

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 222557
ISSUED TO
BARBARA JOAN EDGEWORTH

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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: Barbara Joan Edgeworth
206 St. Finans Way
Houston, Texas 77015

During open meeting held in Austin, Texas, on Tuesday, August 17, 2010, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, 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 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 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 222557, previously issued to BARBARA JOAN EDGEWORTH, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 222557, previously issued to BARBARA JOAN EDGEWORTH, 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 nurse licensure compact privileges, if any, to practice vocational nursing in the State of Texas.

Entered this 17th day of August, 2010.

TEXAS BOARD OF NURSING

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

Re: Permanent Certificate Number 222557
Issued to BARBARA JOAN EDGEWORTH
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of August, 2010, 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):

BARBARA JOAN EDGEWORTH
206 St. Finans Way
Houston, Texas 77015

BY:



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

**In the Matter of Permanent License
Number 222557, Issued to
BARBARA JOAN EDGEWORTH, Respondent**

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§

**BEFORE THE TEXAS
BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, BARBARA JOAN EDGEWORTH, is a Vocational Nurse holding license number 222557, which is in inactive 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 January 29, 2010, Respondent became non-compliant with the Order of Conditional Eligibility issued to her by The Board of Nurse Examiners for the State of Texas on May 21, 2007. Non-compliance is the result of Respondent's failure to enroll and be accepted into the Texas Peer Assistance Program for Nurses (TPAPN). Stipulation Number One (1) of the Order dated May 21, 2007, reads, in pertinent part:

- (1) PETITIONER SHALL, within forty-five (45) days if initial licensure, apply to and be accepted into the TPAPN, which SHALL include payment of non-refundable participation fee in the amount of three hundred and fifty dollars (\$350.00) payable to TPAPN.

A copy of the May 21, 2007 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)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(9)&(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 to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, which 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: Agreed Order dated May 21, 2007.

Filed this 17th day of May, 2010.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel

Board Certified - Administrative Law

Texas Board of Legal Specialization

State Bar No. 10838300

Jena Renee Koslan Abel, Assistant General Counsel

State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel

State Bar No. 24066924

Robert Kyle Hensley, Assistant General Counsel

State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel

State Bar No. 24052269

John F. Legris, Assistant General Counsel

State Bar No. 00785533

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: Order of the Board dated May 21, 2007

0999/D

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of	§	
BARBARA JOAN EDGEWORTH	§	ORDER OF
PETITIONER for Eligibility for	§	CONDITIONAL ELIGIBILITY
Licensure	§	

On the date entered below, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the Application for Licensure by Examination and supporting documents filed by BARBARA JOAN EDGEWORTH, 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(b)(3), Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on April 10, 2007, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about January 10, 2006, Petitioner submitted an Application for Licensure by Examination 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 received a Certificate in Vocational Nursing from San Jacinto College - North, Houston, Texas, in August 2005.
4. Petitioner completed the Application for Licensure by Examination and answered "yes" to Question Number One (1), which reads in part 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 arrests? This includes expunged offenses and deferred adjudication with or without prejudice of guilt."*

