



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

In the Matter of § AGREED ORDER
Registered Nurse License Number 898496 §
issued to JOHN ALEXANDER GARY §

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JOHN ALEXANDER GARY, Registered Nurse License Number 898496, 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)(10), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on August 20, 2020.

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 Agreed Order.
3. Respondent's license to practice as a professional nurse in the State of Texas is in inactive status.
4. Respondent received a Baccalaureate Degree in Nursing from West Coast University, Dallas, Texas, on April 1, 2016. Respondent was licensed to practice professional nursing in the State of Texas on May 10, 2016.
5. Respondent's nursing employment history includes:

| | | |
|-----------------|----|---|
| 06/2016-03/2017 | RN | Baylor Scott and White Memorial Hospital, Temple, Texas |
|-----------------|----|---|

Respondent's nursing employment history continued:

| | | |
|-----------------|---------|---------------------------------------|
| 04/2017-12/2018 | Unknown | |
| 01/2019-11/2019 | RN | The Mayo Clinic Mankato, Minnesota |
| 12/2019-Present | Unknown | |

6. On or about April 22, 2020, Respondent was required to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN) through an Order of the Board. A copy of the April 22, 2020, Order is attached and incorporated herein by reference as part of this Agreed Order.
7. On or about July 22, 2020, Respondent became non-complaint with the Agreed Order issued to him on April 22, 2020. Non-compliance is the result of Respondent failing to, within forty-five (45) days following the effective date of the Order, apply to the Texas Peer Assistance Program for Nurses (TPAPN). Stipulation I-A states:
 - A. Within forty-five (45) days following the effective date of this Order, RESPONDENT SHALL apply to TPAPN.

On or about July 22, 2020, Respondent declined participation and his case was closed with TPAPN.

8. In response to Finding of Fact Number Seven (7), Respondent states he was unable to comply with TPAPN due to the financial burden it would place on him. Respondent states he is currently not working and does not want to return to bedside nursing. Respondent states he has completed in-patient treatment and continues to attend Alcoholic Anonymous meetings regularly.

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(3),(5)&(11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 898496, heretofore issued to JOHN ALEXANDER GARY.
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.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **LIMITED LICENSE WITH STIPULATIONS** in accordance with the terms of this Order.

- A. While under the terms of this Order, **RESPONDENT SHALL NOT provide direct patient care.** For the purposes of this Order, direct patient care involves the formation of a relationship between the nurse and the client, and includes, but is not limited to: teaching, counseling, assessing the client's needs and strengths, and providing skilled nursing care.
- B. This Order SHALL apply to any and all future licenses issued to RESPONDENT to practice nursing in the State of Texas.
- C. This Order SHALL be applicable to RESPONDENT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- D. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" as applicable and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state using a Texas compact license.

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 Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Agreed Order.

III. SUPERSEDING ORDER

IT IS FURTHER AGREED and ORDERED that the sanction and conditions of this Agreed Order SHALL supersede all previous stipulations required by any Order entered by the Texas Board of Nursing.

IV. 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 course(s) **within one (1) year of the effective date of this Order, unless otherwise specifically indicated:**

A Board-approved 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 and video programs will not be approved.

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.*

V. SUBSEQUENT CRIMINAL PROCEEDINGS

IT IS FURTHER AGREED, should the RESPONDENT'S conduct, as outlined in the findings of fact of this Agreed Order, result in subsequent judicial action, including a deferred disposition, RESPONDENT may be subject to further disciplinary action, up to,

and including, revocation of RESPONDENT'S license(s) to practice nursing in the State of Texas.

VI. RESTORATION OF PATIENT CARE PRIVILEGES AND/OR UNENCUMBERED LICENSE(S)

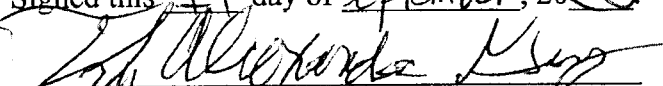
SHOULD RESPONDENT desire to provide direct patient care, RESPONDENT SHALL petition the Board for such approval, at which time, the RESPONDENT MUST satisfy all then existing requirements for restoration of the privilege to provide direct patient care. Further, the Board may impose reasonable conditions that must be satisfied by the RESPONDENT before restoration of an unencumbered license, which, at a minimum, shall include the remedial education courses, work restrictions, supervised practice, and/or employer reporting which would have been requirements of this Agreed Order had the license(s) not been placed in limited status.

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RESPONDENT'S CERTIFICATION

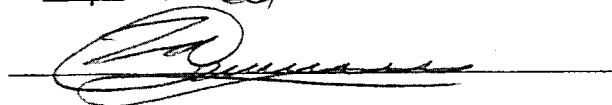
I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Texas Board of Nursing and a copy of this Order will be mailed to me once the Order becomes effective. 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) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 14 day of September, 2020


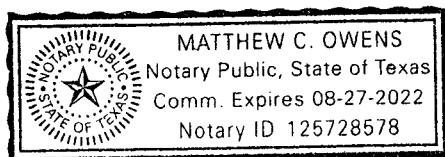
JOHN ALEXANDER GARY, RESPONDENT

Sworn to and subscribed before me this 14 day of September, 2020.

