

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.  
*Katherine A. Thomas*  
Executive Director of the Board

## BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Advanced Practice Registered	§	AGREED
Nurse License Number AP102677,	§	
Registered Nurse License Number 505447,	§	
issued to MARY A. HARRELL	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MARY A. HARRELL, Advanced Practice Registered Nurse License Number AP102677, Registered Nurse License Number 505447, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(2)&(10) and 301.453, Texas Occupations Code. Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on August 20, 2014.

### 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(s).
2. Respondent waived notice and hearing and agreed to the entry of this Order.
3. Respondent's license to practice as a professional nurse in the State of Texas is in current status. Respondent's license to practice as an advanced practice registered nurse in the State of Texas is in status.
4. Respondent received a Baccalaureate Degree in Nursing from the University of Texas, Galveston, on December 1, 1982 and a Master of Science Degree in Nursing from Charity Hospital Xavier University, on September 1, 1987. Respondent was licensed to practice professional nursing in the State of Texas on March 18, 1983. Respondent was Board recognized as a Nurse Anesthetist on June 17, 1989.

5. Respondent's nursing employment history is unknown.
6. On or about July 16, 1990, Respondent entered a plea of Guilty and was convicted of DWI, a misdemeanor offense committed on May 15, 1990, in the County Criminal Court at Law No. 14 of Harris County, Texas, under Cause No. 9019141. As a result of the conviction, Respondent was sentenced to confinement in the Harris County Jail for a period of one hundred eighty (180) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of two (2) years and ordered to pay a fine and court costs.
7. On or about May 8, 2005, Respondent submitted a Texas Online Renewal Document Registered Nurse with Advanced Practice Authorization to the Board of Nurse Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information, in that she answered "No" to the question:

"Have you been convicted, adjudicated guilty by a court, plead 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 arrest (excluding minor traffic violations) since the last renewal? 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".)"

Respondent failed to disclose that on or about December 9, 2004, Respondent entered a plea of Nolo Contendere and was convicted of DWI, a Class B misdemeanor offense committed on October 16, 2004, in the County Criminal Court at Law No. 9 of Harris County, Texas, under Cause No. 1264556. As a result of the conviction, Respondent was sentenced to confinement in the Harris County Jail for a period of one hundred eighty (180) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of one (1) years and ordered to pay a fine and court costs.

8. On or about June 5, 2013, Respondent submitted a License Renewal Form to the Texas Board of Nursing in which she answered "Yes" to the question:

"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

- 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 have 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?"

Respondent disclosed that on or about July 24, 2012, Respondent entered a plea of Guilty/Nolo Contendere and was convicted of DRIVING WHILE INTOXICATED 2ND, a Class A misdemeanor offense committed on April 21, 2012, in the County Court at Law of Navarro County, Texas, under Cause No. 67833. As a result of the conviction, Respondent was sentenced to confinement in the Harris County Jail for a period of three hundred sixty-five (365) days; however, imposition of the sentence of confinement was suspended, and Respondent was placed on probation for a period of two (2) years and ordered to pay a fine and court costs.

9. On or about June 5, 2013, Respondent submitted a License Renewal Form to the Texas Board of Nursing in which she answered "Yes" to the question:

"In the past 5 years, have you been addicted or treated for the use of alcohol or any other drug? (You may answer "no" if you have completed and/or are in compliance with TPAPN).

Respondent disclosed that she was addicted to alcohol.

10. In response to Findings of Fact Numbers Six (6) through (9), Respondent states after her third arrest for DWI in her lifetime, she recognized that this stemmed from a problem with alcohol. Following an assessment by George Glass, M.D. a psychiatrist specializing in the treatment of chemical dependency, Respondent entered and completed an Intensive Outpatient program through the Right Step. Per Dr. Glass' recommendations respondent also started participating in AA, obtained a sponsor and began using Antabuse, a medication designed to make her ill should she ingest alcohol. Since her conviction for DWI, Respondent has also been subject to regular random drug and alcohol screening through probation and has an interlock device placed in her vehicle. Respondent remains in compliance with the terms of her community supervision and maintains active participation in her recovery program. This still includes regular attendance of AA, maintaining a sponsor, random drug and alcohol testing through probation, and therapy session with a counselor. Respondent has been sober since her last DWI in 2012, she has never experienced any adverse events at work, and her sole drug of abuse has been alcohol.
11. Respondent states a date of sobriety of May 2012.

### 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 §217.12(6)(I)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2)&(10) Texas Occupations Code, to take disciplinary action against Advanced Practice Nurse Number AP102677 and Registered Nurse License Number 505447, heretofore issued to MARY A. HARRELL, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

### TERMS OF ORDER

#### **I. SANCTION AND APPLICABILITY**

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Advanced Practice Registered Nurse License Number AP102677, Registered Nurse License Number 505447, previously issued to MARY A. HARRELL, to practice nursing in Texas are hereby **SUSPENDED** with the suspension **STAYED** and Respondent is hereby placed on **PROBATION**, in accordance with the terms of this Order, for a minimum of three (3) years **AND** until Respondent fulfills the requirements of this Order.

- A. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- B. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

## II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Order.

## III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education courses within one (1) year of entry of this Order, unless otherwise specifically indicated:

- A. A course in Texas nursing jurisprudence and ethics that shall be a minimum of six (6) 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 Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. Home study courses and video programs will not be approved.
- B. The course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension.

