

6. On April 17, 2007, Respondent was issued an Eligibility Agreed Order by the Board of Nurse Examiners for the State of Texas requiring him to participate in the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the April 17, 2007 Eligibility Agreed Order, Findings of Fact and Conclusions of Law is attached and incorporated, by reference, as part of this Order.
7. On May 31, 2007, the Board received notification from TPAPN that Respondent was not eligible for the TPAPN program because he does not have a diagnosis of chemical dependency. Respondent is ineligible for an unencumbered license due to his criminal history and self-admitted use of cocaine and marijuana within the past five (5) years.

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 violation of Section 301.452(b)(1) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 740330, heretofore issued to ROBERT LOUIS BLUMENTHAL, including revocation of Respondent's license to practice professional nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and RESPONDENT 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 Respondent's multistate licensure privilege, if any, to practice professional nursing in compact states.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent 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 Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to ROBERT LOUIS BLUMENTHAL, to the office of the Board of Nurse Examiners within ten (10) days from the date of ratification of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT 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 Chemical Dependency, and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT 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 RESPONDENT'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.bne.state.tx.us/about/stipscourses.html>.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A REGISTERED NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT 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:

(3) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT 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.

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

(5) For the duration of the stipulation period, RESPONDENT 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 RESPONDENT, 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 Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(6) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT's capability to practice nursing. These reports shall be completed by the Registered Nurse who supervises the RESPONDENT. 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) year(s) of employment as a nurse.

(7) RESPONDENT 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, RESPONDENT

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 RESPONDENT 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.**

(8) RESPONDENT 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/probation 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 RESPONDENT's place of employment at any time during the stipulation/probation period and require RESPONDENT 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. RESPONDENT SHALL be responsible for the costs of all random drug screening during the stipulation/probation 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.

(9) RESPONDENT SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. RESPONDENT SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT's progress in therapy, rehabilitation and capability to safely practice professional nursing. The report must indicate whether or not the RESPONDENT's stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the stipulation period, or until RESPONDENT is dismissed from therapy.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT 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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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. 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.

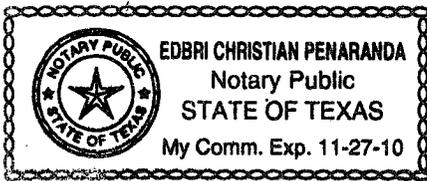
Signed this 26 day of July, 2007.
Robert Louis Blumenthal
ROBERT LOUIS BLUMENTHAL, Respondent

Sworn to and subscribed before me this 26th day of July, 2007.

SEAL

Edbri Christian Penaranda

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 Agreed Order that was signed on the 26th day of July, 2007, by ROBERT LOUIS BLUMENTHAL, Registered Nurse License Number 740330, and said Order is final.

Effective this 11th day of September, 2007.

A handwritten signature in black ink, appearing to read "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
ROBERT LOUIS BLUMENTHAL	§	
APPLICANT for Eligibility for	§	AGREED ORDER
Licensure	§	

On the date entered below, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the Temporary License/Endorsement Application and supporting documents filed by ROBERT LOUIS BLUMENTHAL, 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(b)(3), Texas Occupations Code.

APPLICANT waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on February 27, 2007, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about November 18, 2003, Applicant submitted a Temporary License/Endorsement Application requesting a determination of eligibility for licensure in compliance with 301.260 *et seq.*, Texas Occupations Code.
2. Applicant waived representation, notice, administrative hearing, and judicial review.
3. Applicant graduated with a Baccalaureate Degree in Nursing from Armstrong Atlantic State University, Savannah, Georgia, in August 2002.
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 arrested in any state, territory, or country, including expunged offenses and deferred adjudication with or without prejudice of guilt for anything other than a minor traffic violation?"* and

Question Number Fourteen (14), which reads in part as follows: *"Have you ever been convicted, adjudged guilty by a court, pled guilty or pled nolo contendere to any crime whether or not a sentence was imposed"*

