

4. Respondent's complete vocational nursing employment history is unknown.
5. On February 21, 2007, Respondent was issued an Eligibility Agreed Order by the Board of Nurse Examiners for the State of Texas. A copy of the February 21, 2007, Eligibility Agreed Order, Findings of Fact and Conclusions of Law is attached and incorporated, by reference, as part of this Order.
6. On or about March 27, 2008, Respondent failed to comply with the Eligibility Agreed Order issued to him on February 21, 2007, 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 Four (4) of the Order which states, in pertinent part:

(4) Applicant shall, within one (1) year of initial licensure, successfully complete a course in Texas nursing jurisprudence....
7. On or about March 27, 2008, Respondent failed to comply with the Eligibility Agreed Order issued to him on February 21, 2007, 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 Five (5) of the Order which states, in pertinent part:

(5) Applicant shall, within one (1) year of initial licensure, successfully complete a course in nursing ethics....
8. Formal Charges were filed on October 2, 2009. A copy of the Formal Charges is attached and incorporated, by reference, as part of this Order.
9. Formal Charges were mailed to Respondent on October 9, 2009.
10. On December 8, 2009, Respondent submitted a signed and notarized affidavit to the Board expressing his desire to voluntarily surrender the right to practice vocational nursing in the State of Texas. A copy of the December 8, 2009, affidavit is attached and incorporated, by reference, as part of this Order.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove a violation of Section 301.452(b)(1), and (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12 (11)(B).

4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

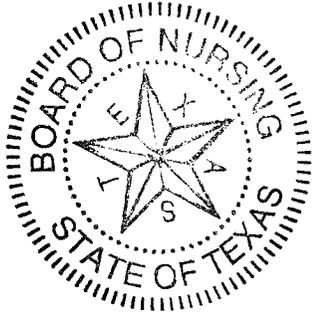
ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Vocational Nurse License Number 209305, heretofore issued to JAMES BARRY MOODY, to practice vocational nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice vocational nursing, use the title of "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying himself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse during the period in which the license is in surrendered status.
2. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure and shall not petition for reinstatement until at least one (1) year has elapsed since the effective date of this Order.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice vocational nursing in the State of Texas.

Effective this 6th day of January, 2010.



TEXAS BOARD OF NURSING

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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of § ELIGIBILITY
JAMES BARRY MOODY §
APPLICANT for Eligibility for Licensure § AGREED ORDER

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 Endorsement and supporting documents filed by JAMES BARRY MOODY, 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(3)&(8) *et seq.*, Texas Occupations Code.

APPLICANT waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on January 12, 2007, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about September 6, 2006, Applicant submitted an Application for Licensure by Endorsement in compliance with Section 301.260 *et seq.*, Texas Occupations Code.
2. Applicant waived representation, notice, administrative hearing, and judicial review.
3. Applicant received a Certificate in Vocational Nursing from Dawson Technical Institute, Chicago, Illinois, in January 1974.
4. Applicant completed the Application for Licensure by Endorsement and answered "yes" to Question Number Thirteen (13), 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. Applicant disclosed the following criminal history, to wit:

On April 27, 1984, Applicant was charged with the misdemeanor offense of Unauthorized Use of a Motor Vehicle in the County Court at Law in and for the State of Texas. Applicant entered a plea of guilty and was assessed a fine.

6. Applicant completed the Application for Licensure by Endorsement and answered "yes" to Question Number Fifteen (15), 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?"*

7. On September 27, 1991, Applicant was issued a Letter of Reprimand/Censure by the Arizona State Board of Nursing.

8. On October 1, 1991, Applicant satisfied all conditions outlined in the Letter of Reprimand/Censure issued by the Arizona Board of Nursing on September 27, 1991.

9. Applicant has sworn that with the exception of matters disclosed in connection with the Application for Licensure by Endorsement, his past behavior conforms to the Board's professional character requirements.

10. After considering the action taken by the Arizona Board of Nursing along with Applicant's conduct since September 27, 1991, 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.

11. On January 12, 2007, the Executive Director considered evidence of Applicant's 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.

12. Applicant presented sufficient evidence that he would not pose a direct threat to the health and safety of patients and the public.

13. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Applicant's disclosures.

