



Board of Nurse Examiners For the State of Texas

Location Address: William P. Hobby Building, Ste. 3-460, 333 Guadalupe Street, Austin, Texas 78701
Phone: (512) 305-7400 Fax: (512) 305-7401 Web: www.bne.state.tx.us

Katherine A. Thomas, MN, RN
Executive Director

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

March 20, 2006

Certified Mail No. 7004 2890 0001 8856 9102

Return Receipt Requested

Frank Troy Lenhard
1924 Greenbriar Avenue
Orange, TX 77632

Dear Mr. Lenhard:

Please find enclosed your *Conditional Eligibility Order*, ratified March 17, 2006, regarding the Petition for Declaratory Order you filed with the Board of Nurse Examiners. The disposition will be forwarded to the National Council of State Boards of Nursing, Inc., and to the Healthcare Integrity and Protection Data Bank (HIPDB). The results of any disciplinary action are public information.

You have been granted permission to write the National Council Licensure Examination for Practical Nurses (NCLEX-PN® Examination) upon completion of the requirements for graduation and payment of any required fees. Your eligibility to take the NCLEX-PN® Examination may be affected by any inaccuracies in your petition, and any subsequent violation of the Nursing Practice Act may affect your eligibility to sit for the examination or the later revocation of a license obtained through misrepresentation.

If you have any questions, please contact the Examination Department at (512) 305-6819.

Sincerely,

Katherine A. Thomas
Katherine A. Thomas, MN, RN
Executive Director

KAT/phr

R02/1299

Enclosures: Conditional Eligibility Order

Members of the Board

Joyce Adams, PhD, RN Houston	Deborah Bell, CLU, ChFC Abilene	George Buchenau, Jr., BSN, RN, MBA Amarillo	Virginia Campbell, BSN, RN, CNOR Mesquite	Blanca Rosa Garcia, PhD, RN Corpus Christi
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Anita Palmer, ME, MA Olney	Phyllis Rawley, CPC Vice-President		Linda Rounds, PhD, FNP, RN President	Frank Sandoval, Jr., J.D. San Antonio

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of	§	
FRANK TROY LENHARD	§	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 Petition for Declaratory Order and supporting documents filed by FRANK TROY LENHARD, 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) *et seq.*, Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on January 24, 2006, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about September 14, 2005, Petitioner submitted a Petition for Declaratory Order 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 graduated with a Diploma in Vocational Nursing from Lamar State College, Orange, Texas, in December 2004.
4. Petitioner completed the Petition for Declaratory Order and answered "yes" to Question Number Two (2), which reads as follows: "*Have you been convicted, adjudged guilty by a court, plead 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 (excluding minor traffic violations)? This includes expunged offenses and deferred adjudications with or without prejudice of guilt. Please note that DUI's, DWI's, PI's must be reported and are not considered minor traffic violations. (One time minor in possession [MIP] or minor in consumption [MIC] do not need to be disclosed, therefore, you may answer "No". If you have two or more MIP's or MIC's, you must answer "Yes".)

5. Petitioner disclosed the following criminal history, to wit:
- A. On April 19, 2002, Petitioner was charged with the misdemeanor Class B offense of Boating While Intoxicated in the County Court at Law of Orange County, Texas. Petitioner plead Guilty and was assessed a fine and court costs in the amount of seven hundred ninety-five dollars (\$795.00). Petitioner was placed on probation for one (1) year. On May 8, 2004, Petitioner's probation expired.
 - B. On April 19, 2002, Petitioner was charged with the misdemeanor Class B offense of Possession of Marijuana in the County Court at Law of Orange County, Texas. Petitioner was placed on probation for one (1) year and was assessed court costs in the amount of two hundred eighty dollars (\$280.00).
 - C. On April 19, 2002, Petitioner was charged with the misdemeanor Class B offense of Interference with a Public Servant/Peace Officer in the County Court at Law of Orange County, Texas. Petitioner was placed on probation for one (1) year and was assessed court costs in the amount of two hundred eighty dollars (\$280.00).
 - D. On May 8, 2003, Petitioner was charged with the misdemeanor Class A offense of Driving While Intoxicated-2nd in the County Court at Law of Orange County, Texas. Petitioner plead Guilty and was sentenced to six (6) days jail time, assessed a fine and court costs in the amount of six hundred ninety-five dollars (\$695.00). Petitioner was placed on probation for eighteen (18) months and was required to install a DWI Interlock system on his vehicle. On November 8, 2004, Petitioner's probation expired.
 - E. On May 8, 2003, a Motion to Revoke Probation was filed in regard to Petitioner's Boating While Intoxicated case of 2002. Petitioner's probation was amended and extended for three hundred sixty-five (365) days and Petitioner was required to pay court costs in the amount of seventy dollars (\$70.00). Petitioner violated the conditions of his probation because of his 2003 Driving While Intoxicated-2nd charge.
 - F. On May 8, 2003, a Motion to Revoke Probation was filed in Petitioner's Possession of Marijuana case. Petitioner's probation was amended and extended for three hundred sixty-five (365) days. Petitioner was sentenced to six (6) days jail time, to

