IN THE MATTER OF	§	BEFORE THE ELIGIBILITY
	§	
PERMANENT CERTIFICATE	§	AND DISCIPLINARY
	§	
NUMBER 759428	§	COMMITTEE
	§	
ISSUED TO	§	OF THE TEXAS
	§	
MARLENE LUCILLE BROWN	§	BOARD OF NURSING

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.
Executive Director of the Board

ORDER OF THE BOARD

TO: Marlene Lucille Brown
9425 Rolater Road, #434
Frisco, Texas 75034

During open meeting held in Austin, Texas, on June 14, 2011, 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 appear as required by 22 TEX. ADMIN. CODE Ch. 213.

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 professional 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 regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

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 for rehearing (22 TEX. ADMIN.CODE § 213.2(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 759428, previously issued to MARLENE LUCILLE BROWN, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

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

Entered this 14th day of June, 2011.

TEXAS BOARD OF NURSING

BY: _____

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

Re: Permanent Certificate Number 759428
Issued to MARLENE LUCILLE BROWN
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of June, 20 11, 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):

Marlene Lucille Brown
9425 Rolater Road, #434
Frisco, Texas 75034

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

In the Matter of Permanent License	§	**BEFORE THE TEXAS**
Number 759428, Issued to	§	
MARLENE LUCILLE BROWN, Respondent	§	**BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MARLENE LUCILLE BROWN, is a Registered Nurse holding license number 759428, which is in delinquent 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 August 4, 2009, Respondent failed to comply with the Eligibility Agreed Order issued to her on July 28, 2008, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Seven (7) of the Agreed Order which states, in pertinent part:

> (7) APPLICANT SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in Texas nursing jurisprudence and ethics....

A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated July 28, 2008, 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).

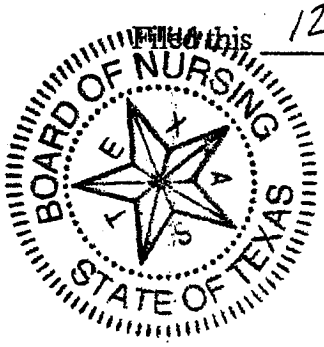
NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. 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.bon.state.tx.us.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.state.tx.us/disciplinaryaction/discp-matrix.html.

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: Eligibility Agreed Order dated August 1, 2008.

Filed this 12th day of October, 2010.



TEXAS BOARD OF NURSING

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TEXAS BOARD OF NURSING
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6824
F: (512) 305-8101 or (512)305-7401

Attachments: Eligibility Agreed Order dated July 28, 2008.

0999/D

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	ELIGIBILITY
MARLENE LUCILLE BROWN	§	
APPLICANT for Eligibility for Licensure	§	AGREED ORDER

On the date entered below, the Texas Board of Nursing, hereinafter referred to as the Board, considered the Temporary License/Endorsement Application and supporting documents filed by MARLENE LUCILLE BROWN, 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)(2), Texas Occupations Code.

APPLICANT waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on April 30, 2008, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about October 4, 2007, 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 an Associate Degree in Nursing from Thorton Community College, Harvey, Illinois, in May 1971.

4. Applicant completed the Application for Licensure by Endorsement and answered "no" to Question Number Thirteen (13), which reads as follows: "*Have you ever been convicted, placed on community supervision whether or not adjudicated guilty, sentenced to serve jail or prison time or granted pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country, or received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests whether or not on appeal (excluding minor Class C traffic violations)? This includes expunged offenses and deferred adjudications with or without a finding of guilt.*"

5. Applicant failed to disclose the following criminal history, to wit:

> On or about August 28, 1982, Applicant was charged with the misdemeanor offenses of "Criminal Damage to Property," "Theft," "Resisting Peace Officer," and "Battery" in the Lake County 19th Judicial Circuit Court in Waukegan, Illinois. Applicant was found Guilty of "Theft" and "Battery" and proceedings were deferred. Applicant was placed on one (1) year probation and was assessed a fine in the amount of one hundred dollars ($100.00) plus court costs. Applicant was found Not Guilty of "Criminal Damage to Property" and the disposition of the remaining charge is unknown.

6. Applicant has sworn that with the exception of matters disclosed in connection with the Temporary License/Endorsement Application, her past behavior conforms to the Board's professional character requirements.

7. In a letter dated February 27, 2008, Applicant stated "I honestly believed I had no record and was not deliberately attempting to mislead the Board."

8. Applicant presented no evidence of behavior since her misdemeanor offenses which is inconsistent with good professional character.

9. The Executive Director is satisfied that Applicant is able to meet the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

10. 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.

11. Licensure of Applicant poses no direct threat to the health and safety of patients or the public, provided Applicant 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 Applicant's disclosures.

13. 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 Texas Board of Nursing (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 Four (4) and Five (5) 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 or received a deferred order for a crime 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 MARLENE LUCILLE BROWN, 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 Nurse Education, Licensure and Practice.

(2) APPLICANT SHALL pay a fine in the amount of two hundred fifty dollars ($250.00), in the form of a Cashier's Check or a U.S. Money Order payable to the Texas Board of Nursing, within forty-five (45) days of initial licensure.

(3) Upon payment of any necessary fees, APPLICANT SHALL be issued a license

to practice nursing in the State of Texas, which shall bear the appropriate notation.

(4) 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 §211.1 *et seq.* and this Order.

(5) 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.

(6) 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 Texas Board of Nursing in the party state where APPLICANT wishes to work.

(7) APPLICANT SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in Texas nursing jurisprudence and ethics. APPLICANT SHALL obtain Board approval of the course prior to enrollment only if the course is <u>not</u> 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, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding Sexual Misconduct, Fraud, Theft and Deception, Nurses with Chemical Dependency, and Lying and Falsification. 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 at the following Board website address: http://www.bon.state.tx.us/about/stipscourses.html.*

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

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CONTINUED ON NEXT PAGE.

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 Texas Board of Nursing 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 at 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 Texas Board of Nursing.

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 Texas Board of Nursing enter this Order.

Signed this 19 day of July, 2008.

Marlene Lucille Brown

MARLENE LUCILLE BROWN, APPLICANT

Sworn to and subscribed before me this 19 day of July, 2008.

SEAL SHAWN ROBBINS Notary Public, State of Texas My Comm. Expires Dec. 14, 2011

Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby ratify and adopt the Eligibility Agreed Order that was signed on the 19th day of July, 2006, by MARLENE LUCILLE BROWN, APPLICANT, for Temporary License/Endorsement Application, and said Order is final.

Effective this 28th day of July, 2008.

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