

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of	§	ELIGIBILITY
KENNETH BRADLEY ALLEN	§	
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 Application for Licensure by Endorsement and supporting documents filed by KENNETH BRADLEY ALLEN, 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)&(9), Texas Occupations Code.

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

FINDINGS OF FACT

1. On or about July 27, 2006, Applicant submitted a Application for Licensure by Endorsement 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 received a Certificate in Vocational Nursing from Kiamichi Technology Center, Hugo, Oklahoma, in June 2006.
4. Applicant completed the Application for Licensure by Endorsement and answered "yes" to Question Number Thirteen (13), 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. Applicant disclosed the following criminal history, to wit:
 - A. On April 19, 2004, Applicant plead no contest to the misdemeanor offense of Public Intoxication in the Municipal Court of the City of Paris, Lamar County, Texas, and was assessed a fine and court costs in the amount of four hundred forty-eight dollars (\$448.00).
 - B. On April 7, 2003, Applicant was charged with the misdemeanor offense of Theft By Check in the County Court of Denton County, Texas. On December 7, 2005, the case was dismissed after Applicant paid restitution.
6. There is no evidence of any subsequent criminal conduct.
7. Applicant completed the Application for Licensure by Endorsement and answered "yes" to Question Number Sixteen (16) which reads as follows: "*Within the past five (5) years have you been addicted to and/or treated for the use of alcohol or any other drug?*"
8. In 2004, Applicant voluntarily entered an inpatient facility called Oak Haven in Marshall, Texas, for 23 days, followed with six (6) months of outpatient group therapy.
9. Applicant presented evidence of current fitness to practice vocational nursing.
10. Applicant presented satisfactory proof of two (2) consecutive years of sobriety and support group attendance.
11. 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.
12. The Executive Director considered evidence of Applicant's substance abuse and subsequent rehabilitation as provided in §213.29, 22 Texas Administrative Code.
13. Licensure of Applicant poses no direct threat to the health and safety of patients or the public, provided Applicant complies with the stipulations outlined in this Order.
14. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Applicant.
15. The Board has determined that the Applicant for licensure who has not been fit and sober for a period of at least five (5) continuous years [sixty (60) continuous months], poses a direct threat to the health and safety of patients and the public and should not be issued an unencumbered license.

16. 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.
17. On October 24, 2006, the Executive Director considered evidence of Applicant's past 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.
18. 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.
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 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.

6. The Board may, in its discretion, order an 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 KENNETH BRADLEY ALLEN, 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 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 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 three hundred fifty dollars (\$350.00) 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 vocational 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 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 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.

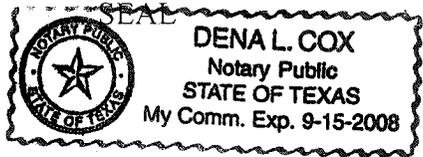
In connection with my application, I acknowledge that I have read and I understand Section 301.257, Texas Occupations Code, Section 301.452 (a),(b) and (c), Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and Board Rules 213.27, 213.28, and 213.29 at 22 Texas Administrative Code. 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 31 day of January, 2007
Kenneth Bradley Allen
KENNETH BRADLEY ALLEN, APPLICANT

Sworn to and subscribed before me this 31st day of January, 2007



Dena L Cox
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 31st day of January, 2007, by KENNETH BRADLEY ALLEN, APPLICANT, for Temporary License/Endorsement Application, and said Order is final.

Entered and effective this 9th day of February, 2007.



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