CIRCUMSTANCES LEADING TO INELIGIBILITY FOR STATE LICENSURE

"For students in this course, who may have a criminal background, please be advised that the background could keep you from being licensed by the State of Texas. If you have a question about your background and licensure, please speak with your faculty member or the department chair. You also have the right to request a criminal history evaluation letter from the applicable licensing agency."

CIRCUMSTANCES LEADING TO INELIGIBILITY FOR STATE LICENSURE

The Texas Board of Nursing has identified certain circumstances that may render a potential candidate ineligible for licensure as a registered or licensed vocational nurse in the State of Texas. The board provides individuals the opportunity to petition the board for a Declaratory Order as to their eligibility in accordance with Section 301.257 of the Nursing Practice Act.

Processing a petition may take 6 to 12 months, or longer, after you provide all required documentation and depending on your circumstances. Once all requested documents have been received, you will be notified that the petition has been transferred to the Enforcement Department for review.

1) [ ] No [ ] Yes For any criminal offense, including those pending appeal, have you:
   A. been convicted of a misdemeanor?
   B. been convicted of a felony?
   C. pled nolo contendere, no contest, or guilty?
   D. received deferred adjudication?
   E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
   F. been sentenced to serve jail or prison time? court-ordered confinement?
   G. been granted pre-trial diversion?
   H. been arrested or any pending criminal charges?
   I. been cited or charged with any violation of the law?
   J. been subject of a court-martial; Article 15 violation; or received any form of military judgment/punishment/action?

(You may only exclude Class C misdemeanor traffic violations.)

NOTE: Expunged and Sealed Offenses: While expunged or sealed offenses, arrests, tickets, or citations need not be disclosed, it is your responsibility to ensure the offense, arrest, ticket or citation has in fact been expunged or sealed. It is recommended that you submit a copy of the Court Order expunging or sealing the record in question to our office with your application. Failure to reveal an offense, arrest, ticket, or citation that is not in fact expunged or sealed, will at a minimum, subject your license to a disciplinary fine. Nondisclosure of relevant offenses raises questions related to truthfulness and character.

NOTE: Orders of Non-Disclosure: Pursuant to Tex. Gov't Code§ 552.142(b), if you have criminal matters that are the subject of an order of non-disclosure you are not required to reveal those criminal matters on this form. However, a criminal matter that is the subject of an order of non-disclosure may become a character and fitness issue. Pursuant to other sections of the Gov't Code chapter 411, the Texas Nursing Board is entitled to access criminal history record information that is the subject of an order of non-disclosure. If the Board discovers a criminal matter that is the subject of an order of non-disclosure, even if you properly did not reveal that matter, the Board may require you to provide information about that criminal matter.

2) [ ] No [ ] Yes Are you currently the target or subject of a grand jury or governmental agency investigation?

3) [ ] No [ ] Yes 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, certificate or multi-state privilege held by you now or previously, or ever fined, censured, reprimanded or otherwise disciplined you?
4) [ ] No [ ] Yes Within the past five (5) years have you been addicted to and/or treated for the use of alcohol or any other drug?

5) [ ] No [ ] Yes Within the past five (5) years have you been diagnosed with, treated, or hospitalized for schizophrenia and/or psychotic disorder, bipolar disorder, paranoid personality disorder, antisocial personality disorder, or borderline personality disorder?
If "YES" indicate the condition: [ ] schizophrenia and/or psychotic disorders, [ ] bipolar disorder, [ ] paranoid personality disorder, [ ] antisocial personality disorder, [ ] borderline personality disorder
An individual enrolled or planning to enroll in a basic nursing program who has reason to believe that he/she is ineligible for licensure must petition the Board for a declaratory order as to his/her eligibility. The individual must submit a petition on forms provided by the board which includes:

1. a statement by the individual indicating the reason(s) and basis of potential ineligibility;
2. if the potential ineligibility is due to criminal conviction, any court documents including, but not limited to, any indictments, judgments, probation records and evidence of completion of probation, if applicable;
3. if the potential ineligibility is due to mental illness (which is defined as an illness, disease, or condition which either substantially impairs the person's thought processes, perception of reality, emotional stability, judgment or behavior), evidence of evaluation, including a prognosis, by a psychologist or psychiatrist, evidence of treatment, including any medication;
4. if the potential ineligibility is due to chemical dependency including alcohol, evidence of evaluation and treatment, after care and support group attendance, and
5. the required nonrefundable fee of $39.00 (money order or cashier's check) made payable to the Texas Board of Nursing.

