BEFORE THE TEXAS BOARD OF NURSING

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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.
Executive Director of the Board

In the Matter of Vocational Nurse	§	AGREED
License Number 131637 and	§	
Registered Nurse License Number 723811	§	
issued to THOMAS MARCELL CARROLL	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board considered the matter of THOMAS MARCELL CARROLL, Vocational Nurse License Number 131637, and Registered Nurse License Number 723811, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(1) and (10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered March 18, 2008, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.

2. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order.

3. Respondent is currently licensed to practice vocational and professional nursing in the State of Texas.

4. Respondent received a Certificate in Vocational Nursing from Arkansas Valley Technical Institute, Ozark, Arkansas, on September 6, 1985. Respondent was licensed to practice vocational nursing in the State of Texas on March 4, 1991. Respondent received an Associate Degree in Nursing from Galveston College, Galveston, Texas, on May 18, 2005. Respondent was licensed to practice professional nursing in the State of Texas on January 31, 2006.

5. Respondent's complete vocational and professional nursing employment history is unknown.

6. On December 9, 2005, Respondent was issued an Order of Conditional Eligibility by the Board of Nurse Examiners for the State of Texas. A copy of the December 9, 2005, Order of Conditional Eligibility, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this Order.

7. On or about February 1, 2007, Respondent failed to comply with the Order of Conditional Eligibility issued to him on December 9, 2005, by the Board of Nurse Examiners for the State of Texas. Noncompliance is the result of his failure to comply with Stipulation Number One (1) of the Order which states, in pertinent part:

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

8. On or about February 1, 2007, Respondent failed to comply with the Order of Conditional Eligibility issued to him on December 9, 2005, by the Board of Nurse Examiners for the State of Texas. Noncompliance is the result of his failure to comply with Stipulation Number Two (2) of the Order which states, in pertinent part:

> (2) PETITIONER SHALL, within one (1) year of initial licensure, successfully complete a course in nursing ethics....

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 violations of Section 301.452(b)(1) and (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 Vocational Nurse License Number 131637, and Registered Nurse License Number 723811, heretofore issued to THOMAS MARCELL CARROLL, including revocation of Respondent's licenses to practice vocational and professional nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, 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 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 vocational and 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 Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL pay a monetary fine in the amount of five hundred ($500.00) dollars. RESPONDENT SHALL pay this fine within forty-five (45) days of entry of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(2) The Order of the Board issued to RESPONDENT on December 9, 2005, is still in effect in its entirety and RESPONDENT SHALL be responsible for completing the terms of that Order within six (6) months from the date of this Order.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued unencumbered licenses and multistate licensure privileges, if any, to practice vocational and professional nursing in the State of Texas.

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CONTINUED ON NEXT PAGE.

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 violations 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 licenses to practice vocational and professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 10TH day of June, 2008.

THOMAS MARCELL CARROLL, Respondent

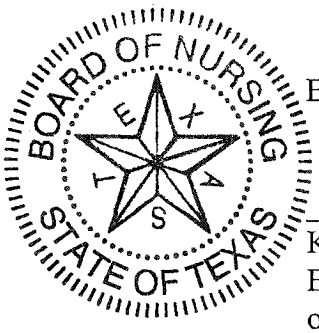
Sworn to and subscribed before me this 10TH day of June, 2008.

SEAL

FRANCIE GARCIA
Notary Public, State of Texas
My Commission Expires
August 11, 2008

Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 10th day of June, 2008, by THOMAS MARCELL CARROLL, Vocational Nurse License Number 131637, and Registered Nurse License Number 723811, and said Order is final.



Effective this 17th day of July, 2008.

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

131637 & 723811:007

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS
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In the Matter of THOMAS MARCELL CARROLL Vocational License Number 131637 and PETITIONER for Eligibility for Licensure as a Professional Nurse	§ § § §	ORDER OF CONDITIONAL ELIGIBILITY

On the date entered below, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the Application by Examination for Registered Nurses and supporting documents filed by THOMAS MARCELL CARROLL, 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 November 10, 2005, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about June 7, 2005, Petitioner submitted an Application by Examination for Registered Nurses 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 an Associate Degree in Nursing from Galveston College, located in Galveston, Texas, in May 2005. Petitioner is currently licensed to practice vocational nursing in the State of Texas.

4. Petitioner completed the Application by Examination for Registered Nurses and answered "yes" to Question Number One (1), 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 (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:

   On May 29, 2003, Petitioner plead Not Guilty to the misdemeanor Class B offense of Driving While Intoxicated in the County Court at Law No. 3 of Brazoria County, Texas. Petitioner then entered a plea of Guilty to the amended charge of misdemeanor Class B offense of Reckless Driving. Petitioner was assessed a fine and court costs in the amount of four hundred forty-one dollars ($441.00).

6. There is no evidence of any subsequent criminal conduct.

7. Petitioner completed the Application by Examination for Registered Nurses and answered "yes" to Question Number Three (3), 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?"*

8. On September 17, 1999, the Board of Vocational Nurse Examiners for the State of Texas issued a Final Order suspending Petitioner's license based on the findings that Petitioner was not in compliance with rules regarding continuing education and falsely represented that he had completed the mandated hours. On March 15, 2000, Petitioner's license was reinstated.

9. In 2004, Petitioner completed his renewal application for licensure as a vocational nurse and did not disclose his 2003 conviction for the misdemeanor offense of Reckless Driving in Brazoria County, Texas.

10. Licensure of Petitioner poses no direct threat to the health and safety of patients or the public.

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 his 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 November 10, 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 has submitted a petition in compliance with Section 301.257 *et seq.*, Texas Occupations Code.

3. Petitioner's criminal history reflects criminal conduct which is grounds for denial of a license under Section 301.452 *et seq.*, Texas Occupations Code.

4. 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.

5. 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.

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

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of any required fees, THOMAS MARCELL CARROLL, 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 <u>not</u> 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 within one (1) year of initial licensure. 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, 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.

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 Application by Examination for Registered Nurses, 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 1st day of December, 2005.

Thomas Marcell Carroll

THOMAS MARCELL CARROLL, PETITIONER

Sworn to and subscribed before me this 1 day of December, 2005.

SEAL

Linda F. Jasek

Notary Public in and for the State of Texas

LINDA F. JASEK
NOTARY PUBLIC
STATE OF TEXAS
My Comm. Expires 3-2-2007

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 1st day of December, 2005, by THOMAS MARCELL CARROLL, PETITIONER, for Application by Examination for Registered Nurses, and said Order is final.

Entered this *9th* day of *December*, 2005.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

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