be served out on weekends. Petitioner violated the conditions of his probation because of his 2003 Driving While Intoxicated-2nd charge.

G. On May 8, 2003, a Motion to Revoke Probation was filed in Petitioner's Interference with a Public Servant/Peace Officer case. Petitioner's probation was amended and extended for three hundred sixty-five (365) days. Petitioner was sentenced to six (6) days jail time, to be served on weekends. Petitioner violated the conditions of his probation because of his 2003 Driving While Intoxicated-2nd charge.

6. There is no evidence of any subsequent criminal conduct.
7. On October 7, 2005, Petitioner was requested to undergo a Forensic Psychological Evaluation to include a Chemical Dependency Component and a Polygraph Exam. On December 6, 2005, Petitioner presented to Rion N. Hart, Ph.D., Clinical and Consulting Psychology, Houston, Texas, to undergo evaluation. Petitioner was referred for a polygraph examination which was conducted on December 10, 2005. The results from the polygraph examination indicate that Petitioner did substantially tell the truth regarding his substance abuse and use. However, the polygraph interview did indicate that Petitioner has driven once while intoxicated since his DWI arrest and has become intoxicated twice while at home. Petitioner also acknowledged having used between ten (10) and twenty (20) pills of Valium and Xanax that were given to him by a friend during a three-month period in 2002. Petitioner currently has a prescription for Xanax and takes that on an average of one time per week. Petitioner stated that his last marijuana usage was on his birthday (September 16) in 2004. Petitioner was seen for a follow-up appointment on December 27, 2005. The results of the evaluation indicate that Petitioner may have addictive tendencies and his prior alcohol and marijuana use would seem to support this. It does appear that Petitioner has been functioning without dependence on substances for the last three (3) years and has maintained his alcohol consumption to an occasional basis and within acceptable boundaries. Dr. Hart states there is nothing in Petitioner's evaluation that would indicate that he would be unable to consistently behave in accordance with Rules 213.27-213.29 and 217.11, or would be unable to consistently avoid unprofessional conduct as stipulated in Rule 217.12. Petitioner was cautioned by the evaluator regarding his addiction potential and how very important it will be for him to be aware of this so that it does not result in some relapse that would ruin his career in nursing.
8. The Board received letters of support/recommendation for Petitioner from the following:
 - A letter of recommendation dated September 2, 2005, was submitted to the Board on behalf of Petitioner by Janis Switzer, RN, Vocational Nursing Instructor, Lamar State College, Orange, Texas.
 - A letter of recommendation dated September 2, 2005, was submitted to the Board on behalf of Petitioner by Lorrie LeBlanc, RN, BSN, Director Vocational Nursing, Lamar State College, Orange, Texas.

- A letter of recommendation dated September 2, 2005, was submitted to the Board on behalf of Petitioner by Jeff Bell, Pastor, Cove Baptist Church, Orange, Texas.
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 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 Petition for Declaratory Order, his 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 or about January 24, 2006, 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. 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 a petition 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, FRANK TROY LENHARD, 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 Vocational 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 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. 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 Vocational 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.

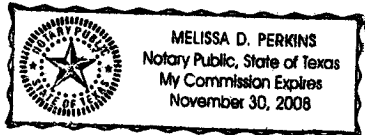
I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Executive Director of the Board of Nurse Examiners enter this Order.

Signed this 28 day of February, 2006.

Frank Troy Lenhard
FRANK TROY LENHARD, PETITIONER

Sworn to and subscribed before me this 28th day of February, 2006.

SEAL




Melissa D Perkins

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 28th day of February, 2006, by FRANK TROY LENHARD, PETITIONER, for Petition for Declaratory Order, and said Order is final.

Entered and effective this 17th day of March, 2006.



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