For more information: www.bon.texas.gov → Forms → Declaratory Order
Texas Board of Nursing  
333 Guadalupe, Ste. 3-490, Austin, TX 78701-3944  
Phone: 512-305-7400 -- Web Site: www.bon.texas.gov

PETITION FOR DECLARATORY ORDER

**Last Name (Print):**  
**First Name:**  

**Middle Name (will appear on license):**  
**Previous Name(s):**

**Address**  
**City**  
**State/County**  
**Zip/Postal Code**

**E-Mail Address**  
**Phone Number**

**U.S. Social Security Number:**

**Date of Birth:**

**Gender:** [ ] Male [ ] Female  
**Ethnicity:** [ ] African American [ ] Asian [ ] Caucasian [ ] Hispanic [ ] Native American [ ] Other

[ ] No [ ] Yes Are you enrolled, planning to enroll, or have you graduated from a nursing program?  
**Nursing program name:**

**Location of program:**

**Type of Nursing Program:** (circle one)  
LVN  
RN

**Date of Enrollment:**  
**Date of Potential Graduation:**

These questions MUST be answered truthfully EACH TIME a Declaratory Order is submitted, even if you have previously disclosed information and/or undergone a previous eligibility review. Check either "Yes" or "No" for each numbered question.

1) [ ] No [ ] Yes *For any criminal offense, including those pending appeal, have you:*

A. been arrested and have a pending criminal charge?  
B. been convicted of a misdemeanor?  
C. been convicted of a felony?  
D. pled nolo contendere, no contest, or guilty?  
E. received deferred adjudication?  
F. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?  
G. been sentenced to serve jail time, prison time, or court-ordered confinement?  
H. been granted pre-trial diversion?  
I. been cited or charged with any violation of the law?  
J. been subject of a court-martial; Article 15 violation; or received any form of military judgment/punishment/action?

*(You may only exclude Class C misdemeanor traffic violations or offenses previously disclosed to the Texas Board of Nursing on an initial licensure or renewal application.)*

**NOTE: Expunged and Sealed Offenses:** While expunged or sealed offenses, arrests, tickets, or citations need not be disclosed, it is your responsibility to ensure the offense, arrest, ticket or citation has, in fact, been expunged or sealed. It is recommended that you submit a copy of the Court Order expunging or sealing the record in question to our office with your application. Failure to reveal an offense, arrest, ticket, or citation that is not in fact expunged or sealed may subject your license to a disciplinary order and fine. Non-disclosure of relevant offenses raises questions related to truthfulness and character. (See 22 TAC §213.27)

**NOTE: Orders of Non-Disclosure:** Pursuant to Tex. Gov’t Code § 552.142(b), if you have criminal matters that are the subject of an order of non-disclosure you are not required to reveal those criminal matters on this form. However, a criminal matter that is the subject of an order of non-disclosure may become a character and fitness issue. Pursuant to Gov’t Code chapter 411, the Texas Nursing Board is entitled to access criminal history record information that is the subject of an order of non-disclosure. If the Board discovers a criminal matter that is the subject of an order of non-disclosure, even if you properly did not reveal that matter, the Board may require you to provide information about any conduct that raises issues of character and fitness.

**Applicant’s Signature:**

**Date:**

Page 1 of 2
Petition for Declaratory Order

Applicant Name: ________________________________________ Social Security Number: _______ - _______ - _______

2) [ ] No [ ] Yes  *Are you currently the target or subject of a grand jury or governmental agency investigation?

3) [ ] No [ ] Yes  Has any licensing authority ever refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, suspended, placed on probation, refused to renew a professional license, certificate or multi-state privilege held by you now or previously, or ever fined, censured, reprimanded or otherwise disciplined you?

