, 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(b)(3), Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on July 19, 2001, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about April 17, 2001, Petitioner submitted a Petition for Declaratory Order requesting a determination of eligibility for licensure in compliance with 301.257 *et seq.*, Texas Occupations Code.
2. Petitioner waived representation, notice, administrative hearing, and judicial review.
3. At the time of the petition, Petitioner was enrolled in a Nursing Program, at The Victoria College, Victoria, Texas, but has since graduated on May 11, 2001.

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

- On August 2, 1998, Petitioner was charged with Public Intoxication and assessed a fine in the amount of one hundred ninety-five dollars and twenty-five cents (\$195.25) by the Victoria Municipal Court, Victoria, Texas.
- On April 3, 2000, Petitioner was charged with Public Intoxication. Petitioner pled guilty to Public Intoxication and was assessed a fine in the amount of one hundred fifty-two dollars (\$152.00).
- On November 13, 2000, Petitioner was charged with Driving While Intoxicated. On February 5, 2001, Petitioner pled guilty to Operating a Motor Vehicle while Intoxicated, a class B Misdemeanor. Petitioner was sentenced to one (1) year probation and assessed a fine in the amount of five hundred dollars (\$500.00).

5. The Board received letters of support/recommendation for Petitioner from the following:

- A letter of favorable consideration dated March 23, 2001, from Mary Virginia Jacobs, RN, MSN, Instructor, The Victoria College, Victoria, Texas.
- A letter of favorable consideration dated March 30, 2001, from Sheryl McArthur Craft, RN, MSN, CRRN-A, Instructor, The Victoria College, Victoria, Texas.
- A letter of reference dated April 2, 2001, from William J. Coons, Ph.D., Biology Program Coordinator, The Victoria College, Victoria, Texas.
- A letter of reference dated April 3, 2001, from Timothy A. Wheeler, Owner, Pet Connection, Victoria, Texas.

6. 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.

7. The Executive Director considered evidence of Petitioner's substance abuse and subsequent rehabilitation as provided in §213.29, 22 Texas Administrative Code .

8. Licensure of Petitioner poses no direct threat to the health and safety of patients or the public provided Petitioner complies with the stipulations outlined in this Order.

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

10. The Board has determined that the Petitioner for licensure who has not been fit and sober for a period of at least five (5) continuous years [sixty (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.
11. Petitioner has sworn that, with the exception of matters disclosed in connection with the Petition for Declaratory Order, his past behavior conforms to the Board's professional character requirements. Petitioner presented no evidence of behavior which is inconsistent with the Board's character requirements in 22 Texas Administrative Code §213.27.
12. On July 19, 2001, 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.
13. In consideration of Petitioner's past conduct and subsequent evidence of rehabilitation, the Executive Director finds that Petitioner should be declared conditionally eligible to take the National Council Licensure Examination for Registered Nurses.
14. 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.
15. Petitioner's conduct described in Finding Number Four (4) resulted from Petitioner's dependency on chemicals.
16. Petitioner's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

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, Texas Occupations Code.
3. 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.

4. The Board of Nurse Examiners may license an individual who has a history of substance abuse, after consideration of the criteria set out in 22 Texas Administrative Code §213.29, the Board determines the Petitioner does not currently pose a direct threat to the health and safety of patients or the public.
5. 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.
6. The Board may, in its discretion, order a Petitioner, upon initial licensure as a registered nurse, to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of any required fees, DOUGLAS GARRETT DICKEY, 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.

IT IS FURTHER ORDERED that upon full compliance with the terms and the stipulations outlined in this Order, PETITIONER SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

IN ADDITION, IT IS THEREFORE FURTHER AGREED and ORDERED that PETITIONER, upon initial licensure, SHALL comply with the following conditions for such a time as is required for PETITIONER to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

- (1) PETITIONER SHALL, within forty-five (45) days of initial licensure, apply to and be accepted into the TPAPN.
- (2) Upon acceptance into the TPAPN, PETITIONER SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Board of Nurse Examiners.
- (3) PETITIONER SHALL comply with all requirements of the TPAPN contract during its term.
- (4) PETITIONER SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

IT IS FURTHER AGREED, SHOULD PETITIONER fail to comply with this Order

or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including revocation of PETITIONER's license to practice professional nursing in the State of Texas.

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PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all relevant information in conformity with Rule 213.29 at 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 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, 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 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 27 day of AUGUST, 2001.

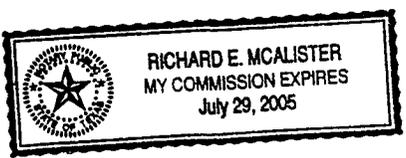
Douglas Garrett Dickey
DOUGLAS GARRETT DICKEY, PETITIONER

Sworn to and subscribed before me this 27 day of AUGUST, 2001.

SEAL

[Signature]

Notary Public in and for the State of TX



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 27th day of August, 2001, by DOUGLAS GARRETT DICKEY, PETITIONER, for Petition for Declaratory Order, and said Order is final.

Entered and effective this 31st day of August, 2001.



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

Attachments: Section 301.257, Texas Occupations Code
Section 301.452(a),(b) and (c), Texas Occupations Code
Section 301.453, Texas Occupations Code
Rule 213.27, 22 Texas Administrative Code
Rule 213.28, 22 Texas Administrative Code
Rule 213.29, 22 Texas Administrative Code
Chapter 53, Sec. 53.001 *et seq.*, Texas Occupations Code