



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

October 21, 2005

Certified Mail No. 7004 2890 0001 8856 7719

Return Receipt Requested

Jennifer Lynette Srubar
Rt. 3, Box 132K
El Campo, TX 77437

Dear Ms. Srubar:

Please find enclosed your *Conditional Eligibility Order*, ratified October 20, 2005, 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 Registered Nurses (NCLEX-RN® Examination) upon completion of the requirements for graduation and payment of any required fees. Your eligibility to take the NCLEX-RN® 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) 305-6809.

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	§	
JENNIFER LYNETTE SRUBAR	§	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 JENNIFER LYNETTE SRUBAR, 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 *et seq.*, Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on July 26, 2005, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about March 7, 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 is currently enrolled in an Associate Degree nursing program at Wharton County Junior College, Wharton, Texas, with an anticipated graduation date of May 2006.
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, 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 January 26, 1998, Petitioner was charged with the misdemeanor offense of Minor in Possession of Alcohol in the Justice Court of Wharton County, Texas. Petitioner was assessed a fine in the amount of Forty-Six Dollars (\$46.00) and required to complete an alcohol education program for minors. On February 19, 1998, Petitioner completed all court requirements.
- B. On November 14, 2000, Petitioner was charged with the misdemeanor A offense of Theft in the District Court of Wharton County, Texas. Petitioner plead guilty and proceedings were deferred without adjudication of guilt. Petitioner was placed on probation for two (2) years and required to perform sixty (60) hours of community service. Petitioner was also assessed a fine and court costs in the amount of Seven Hundred Six Dollars (\$706.00). On July 12, 2002, Petitioner completed deferred adjudication.

6. Petitioner failed to disclose the following criminal history, to wit:

On June 29, 1998, Petitioner was charged with the felony offense of Aggravated Assault with a Deadly Weapon in Wharton County, Texas and was referred to the Wharton County Juvenile Probation Department. Petitioner was placed on deferred adjudication probation for six (6) months.

- 7. There is no evidence of any subsequent criminal conduct.
- 8. Petitioner's reason for not disclosing this offense was because she was a juvenile at the time this offense was committed and she could not obtain the records.
- 9. On May 3, 2005, Petitioner was requested to undergo a Forensic Psychological Evaluation to include a Chemical Dependency Component and Polygraph Examination to determine eligibility. On July 11, 2005, Petitioner presented to Rion N. Hart, Ph.D., Houston, Texas, to undergo the evaluation. The results of the evaluation indicate that Petitioner would be able to consistently behave in accordance with the requirements of Board rules as well as consistently avoid behaviors outlined in Rule 217.12. Petitioner has the potential to be a fine nurse; however, Petitioner's transition to a more responsible approach to life is recent and it is always possible that it will not sustain. Dr. Hart opines that it may be prudent to consider having Petitioner briefly re-evaluated in a year or monitored for this period of time through supervisory reports. The evaluator further opines that as is often the case with young people, Petitioner does not fully appreciate the risk of developing an alcohol problem. It is unlikely that any alcohol awareness or other intervention would assist in this at the present time.

10. Licensure of Petitioner poses no direct threat to the health and safety of patients or the public provided Petitioner 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 the information provided by Petitioner.
12. Petitioner has sworn that her past behavior conforms to the Board's professional character requirements. Petitioner presented no evidence of behavior which is inconsistent with good professional character.
13. Petitioner has been advised that any information found to be incomplete, incorrect, or misleading will be considered and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through misrepresentation.
14. On or about July 26, 2005, 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.

CONCLUSIONS OF LAW

1. The Board of Nurse Examiners has jurisdiction over this matter pursuant to Section 301.453, Texas Occupations Code.
2. Petitioner's criminal history reflects criminal conduct which is grounds for denial of a license under Section 301.452 *et seq.*, 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 may license an individual who has been previously convicted, adjudged guilty by a court, pled guilty or pled nolo contendere to any crime whether or not a sentence was imposed upon consideration of the factors set out in 22 Texas Administrative Code §213.28 and evaluating the direct relationship to nursing according to Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.
5. 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

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of any required fees, JENNIFER LYNETTE SRUBAR, PETITIONER, is CONDITIONALLY ELIGIBLE to sit for the National Council Licensure Examination for Registered Nurses (NCLEX-RN® 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 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 PETITIONER's multistate licensure privilege, if any, to practice professional nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while PETITIONER's license is encumbered by this Order the 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 ORDERED that PETITIONER, upon attaining a passing grade on the NCLEX-RN®, shall be issued a license to practice nursing in the State of Texas which shall bear the appropriate notation and PETITIONER SHALL be subject to the following stipulations.

(1) PETITIONER SHALL, within one (1) year of initial licensure, successfully complete a course in Texas nursing jurisprudence. PETITIONER 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. PETITIONER 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 PETITIONER'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).*

(2) PETITIONER SHALL, within one (1) year of initial licensure, successfully complete a course in nursing ethics. PETITIONER 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. PETITIONER SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify PETITIONER'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).*

(3) PETITIONER SHALL pay a monetary fine in the amount of two hundred fifty dollars (\$250.00). PETITIONER SHALL pay this fine within forty-five (45) days of entry of this

Order. Payment is to be made directly to the Board of Nurse Examiners 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 TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) 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:

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

(5) PETITIONER SHALL CAUSE each present employer in professional nursing to submit the Notification of Employment form, which is provided to the Petitioner by the Board, to the Board's office within ten (10) days of receipt of this Order. PETITIONER SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Petitioner by the Board, to the Board's office within five (5) days of employment as a professional nurse.

(6) PETITIONER 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 PETITIONER, 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 Petitioner is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(7) PETITIONER SHALL CAUSE each employer to submit, on forms provided to the Petitioner by the Board, periodic reports as to PETITIONER's capability to practice professional nursing. These reports shall be completed by the Registered Nurse who supervises the PETITIONER. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) months for two (2) years of employment as a professional nurse.

(8) PETITIONER 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, PETITIONER 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 PETITIONER 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.

(9) PETITIONER 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 second three (3) 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.

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

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, PETITIONER SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional 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 of my past criminal conduct, and I have caused a complete and accurate criminal history to be submitted to the Board of Nurse Examiners from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. 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 as 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-RN® 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 professional nursing in the State of Texas, as a consequence of my noncompliance.

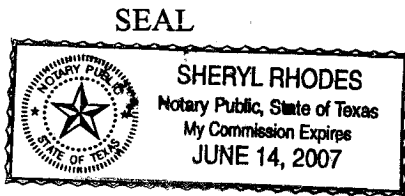
I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Executive Director of the Board of Nurse Examiners enter this Order.

Signed this 7 day of September, 2005.

JL Srubar
JENNIFER LYNETTE SRUBAR, PETITIONER


Sworn to and subscribed before me this 7 day of September, 2005.

Sheryl Rhodes
Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Eligibility Agreed Order that was signed on the 7th day of September, 2005, by JENNIFER LYNETTE SRUBAR, PETITIONER, for Petition for Declaratory Order, and said Order is final.

Effective this 20th day of October, 2005.


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