4) [ ] No [ ] Yes  *In the past five (5) years have you been diagnosed with or treated or hospitalized for schizophrenia and/or psychotic disorder, bipolar disorder, paranoid personality disorder, antisocial personality disorder, or borderline personality disorder which impaired or does impair your behavior, judgment, or ability to function in school or work?

(You may answer "No" if you have completed and/or are in compliance with TPAPN for mental illness OR you've previously disclosed to the Texas Board of Nursing and have remained compliant with your treatment regime and have had no further hospitalization since disclosure.)

5) [ ] No [ ] Yes  *Within the past five (5) years have you been addicted to and/or treated for the use of alcohol or any other drug

*Pursuant to the Texas Occupations Code §301.207, information, including diagnosis and treatment, regarding an individual’s physical or mental condition, imparterate use of drugs or alcohol, or chemical dependency and information regarding an individual's criminal history is confidential to the same extent that information collected as part of an investigation is confidential under the Texas Occupations Code §301.456. If you are licensed as an LVN in the State of Texas and are currently participating in the Texas Peer Assistance Program for Nurses you may answer “NO” to questions #4 and #5.

NOTE: IF YOU ANSWER "YES" TO ANY QUESTION #1 - #5, PLEASE REFER TO "INSTRUCTIONS FOR ELIGIBILITY QUESTIONS" FOR MORE INFORMATION.

[ ] No [ ] Yes  The Board has previously reviewed my information and I have nothing NEW to disclose.

Attestation/Consent to Release & Use of Confidential Records

I, the NCLEX ® Candidate whose name appears within this Application, acknowledge this document is a legal document and I attes that I understand & meet all the requirements for the type of licensure requested, as listed in sections 301.252, 301.253, 301.452 301.453, 301.454 and 304.001 of the Nursing Practice Act; 22 TAC §§ 213.27, 213.28, 213.29, 213.30, 213.33, 22 TAC §§ 217.11 and 217.12.

Further, I understand that it is a violation of the 22 TAC § 217.12 (6) (l) and the Penal Code, sec 37.10, to submit a false statement to a government agency; and I consent to release of confidential information to the Texas Board of Nursing and further authorize the Board to use and to release said information as needed for the evaluation and disposition of my application.

I understand that if I have any questions regarding this affidavit I should contact an attorney or the appropriate professional health provider. I will immediately notify the Board if at any time after signing this affidavit I no longer meet the eligibility requirements.

Applicant's Signature: ________________________________ Date: ____ / ___ / ___

Revised 06/2015
A petition for Declaratory Order (DO) is a formal disclosure to the Board of an eligibility issue that may prevent an applicant from taking the NCLEX examination upon completion of a nursing program. The Declaratory Order process permits the Board to make decisions regarding a petitioner's eligibility for licensure prior to entering or completing a nursing program.

To avoid a delay in the review process, answer all questions and follow all instructions carefully. A declaratory order is not reviewed for a decision until all requirements are met as detailed below. An incomplete petition will delay the outcome.

All documents become a permanent part of your file and will not be returned. Be sure to answer all questions honestly. The Texas Board of Nursing may deny your petition if you provide false information on your petition.

Petition reviews cannot be expedited.

NOTE: The Petition for Declaratory Order expires after one (1) year from the date of receipt in the Board’s office. If the petition packet is not completed within one (1) year, then all forms must be re-submitted.

NOTE: The Petition for Declaratory Order (DO) is not the same as the NCLEX®PN/NCLEX®RN application. Individuals must still submit an NCLEX examination application within 4 months of their potential graduation date.

INSTRUCTIONS

1. Print in black ink or type your information on the Petition for Declaratory Order. The petition will be accepted only if information is printed LEGIBLY.

2. Sign and date the Attestation/Consent to Release & Use of Confidential Records statement on page 2.

3. Criminal background checks are performed on all applicants for Licensure in Texas. A criminal background check must be completed through the Department of Public Safety (DPS) and the Federal Bureau of Investigation (FBI) based on the set of fingerprints you provide to MorphoTrust. The BON cannot accept fingerprint cards or criminal background check results mailed by the applicant, or results that were completed for another facility, even if the previous check was completed through DPS and FBI.