14. 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 Board of Nurse Examiners 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 in compliance with 301.260 *et seq.*, Texas Occupations Code.
3. The evidence in Findings of Fact Numbers Five (5) and Seven (7) 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 his 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 JAMES BARRY MOODY, 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 Vocational Nurse Education, Licensure and Practice.

(2) Upon payment of the necessary fees, APPLICANT SHALL be issued a license to practice vocational nursing in the State of Texas, which shall bear the appropriate notation.

(3) Upon receiving authorization to practice vocational nursing in Texas, 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 §211.01 *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 vocational 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. 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, and documentation of care. 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 on the Board's website, www.bne.state.tx.us (under BNE events).*

(5) APPLICANT SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in nursing 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. 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. APPLICANT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify APPLICANT'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, 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 vocational nursing in the State of Texas.

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APPLICANT'S CERTIFICATION

I am the Applicant 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 Endorsement, 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 and have no pending cases 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 agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to 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.

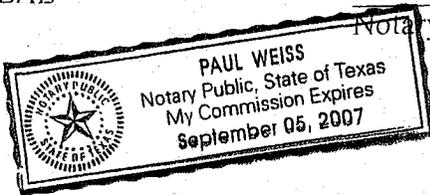
Signed this 14 day of Feb 07, _____

James B. Moody

JAMES BARRY MOODY, APPLICANT

Sworn to and subscribed before me this 14th day of February, 2007.

SEAL



Paul Weiss

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 14th day of February, 2007, by JAMES BARRY MOODY, APPLICANT, for Licensure by Endorsement, and said Order is final.

Entered this 21st day of February, 2007.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

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

In the Matter of Permanent License § **BEFORE THE TEXAS**
Number 209305, Issued to §
JAMES BARRY MOODY, Respondent § **BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, JAMES BARRY MOODY, is a Vocational Nurse holding license number 209305, 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 March 27, 2008, Respondent failed to comply with the Eligibility Agreed Order issued to him on February 21, 2007, 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 Four (4) of the Order which states, in pertinent part:

(4) Applicant shall, within one (1) year of initial licensure, successfully complete a course in Texas nursing jurisprudence....

A copy of the February 21, 2007, Eligibility Agreed Order, 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 March 27, 2008, Respondent failed to comply with the Eligibility Agreed Order issued to him on February 21, 2007, 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 Five (5) of the Order which states, in pertinent part:

(5) Applicant shall, within one (1) year of initial licensure, successfully complete a course in nursing ethics....

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).

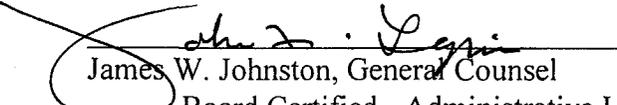
NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of revocation of Respondent's license to practice vocational nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent 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.bon.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: Eligibility Agreed Order dated February 21, 2007.

Filed this 2nd day of October, 2007.

TEXAS BOARD OF NURSING


James W. Johnston, General Counsel

Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

John F. Legris, Assistant General Counsel
State Bar No. 00785533

Jena Renee Koslan Abel, Assistant General Counsel
State Bar No. 24036103

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

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 February 21, 2007.

JAMES BARRY MOODY
4007 Alpine Aster
San Antonio, Texas 78259
Texas LVN License #209305

Voluntary Surrender Statement

December 8, 2009

Dear Texas Board of Nursing:

I no longer desire to be licensed as a vocational nurse. Accordingly, I voluntarily surrender my license/licenses to practice in Texas. I, James Barry Moody, LVN, waive representation by counsel and consent to the entry of an Order which outlines requirements for reinstatement of my license. I understand that I will be required to comply with the Board's Rules and Regulations in effect at the time I submit any petition for reinstatement.

Signature James B. Moody
Date 12/8/09
Texas Nursing License Number/s 209305

The State of Texas

Before me, the undersigned authority, on this date personally appeared JAMES BARRY MOODY who, being duly sworn by me, stated that he executed the above for the purpose therein contained and that he understood same.

Sworn to before me the 8th day of December, 2009.

SEAL



Noemi Leal
Notary Public in and for the State of TX

12/8/09

To the Board of Nursing, State of Texas

I James B. Moody, no longer, request
not want a license in the State of Texas:

James B. Moody

License number # 209305

Thank You