



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.  
*William C. Thomas*  
Executive Director of the Board

## BEFORE THE TEXAS BOARD OF NURSING

\*\*\*\*\*

In the Matter of  
Registered Nurse License Number 584884  
issued to GARRY DEAN UNDERWOOD

§  
§  
§

### ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 584884, issued to GARRY DEAN UNDERWOOD, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived informal proceedings, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

### FINDINGS OF FACT

1. Respondent is currently licensed to practice professional nursing in the State of Texas.
2. Respondent waived informal proceedings, notice and hearing.
3. Respondent received an Associate Degree in Nursing from El Centro College, Dallas, Texas on May 7, 1992. Respondent was licensed to practice professional nursing in the State of Texas on August 31, 1992.
4. Respondent's professional nursing employment history includes:

8/92-8/93	RN	Texas Scottish Rite Hospital Dallas, Texas
8/93-5/94	RN	Veterans Affairs Hospital Dallas, Texas

Respondent's professional nursing employment history continued:

5/94-Unknown	RN	Ellis Home Care Ennis, Texas
10/96-9/04	RN	Baylor Medical Center Waxahachie, Texas
10/04-1/05	Unknown	
2/05-8/05	RN	First Choice Children's Homecare Richardson, Texas
9/05-12/08	RN	Huguley Memorial Medical Center Fort Worth, Texas
1/09-9/09	RN	Surgery Center of Duncanville Duncanville, Texas
10/09-Present	Unknown	

5. On or about February 17, 2006, Respondent was issued an Agreed Order by the Board of Nurse Examiners for the State of Texas which require him to participate in and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated February 17, 2006, is attached and incorporated, by reference, as part of this Order.
6. Formal Charges were filed on October 3, 2012.
7. Formal Charges were mailed to Respondent on October 4, 2012.
8. First Amended Formal Charges were filed on February 13, 2012.
9. First Amended Formal Charges were mailed to Respondent on February 14, 2012. A copy of the First Amended Formal Charges dated February 13, 2012, is attached and incorporated, by reference, as part of this Order.
10. On July 19, 2012, the Board received a statement from Respondent and his Medical Power of Attorney voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's notarized statement, dated July 13, 2012, is attached and incorporated herein by reference as part of this Order.
11. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order

provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.

12. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

#### 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(s) of 22 TEX. ADMIN. CODE §217.11(1)(A)(B),(D),(I)&(P) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C),(4),(5),(10)(A),(10)(C),(10)(D),(11)(B),(12)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(9),(10),(13) Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 584884, heretofore issued to GARRY DEAN UNDERWOOD, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

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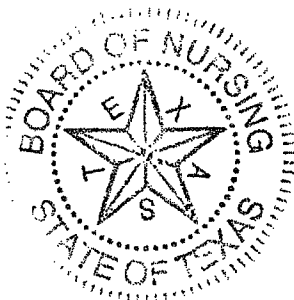
ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 584884, heretofore issued to GARRY DEAN UNDERWOOD, to practice nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title of registered nurse or the abbreviation "RN" or wear any insignia identifying himself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

Effective this 27th day of July, 2012.



TEXAS BOARD OF NURSING

By:

*Katherine A. Thomas*

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

GARRY DEAN UNDERWOOD  
408 W. EIGHTH ST., STE 206  
DALLAS, TX 75208  
Registered Nurse License Number 584884

Voluntary Surrender Statement

Dear Texas Board of Nursing:

I no longer desire to be licensed as a nurse. Accordingly, I voluntarily surrender my license(s) to practice in Texas. I consent to the entry of an Order which outlines requirements for reinstatement of my license. I understand that I may not petition for reinstatement until one (1) year from the effective date of the Order. I understand that I will be required to comply with the Board's Rules and Regulations in effect at the time I submit any petition for reinstatement.

Muel U- Pison  
Power of Attorney for  
Garry Dean Underwood

July 16, 2012  
Date

The State of Texas

Signature

Date

Registered Nurse License Number 584884

Before me, the undersigned authority, on this date personally appeared GARRY DEAN UNDERWOOD who, being duly sworn by me, stated that he or she executed the above for the purpose therein contained and that he or she understood same.

