



Board of Nurse Examiners For the State of Texas

Location Address: William P. Hobby Building, Ste. 3-460, 333 Guadalupe Street, Austin, Texas 78701
Phone: (512) 305-7400 Fax: (512) 305-7401 Web: www.bne.state.tx.us

Katherine A. Thomas, MN, RN
Executive Director

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

January 24, 2006

Certified Mail No. 7004 2890 0001 8856 8549

Return Receipt Requested

Thomas William Gilligan
4419 Quicksilver Blvd.
Austin, TX 78744

Dear Mr. Gilligan:

Please find enclosed your *Conditional Eligibility Order*, ratified January 19, 2006, regarding the Petition for Declaratory Order you filed with the Board of Nurse Examiners. The disposition will be forwarded to the National Council of State Boards of Nursing, Inc., and to the Healthcare Integrity and Protection Data Bank (HIPDB). The results of any disciplinary action are public information.

You have been granted permission to write the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination) upon completion of the requirements for graduation and payment of any required fees. Your eligibility to take the NCLEX-RN® Examination may be affected by any inaccuracies in your petition, and any subsequent violation of the Nursing Practice Act may affect your eligibility to sit for the examination or the later revocation of a license obtained through misrepresentation.

If you have any questions, please contact the Examination Department at (512) 305-6819.

Sincerely,

Katherine A. Thomas, MN, RN
Executive Director

KAT/phr

R02/1299

Enclosures: Conditional Eligibility Order

Members of the Board

Joyce Adams, PhD, RN Houston	Deborah Bell, CLU, ChFC Abilene	George Buchenau, Jr., BSN, RN, MBA Amarillo	Virginia Campbell, BSN, RN, CNOR Mesquite	Blanca Rosa Garcia, PhD, RN Corpus Christi
Richard Gibbs, LVN Mesquite	Rachel Gomez, LVN Harlingen	Brenda Jackson, PhD, RN San Antonio	Beverley Jean Nutall, LVN Bryan	
Anita Palmer, ME, MA Olney	Phyllis Rawley, CPC Vice-President	Linda Rounds, PhD, FNP, RN President	Frank Sandoval, Jr., J.D. San Antonio	

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of	§	
THOMAS WILLIAM GILLIGAN	§	ORDER OF
PETITIONER for Eligibility for	§	CONDITIONAL ELIGIBILITY
Licensure	§	

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 THOMAS WILLIAM GILLIGAN, 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 21, 2005, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about August 22, 2005, Petitioner submitted a Petition for Declaratory Order 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 is not currently enrolled in a nursing program.
4. Petitioner completed the Petition for Declaratory Order and answered "no" to Question Number Two (2), which reads as follows: *"Have you ever 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 failed to disclose the following criminal history, to wit:
 - A. On January 21, 1982, Petitioner was charged with the misdemeanor offense of Driving While Intoxicated in Albuquerque, New Mexico. On January 26, 1982, Petitioner was convicted and sentenced to court costs, DWI school, and lab fees.
 - B. On November 22, 1989, Petitioner was charged with Assault and Battery, Interference With an Officer, and Damage to Property in the Municipal Court of the City of Rio Rancho, Sandoval County, New Mexico. Petitioner was found Guilty of the Assault charge, Guilty of the Battery charge, and Guilty of the Destroy/Tamper Property charge. Petitioner was assessed a fine of sixty dollars (\$60.00). Petitioner was found Not Guilty of the charge of Interference With an Officer.
6. There is no evidence of any subsequent criminal conduct.
7. Petitioner's stated reason for non-disclosure of his criminal offenses was "purely time related memory loss. I did not report this to the BNE because I simply did not remember the offenses."
8. Petitioner completed the Petition for Declaratory Order and answered "yes" to Question Number Five (5), which reads as follows: *"Within the past five (5) years have you been addicted to and/or treated for the use of alcohol or any other drug?"*
9. On May 23, 2001, Petitioner was treated at St. David's Pavilion for alcohol dependence. Petitioner completed the program on June 19, 2001.
10. The Board received letters of support/recommendation for Petitioner from the following:
 - A letter of support dated July 29, 2005, was submitted to the Board on behalf of Petitioner by Ray Allrich, PhD, Professor, Austin Community College, Austin, Texas.
 - A letter of support dated August 5, 2005, was submitted to the Board on behalf of Petitioner by Dr. Marita T. Peppard, RN, ND, MS, Austin Community College, Austin, Texas.
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 substance abuse as provided in §213.29, 22 Texas Administrative Code.
13. 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.
14. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Petitioner.
15. 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.
16. 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.
17. 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 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 of Nurse Examiners 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.

7. 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.

ORDER

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of any required fees, THOMAS WILLIAM GILLIGAN, 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 forty-five (45) days 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, SHOULD PETITIONER PRACTICE AS A REGISTERED NURSE IN THE STATE OF TEXAS, PETITIONER WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND PETITIONER 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:

(4) PETITIONER SHALL notify all future employers in professional nursing of this Order of the Board and the stipulations on PETITIONER's license. PETITIONER 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) PETITIONER SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Petitioner by the Board, to the Board's office within five (5) days of employment as a professional nurse.

