

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 205311
ISSUED TO
BRIAN DAVID THOMPSON

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BEFORE THE ELIGIBILITY
AND DISCIPLINARY
COMMITTEE
OF THE TEXAS
BOARD OF NURSING



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.
Patricia A. Thomas
Executive Director of the Board

ORDER OF THE BOARD

TO: BRIAN DAVID THOMPSON
7821 BORDEAUX
ROWLETT, TX 75089

During open meeting held in Austin, Texas, on March 18, 2008, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case. This case was heard, and based on the failure of the Respondent to file a written response to the Formal Charges as required by 22 TEX. ADMIN. CODE § 213.16.

The Committee of the Texas Board of Nursing finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, chapter 301 of the Texas Occupations Code, for retention of Respondent's license to practice vocational nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely notice of the violations alleged in the Formal Charges were given to Respondent in this matter, Respondent has failed to file an answer in accordance with 22 TEX. ADMIN. CODE § 213.16.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056 and 22 TEX. ADMIN. CODE § 213.16.

The Eligibility and Disciplinary Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion to set aside the default order (22 TEX. ADMIN.CODE § 213.16(j)). All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

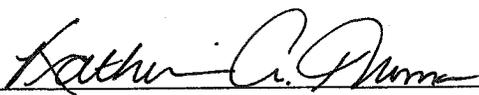
NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 205311, previously issued to BRIAN DAVID THOMPSON, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 205311, previously issued to BRIAN DAVID THOMPSON, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privilege, if any, to practice vocational nursing in the State of Texas.

Entered this 18th day of March, 2008.

TEXAS BOARD OF NURSING
FOR THE STATE OF TEXAS

BY: 
KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

CERTIFICATE OF SERVICE

I hereby certify that on the 24 day of March, 08, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

BRIAN DAVID THOMPSON
7821 BORDEAUX
ROWLETT, TEXAS 75089

BY: Katherine A. Thomas
KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of Permanent License § **BEFORE THE BOARD**
Number 205311, Issued to § **OF NURSE EXAMINERS**
BRIAN DAVID THOMPSON, Respondent § **FOR THE STATE OF TEXAS**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, BRIAN DAVID THOMPSON, is a Vocational Nurse holding license number 205311, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about December 2, 2006, March 2, 2007, and June 2, 2007, Respondent failed to comply with the Order of Conditional Eligibility issued to him on July 20, 2006, by the Board of Nurse Examiners for the State of Texas. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Six (6) of the Order which states, in pertinent part:

(6) Petitioner shall cause each employer to submit, on forms provided to the Petitioner by the Board, periodic reports as to Respondent's capability to practice vocational nursing....

A copy of the July 20, 2006, Order of Conditional Eligibility, Findings of Fact and Conclusions of Law, is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) and (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

CHARGE II.

On or about December 8, 2006, and January 25, 2007, Respondent failed to comply with the Order of Conditional Eligibility issued to him on July 20, 2006, by the Board of Nurse Examiners for the State of Texas. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Eight (8) of the Order which states, in pertinent part:

(8) Petitioner shall submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol....

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) and (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

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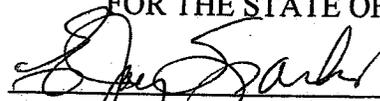
NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of revocation of Respondent's license to practice vocational nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to § 301.461, TEX. OCC. CODE ANN. The cost of proceedings shall include, but is not limited to, the cost paid by the board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bne.state.tx.us.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order of Conditional Eligibility dated July 20, 2006.

Filed this 10th day of August, 2007.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS



James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Victoria Cox, Assistant General Counsel
State Bar No. 00789585

E. Joy Sparks, Assistant General Counsel
State Bar No. 18874600

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701

P: (512) 305-6824

F: (512) 305.8101 or (512)305-7401

Attachments: Order of Conditional Eligibility dated July 20, 2006.