5. Petitioner disclosed the following criminal history, to wit:
 - A. On June 6, 1995, Petitioner was charged with the Class B Misdemeanor offense of Possession of Marijuana in the County Court at Law of Kountze County, Texas. On July 18, 1996, Petitioner completed the Pre-Trial Diversion Program and the case was dismissed.
 - B. On May 2, 2004, Petitioner was charged with the Class B Misdemeanor offense of Driving While Intoxicated in the County Court at Law of Chambers County, Texas. On March 9, 2005, Petitioner plead guilty and was assessed a fine and court costs in the amount of one thousand, three hundred thirty-seven dollars (\$1,337.00), Petitioner's driver's license was suspended for 90 days, and she was sentenced to three (3) days confinement in Chambers County Jail.
 - C. On October 8, 2005, Petitioner was charged with the Class B Misdemeanor offense of Driving While License Suspended in the County Criminal Court at Law No. 7 of Harris County, Texas. Petitioner plead guilty and was assessed a fine in the amount of one hundred dollars (\$100.00) and sentenced to three (3) days confinement in the Harris County Jail.
6. There is no evidence of any subsequent criminal conduct.
7. On October 2, 2006, and March 9, 2007, Petitioner was seen by John K. Reid, Ph.D., P.C., Clinical and Forensic Psychology, to undergo a forensic psychological evaluation to include a chemical dependency component and a polygraph examination. Based on the assessment, it is likely that Petitioner would have difficulty, particularly over time, in conforming her behavior to the requirements of Rules 213.27 - 213.30 at 22 TAC, as well as the minimum standards set by the Board's Rules 217.11 at 22 TAC and generally accepted nursing standards. Dr. Reid further recommends that Petitioner participate in an out-patient treatment program.
8. Petitioner presented evidence of current fitness to practice vocational nursing, provided Petitioner complies with the stipulations as outlined in this Order.
9. The safety of patients and the public requires that all persons licensed to practice nursing be fit, sober, and able to consistently practice nursing in autonomous roles under demanding and stressful conditions.
10. The Executive Director considered evidence of Petitioner's substance abuse and subsequent rehabilitation as provided in §213.29, 22 Texas Administrative Code .
11. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Petitioner.

12. Petitioner has sworn that, with the exception of matters disclosed in connection with the Application for Initial Licensure by Examination, her past behavior conforms to the Board's professional character requirements. Petitioner presented no evidence of behavior which is inconsistent with the Board's character requirements in 22 Texas Administrative Code §213.27.
13. On April 10, 2007, 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.
14. In consideration of Petitioner's past conduct and subsequent evidence of rehabilitation, the Executive Director finds that Petitioner should be declared conditionally eligible to take the National Council Licensure Examination for Practical Nurses.
15. Petitioner's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

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 an application in compliance with Section 301.257, Texas Occupations Code.
3. 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.
4. The Board of Nurse Examiners may license an individual who has a history of substance abuse, after consideration of the criteria set out in 22 Texas Administrative Code §213.29, the Board determines the Petitioner does not currently pose a direct threat to the health and safety of patients or the public.
5. The Board may, in its discretion, order a Petitioner, upon initial licensure as a vocational nurse, to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of any required fees, BARBARA JOAN EDGEWORTH, 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 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 Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.*, and this Order.

IT IS FURTHER ORDERED that PETITIONER, upon attaining a passing grade on the NCLEX-PN®, shall be issued a license to practice nursing in the State of Texas.

IN ADDITION, IT IS THEREFORE FURTHER AGREED and ORDERED that PETITIONER, upon initial licensure, SHALL comply with the following conditions for such a time as is required for PETITIONER to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) PETITIONER SHALL, within forty-five (45) days of initial licensure, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, PETITIONER SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Board of Nurse Examiners.

(3) PETITIONER SHALL comply with all requirements of the TPAPN contract during its term.

(4) PETITIONER SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Petitioner's multistate licensure privileges, 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, 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 AGREED, SHOULD PETITIONER fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including revocation of PETITIONER's license to practice vocational 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 relevant information in conformity with Rule 213.29 at Texas Administrative Code. I certify that my past behavior, except as disclosed in my Application for Licensure by Examination, 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 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 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-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 15th day of MAY 2007.

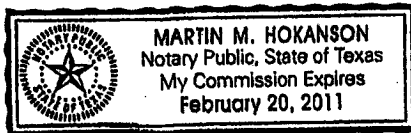
Barbara J. Edgeworth
BARBARA JOAN EDGEWORTH, PETITIONER

Sworn to and subscribed before me this 15th day of May, 2007.

SEAL

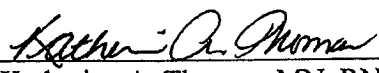
Martin M. Hokanson

Notary Public in and for the State of TEXAS



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 Order of Conditional Eligibility that was signed on the 15th day of May, 2007, by BARBARA JOAN EDGEWORTH, PETITIONER, for Application for Licensure by Examination, and said Order is final.

Entered and effective this 21st day of May, 2007.


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