Sworn to before me the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

SEAL

Notary Public in and for the State of \_\_\_\_\_

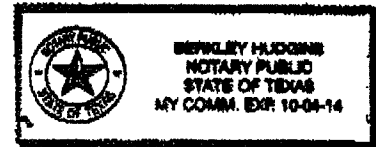
\* see attached document  
(notarized POA)

State of Texas  
County of Travis

Before me, the undersigned authority, on this date personally appeared Muriel Underwood Pierson, Power of Attorney for Garry Dean Underwood, who, being duly sworn by me, stated that he or she executed the above for the purpose therein contained and that he or she understood same.

Sworn to before me the 16th day of July, 2012.

Berkeley Hudgins  
Notary Public in and for the State of Texas



In the Matter of Permanent License  
Number 584884, Issued to  
GARRY DEAN UNDERWOOD, Respondent

§ BEFORE THE TEXAS  
§  
§ BOARD OF NURSING

### FIRST AMENDED FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, GARRY DEAN UNDERWOOD, is a Registered Nurse holding license number 584884, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

#### CHARGE I.

On or about November 20, 2008, while employed with Huguley Memorial Medical Center, Fort Worth Texas, Respondent engaged in the intemperate use of Morphine in that he produced a specimen for drug screening which resulted positive for Morphine. Possession of Morphine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Morphine by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(4),(5),(10)(A),(10)(D)&(11)(B).

#### CHARGE II.

On or about September 15, 2009, while employed with Surgery Center of Duncanville, Duncanville, Texas, Respondent signed out Demerol on the Controlled Substance Record for Patient RC, but failed to completely and accurately document the administration in that Respondent failed to note the time he withdrew or administered Demerol as follows:

Date/ Time	Patient	Medication	Order	Given	Wasted	RN co-signature
9/15/09 time not documented	RC	(1) Meperidine 50mg/1mL	Demerol 25mg IV/IM every 5 max dose of 100mg Noted by	50	0	None

			Respondent			
9/15/09 time not documented	RC	(1) Meperidine 50mg/1mL	Demerol 25mg IV/IM every 5 max dose of 100mg Noted by Respondent	50	50	None

Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.11(1)(A),(B)&(D) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C)&(4).

### CHARGE III.

On or about September 15, 2009, while employed with Surgery Center of Duncanville, Duncanville, Texas, Respondent signed out Demerol on the Controlled Substance Record for Patient RC, but failed to follow the policy and procedure for wastage of the unused portions of the medication as follows:

Date/ Time	Patient	Medication	Order	Given	Wasted	RN co-signature
9/15/09 time not documented	RC	(1) Meperidine 50mg/1mL	Demerol 25mg IV/IM every 5 max dose of 100mg Noted by Respondent	50	50	None

Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.11(1)(A),(B)&(D), and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(4),(10)(C)&(11)(B).



#### CHARGE IV.

On or about September 15, 2009, while employed with Surgery Center of Duncanville, Duncanville, Texas, Respondent abandoned patients when he left his nursing assignment without notifying his supervisor. Respondent's conduct created an unsafe environment which was likely to injure patients in that leaving the nursing assignment could have resulted in the patients not getting the care that they needed.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(B),(T), &(P) and §217.12(1)(A)&(B),(4)&(12).

#### CHARGE V.

On or about March 12, 2011, Respondent was arrested by the Austin Police Department for "Driving While Intoxicated" and "Poss CS PG 1  $\geq$  1G < 4G". Trazadone, Morphine and Lorazepam were found in his possession. Possession of Trazadone, Morphine and Lorazepam is prohibited by Chapter 481 (Controlled Substances Act) and 483 (Dangerous Drug Act) of the Texas Health & Safety Code.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B)&(13).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

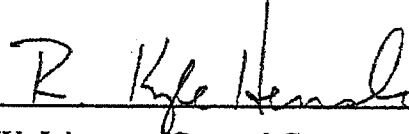
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, which can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at [www.bon.state.tx.us/disciplinaryaction/discp-matrix.html](http://www.bon.state.tx.us/disciplinaryaction/discp-matrix.html).

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order dated February 17, 2006.