SEAL



Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 14th day of September, 2020, by JOHN ALEXANDER GARY, Registered Nurse License Number 898496, and said Agreed Order is final.

Effective this 22nd day of October, 2020.



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



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

In the Matter of
Registered Nurse License Number 898496
issued to JOHN ALEXANDER GARY

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AGREED ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JOHN ALEXANDER GARY, Registered Nurse License Number 898496, 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)(1),(9)&(10), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on March 11, 2020.

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 Agreed Order.
3. Respondent's license to practice as a professional nurse in the State of Texas is in current status.
4. Respondent received a Baccalaureate Degree in Nursing from West Coast University, Dallas, Texas, on April 1, 2016. Respondent was licensed to practice professional nursing in the State of Texas on May 10, 2016.
5. Respondent's nursing employment history includes:

6/2016 – 12/2016

RN

Baylor Scott & White
Memorial Houston
Temple, TX

Respondent's nursing employment history continued:

| | | |
|------------------|----|---|
| 12/2016 – 3/2017 | RN | Baylor Scott & White Memorial Houston, Temple, TX |
| 1/2019 – 11/2019 | RN | Mayo Clinic Mankato, MN |

6. On or about February 6, 2020, Respondent's license to practice professional nursing in the State of Minnesota was issued a Stipulation and Consent to Voluntary Surrender by the Minnesota State Board of Nursing, Mendota Heights, Minnesota. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated February 6, 2020, is attached and incorporated, by reference, as part of this Order.
7. On or about January 12, 2020, Respondent submitted a Delinquent (Expired) License Renewal Form Registered Nurse to the Texas Board of Nursing in which he answered "Yes" to the question which states in part:

"In the past 5 years, have you been addicted to 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 he completed a residential treatment program at Beau Terre Recovery Institute, Owatonna, Minnesota, on November 20, 2019.

8. On or about January 12, 2020, Respondent submitted a Delinquent (Expired) License Renewal Form Registered Nurse to the Texas Board of Nursing in which he answered "No" to the question:

"Has any licensing authority refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, suspended, place on probation, refused to renew a nursing license, certificate, or multi-state privilege held by you now or previously, or ever fined, censured, reprimanded, or otherwise disciplined you? (you may exclude disciplinary actions previously disclosed to the Texas Board of Nursing on an initial or renewal licensure application.)"

Respondent failed to disclose that on December 8, 2019, he signed a Stipulation and Consent Order to Voluntary Surrender his license before the Minnesota Board of Nursing. That order was not ratified until February 6, 2020.

9. In response to Findings of Fact Numbers Seven (7) and Eight (8), Respondent states he has completed a 30-day in-patient rehabilitation program at Beau Terre Recovery Center in Owatonna, Minnesota. He was successfully discharged on November 22, 2019. His sobriety date is October 22, 2019. On January 10, 2020 he was convicted of the aforementioned charge with 2 years probation and loss of driving privileges for one year.
10. 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 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient cause pursuant to Section 301.452(b)(1),(9)&(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 898496, heretofore issued to JOHN ALEXANDER GARY.
4. 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.
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.

TERMS OF ORDER

I. PEER ASSISTANCE PROGRAM REQUIREMENTS

IT IS THEREFORE AGREED and ORDERED that RESPONDENT 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)**:

- A. Within forty-five (45) days following the effective date of this Order, RESPONDENT SHALL apply to TPAPN.
- B. Within ninety (90) days following the effective date of this Order, RESPONDENT SHALL sign and execute the TPAPN participation agreement

and complete the enrollment process, which SHALL include payment of a non-refundable participation fee payable to TPAPN in the amount of five hundred dollars (\$500.00), if licensed as a registered nurse, or in the amount of three hundred fifty dollars (\$350.00), if licensed as a vocational nurse.

- C. Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.
- D. RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep all applicable license(s) to practice nursing in the State of Texas in current status.
- E. RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.
- F. This Order SHALL apply to any and all future licenses issued to RESPONDENT to practice nursing in the State of Texas.
- G. This Order SHALL be applicable to RESPONDENT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- H. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" and Respondent may not work outside the State of Texas in another nurse licensure compact party state.

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 Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Agreed 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 course(s) within one (1) year of the effective date of this Order, unless otherwise specifically indicated:

A Board-approved 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 and video programs will not be approved.

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.*

IV. SUBSEQUENT CRIMINAL PROCEEDINGS

IT IS FURTHER AGREED, should the RESPONDENT'S conduct, as outlined in the findings of fact of this Agreed Order, result in subsequent judicial action, including a deferred disposition, RESPONDENT may be subject to further disciplinary action, up to, and including, revocation of RESPONDENT'S license(s) to practice nursing in the State of Texas.