The Fast Passes located at the end of this packet will assist you in submitting the required fingerprints.

Applicants residing in Texas:
Read the instructions for 'Applicants residing in Texas' to schedule your electronic fingerprint submission.

Note: MorphoTrust (IdentoGO) cannot transmit electronic submissions from MorphoTrust sites located outside the state of Texas. If you are located outside the State of Texas then follow the directions below.

Applicants residing outside Texas:
Read the instructions for 'Applicants residing outside Texas' to obtain, register, and mail your fingerprint card to MorphoTrust.

Applicants that do not have a U.S. issued social security number:
Read the instructions for 'Applicants without a social security number' to obtain, register, and mail your fingerprint card to MorphoTrust.

NOTE: The Texas Board of Nursing does not make judgments regarding the fingerprints that are submitted. Occasionally DPS and/or the FBI will notify the BON that the fingerprints submitted were not usable and/or readable and therefore have been rejected. You will be notified that a rejection has been received and another set of fingerprints is required. The BON can only submit a request to initiate a name search on your behalf if our office has received two (2) quality rejections from the FBI within the past year. A rejection for any other reason (i.e. smudging, impressions too light etc.) will not count towards this requirement.
4. All documents described in the "instructions for eligibility questions" must be submitted with your petition. Decisions regarding eligibility will be based upon the documents submitted. Falsification or omission of materials related to this petition will affect your eligibility and authorization to take the NCLEX® Examination. Additional documentation may be requested.

NOTE: Only ONE copy of the letter and supporting documentation is required. Sending the same information by multiple methods (i.e., mail, fax, and email) delays processing, as staff must pull the paperwork each time a submission is made to verify if it contains duplicate information or a new submission.

Statutes and Rules governing this petition may be found in the Texas Occupations Code §§ 301.257, 301.452-301.454 (Nursing Practice Act), and in the Board Rules and Regulations relating to Nurse Education, Licensure and Practice, 22 TAC §§ 213.27-.30, §213.33, and §§ 217.11-.12. These statutes and rules can be located on the BON’s website www.bon.texas.gov.

**INSTRUCTIONS FOR ELIGIBILITY QUESTIONS**

If you answered yes to questions 1-5 of the Eligibility Questions, you must provide the Board with the following information:

*QUESTION #1.* The Board has determined that criminal behavior is highly relevant to an individual’s fitness to practice nursing. Therefore, all criminal convictions or deferred orders, prosecution, or adjudication—a determination by a court that is withheld or delayed for a specific time period, must be reported to the Board. This question includes offenses under the last law of another state, federal law, or the Uniform Code of Military Justice that contains elements of criminal conduct. Submit a personal letter of explanation describing each incident, the behavior that led up to the criminal order and your conduct since the order, and any rehabilitative efforts that have been performed since the order. The document must be signed and dated. In addition, submit the following documentation for all felonies, all misdemeanors, and all military actions:

Certified copies of:

1. charges (indictment, information, or complaint);
2. disposition of charges (Judgment, Order of Probation, Sentence, and/or Deferred orders); and
3. evidence that the conditions of the court have been met.

(To obtain this documentation, contact the county clerk in the jurisdiction where the order was issued for misdemeanor district court clerk for felonies. If the record does not exist, you must obtain a statement from the court that the document has been destroyed or could not be located.)

You may answer “NO” to the question of prior convictions only if you: (a) received a pardon; or (b) were adjudicated as a minor without a finding of “delinquent conduct”. If you were ever required to register as a sex offender, you must answer “YES”.

If you have questions regarding the outcome of any criminal matter, consult your attorney.

*QUESTION #2.* The Nursing Practice Act provides that a person’s conduct in violation of the Nursing Practice Act or rule of the Board may be considered as a factor in its deliberations regarding fitness to practice nursing. Therefore, if a license or applicant is the subject of a grand jury or governmental agency investigation, the information regarding conduct or behavior giving rise to the investigation may be relevant in determining a violation of the Nursing Practice Act or lead to the admissibility of relevant evidence of such violation. If you are the subject of a grand jury or governmental agency investigation, please submit the name and address of the investigating entity and an explanation as to the basis of the investigation.

