

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of
HEATHER DIONNE MCCORD
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 HEATHER DIONNE MCCORD, A/K/A HEATHER SCHMIDT, 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 18, 2003, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about March 19, 2003, Petitioner submitted a Petition for Declaratory Order 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 an Associate Degree in Nursing from Excelsior College, Albany, New York, on March 15, 2002.
4. Petitioner disclosed the following criminal history, to wit:
 - A. On September 22, 1994, Petitioner was charged with the misdemeanor offense of Theft in the County Criminal Court No. 8 of Tarrant County, Texas. Petitioner entered a plea of guilty and proceedings were deferred without adjudication of guilt and Petitioner was sentenced to six (6) months probation. On February 7, 1995, Petitioner was discharged from probation.

- B. On January 13, 1999, Petitioner was charged with the misdemeanor offense of Theft by Check in the County Criminal Court No. 7 of Tarrant County, Texas. Petitioner entered a plea of guilty and proceedings were deferred without adjudication of guilt and Petitioner was sentenced to one (1) year probation. On January 31, 2000, Petitioner was discharged from probation.
- C. On November 2, 2001, Petitioner was charged with the misdemeanor offense of Theft in the County Court at Law of Parker County, Texas. Petitioner was convicted and sentenced to sixty (60) days in jail. Sentence was suspended and Petitioner was on one (1) year probation. On December 6, 2002, Petitioner was discharged from probation.
5. Petitioner states that all of the aforementioned thefts were due to mis-calculating her banking check balance, which resulted in her having insufficient funds to cover some of the checks that she wrote.
6. There is no evidence of any subsequent conviction.
7. On November 2, 2001, the Board of Vocational Nurse Examiners for the State of Texas, served Petitioner with the sanction of a Warning. A copy of the November 2, 2001, Warning is attached and incorporated by reference as part of this Order.
8. The Board received letters of support/recommendation for Petitioner from the following:
- A letter of reference dated January 28, 2003, was submitted on behalf of Petitioner by Ellie Broughton, Weatherford, Texas.
 - A letter of support dated January 29, 2003, was submitted on behalf of Petitioner by Nita Parsons, RN, BSN, Program Chair, Vocational Nursing Program, Weatherford College, Weatherford, Texas.
9. On April 18, 2003, the Executive Director considered the evidence of the convictions 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.
10. On April 18, 2003, the Executive Director considered evidence of Petitioner's post conviction 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.
11. 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.

12. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.
13. Petitioner has been advised by the Board 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 fraud or deceit.

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 a conviction 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 of a crime 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 her 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 payment of any required fees, HEATHER DIONNE MCCORD, 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 Texas course in nursing jurisprudence. PETITIONER 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 Registered 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.

(2) PETITIONER SHALL, within one (1) year of initial licensure, successfully complete a Texas course in nursing ethics. PETITIONER 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 Registered 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.

IT IS FURTHER AGREED, AT THE TIME OF INITIAL LICENSURE, 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, UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE, OR WHERE DIRECT PATIENT CARE IS NOT PROVIDED, WILL NOT APPLY TO THIS STIPULATION PERIOD:

(3) PETITIONER SHALL notify each present employer 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 to each present employer within five (5) days of receipt of this Order. 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 to each future employer prior to accepting an offer of employment.

(4) PETITIONER SHALL CAUSE each present employer in professional nursing to submit the Notification of Employment form, which is provided to the Petitioner by the Board, to the Board's office within ten (10) days of employment as a professional nurse. 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.

(5) PETITIONER SHALL be supervised by a Registered Nurse who is on the premises. The supervising RN 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 RN shall have a minimum of two (2) years experience in the same or similar practice setting to which the Petitioner is 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 professional nursing. These reports shall be completed by the Registered Nurse who supervises the PETITIONER. These reports shall be submitted by the supervising Registered 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.

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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PETITIONER'S CERTIFICATION

I am the Petitioner 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 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 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.

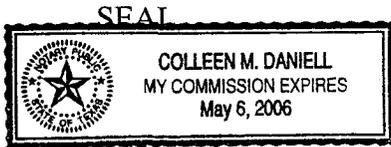
I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Board of Nurse Examiners enter this Order.

Signed this 22nd day of May, 2003.

Heather Dionne McCord
HEATHER DIONNE MCCORD, PETITIONER

Sworn to and subscribed before me this 22nd day of May, 2003

Colleen M. Daniell
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 22nd day of May, 2003, by HEATHER DIONNE MCCORD, PETITIONER, for Petition for Declaratory Order, and said Order is final.

Entered this 24th day of July, 2003.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS



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



BOARD OF VOCATIONAL NURSE EXAMINERS

333 GUADALUPE STREET, SUITE 3-400

AUSTIN, TEXAS 78701

(512) 305-8101

April 9, 2003

HEATHER DIONNE MCCORD
4203 FAIRVIEW ROAD
MILLSAP, TEXAS 76066

Dear LVN McCord:

You were previously **advised** of an investigation being conducted by this office. Our investigation disclosed that on or about November 2, 2001, you were convicted of the misdemeanor offense of Theft, in the County Court at Law of Parker County, Texas, under Cause No. CCL001706.

At this time no disciplinary action will be taken against your vocational nursing license. Our investigation of this matter is closed.

However, this letter is to serve as a **warning** that your conduct was unprofessional and that continued and/or future offenses of this nature, or violation of the Texas Occupations Code, Chapter 302, will not be taken lightly and could subject you to disciplinary action by the Board.

Sincerely,

A handwritten signature in black ink, appearing to be "E. Stearns", written over a faint circular stamp.

Earl E. Stearns, Investigator
Enforcement Division
(512) 305-7665 (Office)

EES/ees