Filed this 13<sup>th</sup> day of February, 20 12.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel

Board Certified - Administrative Law

Texas Board of Legal Specialization

State Bar No. 10838300

Jena Abel, Assistant General Counsel

State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel

State Bar No. 24066924

Robert Kyle Hensley, Assistant General Counsel

State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel

State Bar No. 24052269

John F. Legris, Assistant General Counsel

State Bar No. 00785533

TEXAS BOARD OF NURSING

333 Guadalupe, Tower III, Suite 460

Austin, Texas 78701

P: (512) 305-6824

F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Board dated February 17, 2006

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In the Matter of Registered Nurse License Number 584884 § AGREE  
issued to GARRY DEAN UNDERWOOD § ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of GARRY DEAN UNDERWOOD, Registered Nurse License Number 584884, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9),(10)&(12), Texas Occupations Code. Respondent waived informal conference, notice and hearing, and agreed to the entry of this Order offered on January 2, 2006, by Katherine A. Thomas, MN, RN, Executive Director.

## 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 informal conference, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received an Associate Degree in Nursing from El Centro College, Dallas, Texas, in August 1992. Respondent was licensed to practice professional nursing in the State of Texas on August 31, 1992.
5. Respondent's professional nursing employment history includes:

8/92-8/93	Staff Nurse	Texas Scottish Rite Hospital Dallas, Texas
8/93-5/94	Staff Nurse	Veterans Affairs Hospital Dallas, Texas

Respondent's professional nursing employment history continued:

5/94-Unknown	Staff Nurse	Ellis Home Care Ennis, Texas
10/94-8/04	Staff Nurse	Baylor Medical Center Waxahachie, Texas
8/04-Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Staff Nurse with Baylor Medical Center, Waxahachie, Texas, and had been in this position for approximately eight (8) years and three (3) months.
7. On or about January 2003, through July 2003, while employed with Baylor Medical Center, Waxahachie, Texas, Respondent may have lacked fitness to practice professional nursing in that Respondent suffered from chronic health problems, depression, insomnia, fatigue, and experienced a change in mood, behavior, and well being. Respondent's conduct could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
8. On or about July 9, 2003, while employed with Baylor Medical Center, Waxahachie, Texas, Respondent misappropriated Hydromorphone from the facility and patients thereof. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication.
9. On or about July 10, 2003, while employed with Baylor Medical Center, Waxahachie, Texas, Respondent engaged in the unlawful use of Normeperidine as evidenced by a positive drug screen. Possession of Normeperidine without a valid prescription is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Normeperidine by a nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
10. On or about July 10, 2003, while employed with Baylor Medical Center, Waxahachie, Texas, Respondent engaged in the intemperate use of alcohol in that Respondent submitted a specimen for drug testing at Baylor University Medical Center, Department of Pathology, Dallas, Texas, which tested positive for alcohol. The intemperate use of alcohol by a nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

11. On or about June 22, 2004, while employed with Baylor Medical Center, Waxahachie, Texas, Respondent engaged in the intemperate use of alcohol as evidenced by a positive drug screen. The intemperate use of alcohol by a nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
12. On or about September 26, 2004, Respondent may have lacked fitness to practice professional nursing in that Respondent contacted an employee of Baylor Medical Center, Waxahachie, Texas, and exhibited impaired behavior during their conversation, including but not limited to: slurred speech, and making suicidal and homicidal threats. Respondent's conduct, had he been subject to call or duty, could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
13. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
14. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.
15. Respondent'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. Pursuant to Texas Occupations Code, Sections 301.451-301.455, 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)(9),(10)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1),(12),(19).
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 584884, heretofore issued to GARRY DEAN UNDERWOOD, including revocation of Respondent's professional license to practice nursing in the State of Texas.
5. The Board may, in its discretion, order a 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 and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, 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) payable to TPAPN.

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

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

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§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 privileges; if any, to practice professional nursing in the State of Texas.

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.

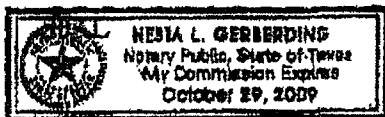
IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including revocation of Respondent's license and multistate licensure privileges, if any, to practice professional 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 have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Board of Nurse Examiners, 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 9 day of Feb, 2006.  
GARRY DEAN UNDERWOOD, RespondentSworn to and subscribed before me this 9<sup>th</sup> day of February, 2006.Notary Public in and for the State of Texas

Approved as to form and substance.

  
NICOLE GOLDSTEIN, Attorney for RespondentSigned this 15<sup>th</sup> day of February, 2006.



WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby accept and enter the Agreed Order that was signed on the 9th day of February, 2006, by GARRY DEAN UNDERWOOD, Registered Nurse License Number 584884, and said Order is final.

Entered and effective this 17th day of February, 2006.



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