*QUESTION #3.* The Board has determined that if any licensing authority has taken disciplinary action against a person for any reason, then those actions are highly relevant to an individual’s current ability to practice nursing in the state of Texas. If any licensing authority has refused to issue a license, revoked, annulled, cancelled, accepted surrender of, suspended, placed on probation, refused to renew a license, certificate, or multi state privilege held by you or previously fined, censured,
reprimanded or otherwise disciplined you, SUBMIT the names and address of the licensing authority who has taken action and a letter explaining the background of the action. Additionally, SUBMIT certified copies of

1. formal charges or allegations supporting the licensure action;
2. final disposition of the licensing authority regarding those formal charges or allegations; and
3. evidence that the conditions of the licensing authority's order or requirements have been met.

*QUESTION #4.* The practice of nursing requires current fitness. The Board has identified certain disorders which, occurring within the last 5 years, may indicate a lack of fitness. The disorders are: schizophrenia and other psychotic disorders, bipolar disorder, paranoid personality disorder, anti-social personality disorder, or borderline personality disorder. If you have been diagnosed, treated, or hospitalized for any of the above illnesses within the last 5 years, which impaired or does impair your behavior, judgment, or ability to function in school or work, submit the following information that will allow the Board to conduct an individualized assessment of your ability to practice safely, competently, and without impairment to your professional judgment, skill, or knowledge.

1. A report, on letterhead, from your physician, psychiatrist, psychologist or counselor, sent directly to this office, that includes: your diagnosis; treatments rendered; including current medications; prognosis; cognitive affective, and emotional stability and continuing after-care recommendations, including reasonable accommodations needed to safely practice nursing, if any; and,
2. Verification of compliance with aftercare recommendations.

Please be advised that a physical/psychological evaluation may be requested as part of your individualized assessment. The evaluation process is described in more detail at [www.bon.texas.gov/disciplinaryaction/eval-guidelines.html](http://www.bon.texas.gov/disciplinaryaction/eval-guidelines.html). The evaluation process could potentially delay consideration of your application. Therefore, the Board is providing advance notice of this possibility so that applicants may contact the Board to schedule an evaluation at the beginning of the application process. By doing so, the application should not be unduly delayed. An applicant is not required to contact the Board in advance of Board consideration of the application. The applicant may choose to wait for a specific decision by the Board that a specific evaluation is necessary. This information is being provided to put applicants on notice with respect to this potential requirement and afford the applicant the opportunity to expedite the process if he/she so desires.

*QUESTION #5.* The practice of professional nursing requires current sobriety and fitness. If you have been addicted to or treated for the use of alcohol or any other drug within the last five years, SUBMIT:

1. verification of treatment for substance abuse sent directly to the Board from the treatment center;
2. verification of compliance with aftercare recommendations;
3. evidence of continuing sobriety/abstinence, for example, current support group attendance and random drug testing results; and
4. a personal letter of explanation with sobriety date and plan for relapse prevention.

* Pursuant to the Texas Occupations Code §301.207, information, including diagnosis and treatment, regarding an individual's physical or mental condition, interoperate use of drugs or alcohol, or chemical dependency and information regarding an individual's criminal history is confidential to the same extent that information collected as part of an investigation is confidential under the Texas Occupations Code §301.466.
ELIGIBILITY REVIEW TIME FRAMES

The paperwork will be submitted for the initial review in the Operations Department within ten (10) business days of the Declaratory Order, background check results, and pertinent documentation being received. This initial review can take up to 30 days.

If it is determined that the issue being reported to the BON meets the criteria for opening a case according to our current rules, you may be required to pay a $150.00 review fee. Your file will be transferred to our Enforcement Department for review within ten (10) business days of the payment being received.

The time needed to complete an eligibility review by the Enforcement Department varies on a case by case basis. The process generally takes an average of 90 days to make a recommendation, provided the file contains all the needed information. If additional material is needed, you will receive such request by the Enforcement Staff. Upon completion of the eligibility enforcement review, your file will be returned to the Examination Department for continued processing.