5. Applicant disclosed the following criminal history, to wit:
 - A. On July 9, 1979, Applicant was charged with the misdemeanor offense of Possession of a Controlled Drug. Applicant was assessed a fine in the amount of twenty-five dollars (\$25.00).
 - B. On June 5, 1980, Applicant was charged with the misdemeanor offense of Larceny. Proceedings were deferred for one (1) year.
 - C. On September 26, 1983, Applicant was charged with the misdemeanor offense of Possession of Marijuana. Applicant was found guilty and assessed a fine in the amount of one hundred dollars (\$100.00).
 - D. On August 4, 2000, Applicant was charged with the felony offenses of Marijuana - Possession/Manufacturing/Selling/Purchase and Possession of Tools for Commission of a Crime in the Superior Court of Chatham County, Georgia. Applicant was found guilty and sentenced to five (5) years probation. On April 17, 2002, Applicant underwent a substance abuse assessment that resulted in no follow-up appointment necessary. On November 1, 2003, Applicant was granted unsupervised probation and was placed in an administrative status until July 16, 2006.
6. There is no evidence of any subsequent criminal conduct.
7. On March 9, 2004, Applicant appeared before the Eligibility and Disciplinary Committee for the State of Texas, and was found ineligible for licensure.
8. On or about May 12, 2006, Applicant submitted a Temporary License/Endorsement Application requesting a determination of eligibility for licensure in compliance with 301.260 *et seq.*, Texas Occupations Code.
9. Applicant waived representation, notice, administrative hearing, and judicial review.
10. Applicant completed the Application for Licensure by Endorsement on 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."*

11. Applicant disclosed the following criminal history, to wit:

On August 14, 2006, Applicant was discharged from probation in relation to the August 4, 2000, convictions of Possession/Manufacturing/Selling/Purchase of Marijuana and Possession of Tools for Commission of a Crime.

12. There is no evidence of any subsequent criminal conduct.
13. On December 19, 2006, Applicant was seen by Joyce M. Gayles, PhD, to undergo a forensic psychological evaluation to include a chemical dependency component and a polygraph examination. The results of the evaluation showed no indications of mental illness or a propensity toward criminal activity or risk taking behavior. Based on the evaluation, the evidence suggests that Applicant could fulfill the duties and responsibilities of a professional nurse according to Board Rules and Regulations. Since Applicant has not met the 5 years sobriety requirement for an unencumbered license, Applicant should be able to practice nursing in the State of Texas with appropriate monitoring until he has met the Board's requirements of an unencumbered license. Dr. Gayles also recommends that Applicant receive individual psychotherapy.
14. Applicant presented evidence of current fitness to practice professional nursing, provided Applicant comply with the stipulations as outlined in this Order.
15. 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.
16. The Executive Director considered evidence of Applicant's substance abuse and subsequent rehabilitation as provided in §213.29, 22 Texas Administrative Code.
17. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Applicant.
18. Applicant has sworn that, with the exception of matters disclosed in connection with the Temporary License/Endorsement Application, his past behavior conforms to the Board's professional character requirements. Applicant presented no evidence of behavior which is inconsistent with the Board's character requirements in 22 Texas Administrative Code §213.27.
19. Applicant'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 *et seq.*, Texas Occupations Code.
2. Applicant has submitted an application in compliance with Section 301.260 *et seq.*, Texas Occupations Code.
3. 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.
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 Applicant 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 Applicant, upon initial licensure as a registered 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

IT IS THEREFORE AGREED that the application of ROBERT LOUIS BLUMENTHAL, APPLICANT, is hereby conditionally GRANTED and shall be subject to 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) IT IS FURTHER ORDERED that 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.

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

(1) APPLICANT 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 five hundred dollars (\$500.00) payable to TPAPN.

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

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

(4) APPLICANT 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 Applicant's multistate licensure privileges, 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, 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.

IT IS FURTHER AGREED, SHOULD APPLICANT 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 a APPLICANT's license to practice professional 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 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 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, which are incorporated by reference as a part of this Order. 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 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 _____ day of _____, _____.

ROBERT LOUIS BLUMENTHAL, APPLICANT

Sworn to and subscribed before me this _____ day of _____, _____.

SEAL

Notary Public in and for the State of _____

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 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 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, which are incorporated by reference as a part of this Order. 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 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 9th day of April, 2007.

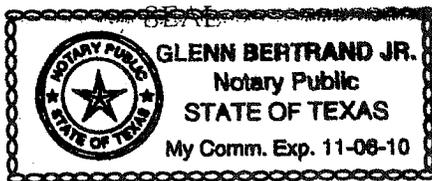
Robert Louis Blumenthal

ROBERT LOUIS BLUMENTHAL, APPLICANT

Sworn to and subscribed before me this 9th day of April, 2007.

Glenn Bertrand Jr.

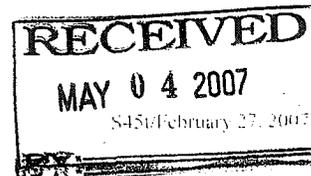
Notary Public in and for the State of Tx



SCANNED

MAY 14 2007

BY: _____



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 9th day of April, 2007, by ROBERT LOUIS BLUMENTHAL, APPLICANT, for Temporary License/Endorsement Application, and said Order is final.

Entered and effective this 17th day of April, 2007.



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

SCANNED

MAY 14 2007

BY: _____