In order to receive credit for completion of this/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at [www.bon.texas.gov/compliance](http://www.bon.texas.gov/compliance).*

## IV. MONETARY FINE

RESPONDENT SHALL pay a monetary fine in the amount of seven hundred fifty dollars (\$750.00) 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.

**V. EMPLOYMENT REQUIREMENTS**

In order to complete the terms of this Order, RESPONDENT must work as an advanced practice registered nurse, providing direct patient care in a licensed healthcare setting, for a minimum of sixty-four (64) hours per month for eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) quarterly periods of employment as an advanced practice registered nurse have elapsed. Any quarterly period without continuous employment as an advanced practice registered nurse with the same employer for all three (3) months will not count towards completion of this requirement. Periods of unemployment or of employment that do not require the use of a advanced practice registered nurse (APRN) license will not apply to this period and will not count towards completion of this requirement. Further, Respondent may not work as a registered nurse (RN) or a vocational nurse (LVN) license, as applicable, while under the terms of this Order.

- A. Notifying Present and Future Employers, Practice Sites and Credentialing Agencies:** RESPONDENT SHALL notify each present employer, practice site and/or credentialing agency in nursing of this Order of the Board and the stipulations on RESPONDENT'S license(s). 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, practice site and/or credentialing agency in nursing within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers, practice sites and/or credentialing agencies in nursing and present a complete copy of this Order, including all attachments, if any, to each future employer, practice site and/or credentialing agency in nursing prior to accepting an offer of employment and/or assignment.
- B. Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer, practice site and/or credentialing agency in nursing to submit the Board's "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, practice site and/or credentialing agency in nursing to submit the Board's "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.

- C. **Indirect Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this Order, and for so long as Respondent remains employed with a Anesthesia group, RESPONDENT SHALL be supervised by an Advanced Practice Registered Nurse or Physician who is on the premises. The supervising Advanced Practice Registered Nurse or Physician 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 Advanced Practice Registered Nurse or Physician shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. Unless RESPONDENT is working as part of an Anesthesia Group, 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.
- D. **Incident Reporting:** For the remainder of the stipulation/probation period, RESPONDENT SHALL CAUSE each employer, practice site and/or credentialing agency in nursing to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.
- E. **Nursing Performance Evaluations:** RESPONDENT SHALL CAUSE each supervising Advanced Practice Registered Nurse or Physician 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 Advanced Practice Registered Nurse or Physician who supervises the RESPONDENT and these reports shall be submitted by the supervising Advanced Practice Registered Nurse or Physician to the office of the Board at the end of each three (3) month quarterly period for eight (8) quarters [two (2) years] of employment as a nurse.

## VI.

### DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, RESPONDENT SHALL abstain from the use of alcohol, tramadol and all 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 a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.
- B. While working as a nurse under the terms of this Order, RESPONDENT SHALL submit to random periodic screens for alcohol, tramadol, and controlled substances. The Board will provide instructions on how to enroll in the Board's drug and alcohol testing program following the entry of this Order and screening will begin when Respondent obtains employment and submits the Notification of Employment form to the Board.
- For the first three (3) month [1<sup>st</sup> quarter] period RESPONDENT works as a nurse under the terms of this Order, random screens shall be performed at least once per week.
  - For the next three (3) month [2<sup>nd</sup> quarter] period, random screens shall be performed at least twice per month.
  - For the next six (6) month period [3<sup>rd</sup> & 4<sup>th</sup> quarters], random screens shall be performed at least once per month.
  - For the remainder of the probation period, random screens shall be performed at least once every three (3) month quarterly period.

All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board. Any test result for a period of time in which the RESPONDENT is not working as a nurse under the terms of this Order will not count towards satisfaction of this requirement. 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.

Specimens shall be screened for at least the following substances and their



metabolites:

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 probation period and require RESPONDENT to produce a specimen for screening.

**Consequences of Positive or Missed Screens.** Any positive result for which RESPONDENT does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject RESPONDENT to further disciplinary action, including TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas. Further, failure to report for a drug screen, excessive dilute specimens, or failure to call in for a drug screen may be considered the same as a positive result or refusal to submit to a drug or alcohol screen.

- C. **While under the terms of this Order, RESPONDENT SHALL attend at least two (2) support group meetings each week,** one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. RESPONDENT SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by RESPONDENT. RESPONDENT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) month quarterly period. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

## VII. FURTHER COMPLAINTS

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by

the Board.

**VIII. RESTORATION OF UNENCUMBERED LICENSE(S)**

Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

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RESPONDENT'S CERTIFICATION

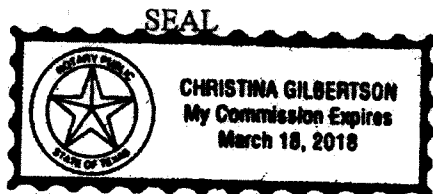
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that when this Order becomes final and the terms of this Order become effective, 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 possible revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 19 day of November, 2014.

Mary Ann Harrell  
MARY A. HARRELL, Respondent

Mary Ann Harrell

Sworn to and subscribed before me this 20 day of November, 2014.



Christina Gilbertson

Notary Public in and for the State of Texas

Approved as to form and substance.

Dan Lype  
Dan Lype, Attorney for Respondent

Signed this 24 day of November, 2014.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 19th day of November, 2014, by MARY A. HARRELL, Advanced Practice Registered Nurse License Number AP102677, Registered Nurse License Number 505447, and said Order is final.

Effective this 22nd day of January, 2015.

A handwritten signature in cursive script, appearing to read "Katherine A. Thomas".

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