The BON will not issue an outcome letter, approve an applicant for an authorization to test (ATT), and/or approve an applicant for permanent licensure until a final decision has been rendered by either the Operations or Enforcement Department.

FREQUENTLY ASKED QUESTIONS REGARDING PETITIONS FOR DECLARATORY ORDER

1. How long will it take to receive an eligibility decision from the Board?
   * The initial review process can take a minimum of 30 days in the Operations Department and a minimum of 90 days for a recommendation by Enforcement Department. Unfortunately, Board staff cannot provide a specific time frame over the telephone to an applicant regardless of the type of case. The Board strongly advises that the applicant petition the Board before enrolling into a nursing program if the applicant has potential eligibility issues.

2. I am in my last semester of nursing school and I am not allowed to participate in clinicals until I receive an eligibility determination from the Board. How can I speed up the petition process?
   * Unfortunately the Board cannot expedite the eligibility process. Petitions for Declaratory Order are reviewed on a case-by-case basis and are processed in the order that they are received.

3. My criminal history came back with a charge I forgot about. I did not indicate this on my Declaratory Order. Will I automatically be denied because I did not disclose the offense to the Board?
   * Providing incomplete information may result in the Board delaying or denying the approval of the DO.

4. Can a person be licensed if they have a misdemeanor or felony crime on their record?
   * Each applicant is evaluated on a case-by-case basis. Eligibility to take the NCLEX cannot be determined without an applicant disclosing all pertinent eligibility issues for review. The Texas Board of Nursing considers the nature, severity, the age of the individual when the incident occurred, and other factors when reviewing a case for eligibility. The Board will not make a determination for approval or denial of licensure without evaluating the entire application and supporting documentation.

5. I have a pending criminal charge against me. Do I have to report this to the Board?
   * YES. All pending criminal charges and/or disciplinary action must be reported to the Board.
6. Can I work as a Graduate Nurse/Graduate Vocational Nurse (GN/GVN) while the Board is determining my eligibility?

- NO. The Board will not authorize applicants to take the NCLEX exam and/or to practice as a GN/GVN until an eligibility decision is rendered. Some applicants may not be eligible to practice as a GN/GVN upon receiving the eligibility determination.

7. When will I receive my blue card?

Blue cards are only issued to individuals whose criminal history report comes back clear from both DPS and FBI. If filing a Declaratory Order (related to a criminal matter), the mailed outcome letter from the Board takes the place of a blue card. (See Time Frames for more information regarding the processing)

NOTE: It is possible for an individual to receive a blue card, but still need to submit a Declaratory Order to disclose other eligibility concerns. All petitioners need to read each question carefully.

8. What can I do if I am denied?

- Petitioners who receive a proposal to deny eligibility may request a hearing before an Administrative Law Judge at the State Office of Administrative Hearings (SOAH) by filing a written request with the Board. The request must be made within 60 days of the denial date and must be addressed to the Office of General Counsel.

- Petitioners who are denied can re-petition the Board at a later date. To determine when you will be eligible to re-petition the Board, speak to the Enforcement or Legal department for the length of time you must wait before re-petitioning.

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### Declaratory Order Petition Check List

- Have you filled in **all** applicable blanks and written **all dates** with month/day/year?

- Have you listed and **described** all offenses and dates of offenses for questions 2 & 3 in your detailed letter of explanation?

- Have you attached all the certified court documentation for each offense? **NOTE:** Computer screen prints (unless certified by the court) are not acceptable.

- Have you attached your personal letter explaining the occurrences of each offense, addiction, or mental illness? Did you sign and date your letter?

- If you are petitioning due to a mental illness, have you requested your physician, psychiatrist and/or psychologist to submit documentation directly to the Board?

- Have you attached verification of compliance with after care recommendations (only if petitioning due to mental illness or addiction)?

- Have you attached evidence of continuing sobriety/abstinence (only if petitioning due to alcohol/substance abuse addiction)?

- Have you attached verification of treatment for substance abuse (only if petitioning due to addiction, all documentation must be sent directly from physician and/or treatment center)?

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Send to:
Texas Board of Nursing
333 Guadalupe, Tower 3, Suite 460
Austin, TX 78701