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.
Executive Director of the Board

May 2, 2005

Thomas William Merrigan
~~10001 North Capital of Texas Hwy.~~
~~Austin, Texas 79759~~
148 Acapulco Drive
Lakeway, TX 78734

Dear Mr. Merrigan:

We have reviewed and evaluated your Temporary License/Endorsement Application and the supporting information. We are offering you the opportunity to settle this matter without an Administrative Hearing.

Enclosed, please find a proposed Eligibility Agreed Order for your review. The applicable law which is part of your Order. If you choose to sign this Order, you must sign and date the proposed Agreed Order before a notary public. The signed Order must be received within ninety (90) days from the date of this letter. The Order will be entered and become effective upon my signature. A copy of the final Order will be mailed to you.

An Eligibility Order is public information. This information from the process will be forwarded to the National Council of State Boards of Nursing, Inc., and to the Healthcare Integrity and Protection Data Bank (HIPDB).

If you have any questions, please contact Audrey Cazares. If you do not return the signed and notarized Order within ninety (90) days from the date of this letter, your application for licensure will be denied, at which time you may request that your case be scheduled for a public Administrative hearing.

Sincerely,

Katherine A. Thomas, MN, RN
Executive Director

KAT/AC/S10

Enclosure: Proposed Eligibility Agreed Order

Members of the Board

Joyce Adams, PhD, RN, Houston; Thomas Barton, MSN, RN, Pampa; Deborah Bell, CLU, ChFC, Abilene; 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
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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 advise 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 ~~of~~ Travis Texas

SANDY K. GARDNER
Notary Public, State of Texas
My Commission Expires
August 22, 2007

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