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*Patricia A. Thomas*  
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of § AGREED  
Registered Nurse License Number 571898 §  
issued to BENNIE DENISE GARDINER § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BENNIE DENISE GARDINER, Registered Nurse License Number 571898, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Order.

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

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.
4. Respondent received an Associate Degree in Nursing from Trinity Valley Community College, Kaufman, Texas, on May 1, 1991. Respondent was licensed to practice professional nursing in the State of Texas on August 26, 1991.
5. Respondent's professional nursing employment history is unknown.
6. On or about August 25, 2014, Respondent engaged in the intemperate use of Methamphetamine in that she produced a urine specimen for a random drug screen that resulted positive for Methamphetamine. Unlawful possession of Methamphetamine is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Methamphetamine by a Registered Nurse, while subject to call or duty, could

impair the nurse's ability to recognize subtle signs, symptoms, or changes in patients' conditions, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

7. On or about October 26, 2015, that Respondent pled Nolo Contendere to HINDERING APPREHENSION OR PROSECUTION KNOWN FELON, a 3<sup>rd</sup> degree felony offense committed on August 23, 2014, in the 77<sup>th</sup> District Court of Limestone County, Groesbeck, Texas, under Cause No. 13434-A. As a result of the plea, the proceedings against Respondent were deferred, without entering an adjudication of guilt, and Respondent was placed on probation for a period of four (4) years, and ordered to pay restitution in the amount of one hundred eighty dollars (\$180.00), along with a fine and court costs.
8. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license(s) to practice nursing in the State of Texas.
9. 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.
10. 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 §217.12(4),(10)(D),(11)(B)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(3),(9)&(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 571898, heretofore issued to BENNIE DENISE GARDINER, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

6. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
7. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
8. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

### TERMS OF ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the **VOLUNTARY SURRENDER** of Registered Nurse License Number 571898, heretofore issued to BENNIE DENISE GARDINER, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional/registered nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying herself 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:
  - A. One (1) year has elapsed from the date of this Order; and
  - B. RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition for reinstatement.
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.

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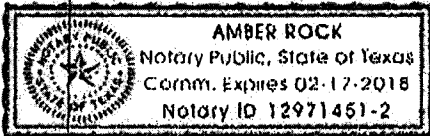
RESPONDENT'S CERTIFICATION

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 this Order becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 27 day of April, 2016  
Bennie Denise Gardiner  
BENNIE DENISE GARDINER, Respondent

Sworn to and subscribed before me this 29 day of April, 2016

SEAL



[Signature]

Notary Public in and for the State of Texas


Approved as to form and substance.

[Signature]  
Steve A. Keathley, Attorney for Respondent

Signed this 29 day of April, 2016.

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept the voluntary surrender of Registered Nurse License Number 571898, previously issued to BENNIE DENISE GARDINER.

Effective this 29th day of April, 2016.



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