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of
BRIAN DAVID THOMPSON
PETITIONER for Eligibility for
Licensure

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ORDER OF
CONDITIONAL ELIGIBILITY

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 BRIAN DAVID THOMPSON, 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 April 28, 2006, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about February 10, 2006, 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 graduated with a Certificate in Vocational Nursing from Concorde Career Institute, Arlington, Texas, in April 2006.
4. Petitioner completed the Petition for Declaratory Order and answered "yes" to Question Number Two (2), 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 (excluding minor traffic violations)? This includes expunged offenses and*

deferred adjudication with or without prejudice of guilt. Please note that DUI's, DWI's, and 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:
 - A. On March 17, 1999, Petitioner was charged with the misdemeanor offense of Driving While Intoxicated in the County Court of Robertson County, Texas. Petitioner was placed on twelve (12) months supervised pre-trial diversion agreement. On July 6, 2000, Petitioner was discharged from the pre-trial diversion program.
 - B. On April 9, 2002, Petitioner was charged with the misdemeanor Class B offense of Driving While Intoxicated in the County Court at Law of Wise County, Texas. On September 3, 2002, Petitioner plead guilty and was sentenced to one (1) year probation. On October 2, 2003, Petitioner was discharged from probation.
6. There is no evidence of any subsequent criminal conduct.
7. The Board received letters of support/recommendation for Petitioner from the following:
 - A letter of recommendation dated December 15, 2005, was submitted to the Board on behalf of Petitioner by Christie Morrison, RN, Vocational Nursing Instructor, Concorde Career Institute, Arlington, Texas.
 - A letter of recommendation dated September 21, 2005, was submitted to the Board on behalf of Petitioner by Susan R. Haelle, RN, Vocational Nursing Instructor, Concorde Career Institute, Arlington, Texas.
 - A letter of recommendation dated September 21, 2005, was submitted to the Board on behalf of Petitioner by Joan B. Kogango, RN, Vocational Nursing Instructor, Concorde Career Institute, Arlington, Texas.
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. 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, and the Executive Director is satisfied that Petitioner is able to meet the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

11. Petitioner has been advised 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 misrepresentation.
12. On or about April 28, 2006, 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, BRIAN DAVID THOMPSON, PETITIONER, is **CONDITIONALLY ELIGIBLE** to sit for the National Council Licensure Examination for Practical

Nurses (NCLEX-PN® Examination). PETITIONER SHALL NOT be eligible for temporary authorization to practice as a Graduate Vocational 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 Vocational 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 vocational 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-PN®, shall be issued a license to practice vocational 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).*

IT IS FURTHER AGREED, SHOULD PETITIONER PRACTICE AS A VOCATIONAL 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 VOCATIONAL NURSE (VN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(3) PETITIONER SHALL notify all future employers in vocational 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.

(4) 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 vocational nurse.

(5) For the duration of the stipulation period, PETITIONER SHALL be supervised by a Registered Nurse or a Licensed Vocational Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as PETITIONER, 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 Petitioner is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(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 vocational nursing. These reports shall be completed by the Registered Nurse or Licensed Vocational 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 vocational 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
Barbiturates
Benzodiazepines
Cannabinoids

Meperidine
Methadone
Methaqualone
Opiates

Cocaine
Ethanol
tramadol hydrochloride (Ultram)

Phencyclidine
Propoxyphene

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. Failure to report for a drug screen may be considered the same as a positive result and may result in further disciplinary action by this Board.

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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 Vocational 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-PN® Examination or accepting any permit or license from the Board of Nurse Examiners.

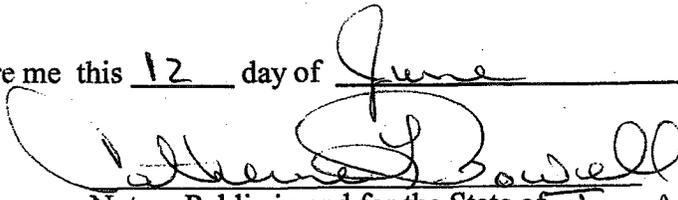
I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

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 12th day of June, 2006.


BRIAN DAVID THOMPSON, PETITIONER

Sworn to and subscribed before me this 12 day of June, 2006.


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 12th day of June, 2006, by BRIAN DAVID THOMPSON, PETITIONER, for Petition for Declaratory Order, and said Order is final.

Entered this 20th day of July, 2006.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

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