(6) PETITIONER SHALL CAUSE each employer to submit, on forms provided to the Petitioner 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 by the supervising nurse to the office of the Board at the end of each three (3) months for one (1) year of employment as a professional nurse.

(7) PETITIONER 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, 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. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and PETITIONER 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.**

(8) PETITIONER 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 second 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
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the PETITIONER's place of employment at any time during the stipulation period and require PETITIONER 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. PETITIONER SHALL be responsible for the costs of all random drug screening during the stipulation period.

Any positive result for which the nurse does not have a valid prescription will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action by this Board.

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.

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CONTINUED ON NEXT PAGE.

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 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. 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.

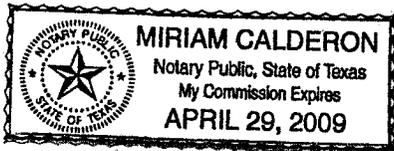
Signed this 27 day of December, 2005.

Thomas William Gilligan
THOMAS WILLIAM GILLIGAN, PETITIONER

Sworn to and subscribed before me this 27th day of December, 2005.

SEAL

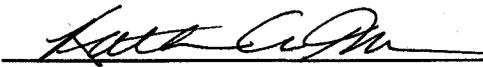
Miriam Calderon
Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, 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 December, 2005, by THOMAS WILLIAM GILLIGAN, PETITIONER, for Petition for Declaratory Order, and said Order is final.

Entered this 19th day of January, 2006.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS


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

INSTRUCTIONS FOR BNE URINE DRUG SCREEN COLLECTION

1. As a result of the proposed Order of the Board being offered by the Board of Nurse Examiners (BNE) for the State of Texas, you will be required to submit to periodic random drug screens **during employment as a registered/vocational nurse**. The BNE has contracted with National Confederation of Professional Services, Inc. (NCPS) and you will be submitting random urine specimens through that program. No other drug screens will be accepted toward meeting your Board-ordered requirements.
2. Enrollment in NCPS is required before testing can begin. In order to confirm that you are aware of the BNE policy for drug screening, and the process, you are asked to sign this form and return it to the Board. Once this form is received, NCPS will be notified of your intent to participate in the program, and you will be sent a "start-up" packet which explains the process of screening, purchasing chain of custody forms, and telephone numbers, etc. **Once NCPS is notified of your participation, you have two (2) weeks to submit your registration information and payment for chain of custody forms.**
3. Initially, you will be required to purchase a minimum of two (2) chain of custody forms to have on hand at all times. These forms are available through NCPS for approximately \$43 each. You may pay by money order or credit card. If you choose to pay by money order, please include your Social Security Number on the money order. **All monies are to be sent to NCPS**, not to the Board's office. NCPS's mailing address is: P.O. Box 120083, Newport News, VA 23612-0083. Phone Number 1 (800) 948-8589.
4. NCPS contracts with LabCorp to provide collection sites throughout the state of Texas. LabCorp collection sites require no collection fee, however, NCPS does provide alternative collection sites which are not a part of the LabCorp network. These alternative sites will expect you to pay an additional processing fee when you submit your specimen to them. When you access the NCPS Voice Response System (DVR) to locate a collection site nearest you, the system will state "no collection fee" if the site is a LabCorp site. **If you do not hear the statement "no collection fee," you should expect to pay an additional processing fee.**
5. **You will be required to phone NCPS every day to verify if you have been chosen to provide a specimen for screening. Failure to call every day could result in further action taken by the Board.** If you are planning to travel out of state, you must contact the Board's office in advance to make arrangements for drug screening; you may be required to submit to a random drug screen even during your time out of town or on vacation.
6. If, due to an emergency, you are unable to report to the collection site on the day you are requested to provide a urine specimen, or if you do not have the proper chain of custody form, you must immediately contact the Monitoring Investigator at the Board's office at (512) 305-6838. **Failure to report for a drug screen may be considered the same as a positive result and may result in further disciplinary action being taken against your license to practice registered/vocational nursing in the state of Texas for your failure to comply with the Order of the Board.**
7. If your specimen tests positive, you may have your results reviewed by a Medical Review Officer (MRO) for an additional fee of \$110.00; however, you must request a review from the MRO within seventy-two (72) hours from the time the Monitoring Investigator notifies you of a positive result. In addition, you must notify the Monitoring Investigator prior to making the request, so that it may be approved with NCPS. (During this time period, the result will be treated as a positive result until proven otherwise).
8. **While you are being monitored by the Board, your employer or a representative from the Board of Nurse Examiners may require you to submit to a random drug screen at any time.**

I have read and understood the requirements of the Board's random drug screening requirements. I agree to comply with the Board's drug screening requirements, should the proposed Order of the Board become effective. I understand a Board representative may appear at my place of employment at any time during my monitoring term in order to gather a specimen for random drug screening.

Printed name of Nurse

Signature of Nurse

Date

License Number

0403/190