



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

BEFORE THE BOARD OF NURSING
FOR THE STATE OF TEXAS

In the Matter of § ELIGIBILITY
THERESE MARIE DOLIVERA §
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 THERESE MARIE DOLIVERA, 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(8), Texas Occupations Code.

APPLICANT waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on March 9, 2009, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about December 2, 2008, Applicant submitted an Application for Licensure by Endorsement requesting a determination of eligibility for licensure in compliance with Section 301.257 of the Texas Occupations Code and the Board's Rule at 22 Texas Administrative Code Section 213.30.
2. Applicant waived notice, administrative hearing, and judicial review.
3. Applicant graduated with a Diploma in Professional Nursing from New England Baptist Hospital School of Nursing, Boston, Massachusetts, in June 1973.
4. Applicant completed the Application for Licensure by Endorsement and answered "no" to the question which reads as follows: *"Has any licensing authority refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, suspended, placed on probation, refused to renew a professional license or certificate held by you now or previously, or ever fined, censured, reprimanded or otherwise disciplined you?"*

5. In July 2007, Applicant's licensure with the Virgin Islands Board of Nurse Licensure was suspended contingent upon completion of a one (1) year drug rehabilitation program. Applicant's license is currently still in a suspended status.
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. After considering the action taken by the Virgin Islands Board of Nurse Licensure along with Applicant's conduct since July 2007, 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.
8. Applicant has sworn that her past behavior conforms to the Board's professional character requirements. Applicant presented no evidence of behavior which is inconsistent with good professional character.
9. On March 9, 2009, the Executive Director considered evidence of Applicant's past 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.
10. 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.
11. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Applicant's disclosures.
12. 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 has jurisdiction over this matter pursuant to Section 301.453 *et seq.*, Texas Occupations Code.
2. Applicant has submitted an Application for Licensure by Endorsement requesting a determination of eligibility for licensure in compliance with Section 301.257 of the Texas Occupations Code and the Board's Rule at 22 Texas Administrative Code Section 213.30.

3. The evidence in Findings of Fact Number 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 action taken by another jurisdiction is grounds for denial of a license under Section 301.452 *et seq.*, Texas Occupations Code.
5. 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.
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

IT IS THEREFORE AGREED that the application of THERESE MARIE DOLIVERA, 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) Upon receiving authorization to practice professional nursing in Texas, APPLICANT SHALL comply in all respects with the Nursing Practice Act, 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.

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.

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.

(4) 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 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, 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 Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; 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/disciplinaryaction/stipscourses.html>.*

(5) APPLICANT SHALL pay a monetary fine in the amount of seven hundred and fifty dollars (750.00). APPLICANT SHALL pay this fine within forty-five (45) days of initial

licensure in the State of Texas. Payment is to be made directly to the Texas Board of Nursing 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 THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) 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:

(6) APPLICANT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on APPLICANT's license. APPLICANT 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.

(7) APPLICANT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Applicant by the Board, to the Board's office within five (5) days of employment as a nurse.

(8) For the first year of employment as a Nurse under this Order, APPLICANT SHALL be directly supervised by a Registered Nurse. Direct supervision requires another professional nurse to be working on the same unit as APPLICANT and immediately available to

provide assistance and intervention. APPLICANT SHALL work only on regularly assigned, identified and predetermined unit(s). The APPLICANT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. APPLICANT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

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

(10) APPLICANT SHALL NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Applicant is regularly assigned for one (1) year of employment as a nurse.

(11) APPLICANT SHALL NOT practice as a nurse in any critical care area for one (1) year of employment as a nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(12) APPLICANT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a nurse.

(13) APPLICANT SHALL CAUSE each employer to submit, on forms provided to the Applicant by the Board, periodic reports as to APPLICANT's capability to practice nursing. These reports shall be completed by the Registered Nurse who supervises the APPLICANT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for three (3) years of employment as a nurse.

(14) APPLICANT 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, APPLICANT 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 APPLICANT 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.**

(15) APPLICANT 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 next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) 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. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis is the sole method accepted by the Board.

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 APPLICANT's place of employment at any time during the stipulation period and require APPLICANT 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. APPLICANT 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.

(16) APPLICANT SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. APPLICANT SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by APPLICANT. APPLICANT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) months. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

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.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

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, 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.

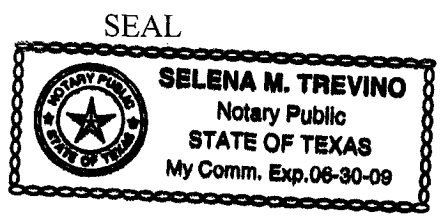
I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

I understand that I can be represented by an attorney in this matter. I waive 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 27th day of May, 2009.

Therese Marie Dolivera
THERESE MARIE DOLIVERA, APPLICANT

Sworn to and subscribed before me this 27th day of May, 2009.



[Signature]
Notary Public in and for the State of Texas


Approved as to form and substance.
[Signature]
Louis Leichter, Attorney for Applicant

Signed this 28 day of May, 2009.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Order of Conditional Eligibility that was signed on the 27th day of May, 2009, by THERESE MARIE DOLIVERA, APPLICANT, for Temporary License/Endorsement Application, and said Order is final.

Entered this 23rd day of July, 2009.

BOARD OF NURSING
FOR THE STATE OF TEXAS


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