V. EFFECT OF NONCOMPLIANCE

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 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.

VI. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Agreed Order, all encumbrances will be removed from RESPONDENT'S license(s) and/or privilege(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, RESPONDENT may be eligible for nurse licensure compact privileges, if any.

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RESPONDENT'S CERTIFICATION

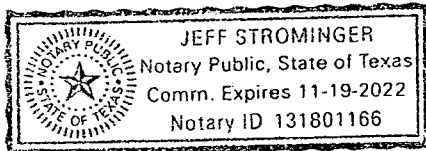
I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the entry of this Order and all conditions of said 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 Texas Board of Nursing 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 TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, and/or possible revocation of my license(s) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 16 day of April, 2020.
John Alexander Gary
JOHN ALEXANDER GARY, RESPONDENT

Sworn to and subscribed before me this 16th day of April, 2020.

SEAL

Jeff Strominger
Notary Public in and for the State of TX



WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 16th day of April, 2020, by JOHN ALEXANDER GARY, Registered Nurse License Number 898496, and said Agreed Order is final.

Effective this 22nd day of April, 2020.

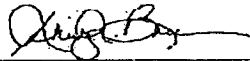


Katherine A. Thomas, MN, RN, FAAN
Executive Director on behalf
of said Board

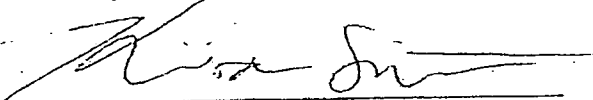
I, Shirley A. Brekken, Executive Director of the Minnesota Board of Nursing, do hereby certify that I am the Custodian of the Records of the Minnesota Board of Nursing and that the attached documents in the matter of John Alexander Gary, RN are true and correct copies of said documents as they appear among the files and records in the Minnesota Board of Nursing office. The documents are kept in the regular course of business of the Minnesota Board of Nursing and were prepared as a matter of routine business practice of the Board.

WITNESS, my hand and seal of the Minnesota Board of Nursing the 25th day of February, 2020.

MINNESOTA BOARD OF NURSING

By: 
Shirley A. Brekken
Executive Director

Subscribed and sworn to before me this
25th day of February, 2020.



Signature – Notary

My commission expires:



**BEFORE THE MINNESOTA
BOARD OF NURSING**

In the Matter of
John A. Gary, RN
License No. R 2470181

**STIPULATION AND
CONSENT ORDER**

STIPULATION

John A. Gary, RN ("Licensee"), and the Minnesota Board of Nursing Review Panel ("Review Panel") agree the above-referenced matter may be resolved without trial of any issue or fact as follows:

I.

JURISDICTION

1. The Minnesota Board of Nursing ("Board") is authorized pursuant to Minnesota Statutes sections 148.171 to 148.285 to license and regulate advanced practice registered nurses, registered nurses, and licensed practical nurses and to take disciplinary action as appropriate.

2. Licensee holds a license from the Board to practice professional nursing in the State of Minnesota and is subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation and Consent Order.

II.

BACKGROUND

3. On August 28, 2019, Licensee was unsatisfactorily discharged from the Health Professionals Services Program ("HPSP") after informing the HPSP that Licensee no longer intended to practice nursing. Following a thorough review of all available information, the Review Panel, composed of Eric Thompson, Board member, and Kimberly Miller, Nursing Practice Specialist for the Board, determined the matter could be resolved by mail with a Stipulation and Consent Order for a voluntary surrender of Licensee's registration.

4. Licensee was advised by the Board's representatives that he may choose to be represented by legal counsel in this matter. Licensee knowingly waived legal representation. Daniel Schueppert, Assistant Attorney General, represented the Review Panel.

III.

FACTS

5. The parties agree this Stipulation and Consent Order is based upon the following facts:

a. On or about April 18, 2019, Licensee was hospitalized after he presented for duty as a nurse at a health care facility in Mankato, Minnesota, while impaired by the use of alcohol. Licensee was placed on medical leave by his employer and referred to the Health Professionals Services Program ("HPSP").

b. On May 23, 2019, Licensee enrolled in the HPSP for monitoring of his psychiatric and substance use disorders.

c. On June 11, 2019, Licensee completed a substance use evaluation. Licensee was diagnosed with alcohol use disorder-severe. The evaluator recommended Licensee enter and successfully complete an intensive outpatient substance use treatment program.

d. On July 29, 2019, the HPSP received Licensee's signed Participation Agreement.

e. On August 19, 2019, Licensee failed to submit a scheduled toxicology screen as required pursuant to the terms of his Participation Agreement.

f. On August 23, 2019, Licensee notified the HPSP via voicemail that he no longer intended to pursue a career in nursing.

g. On August 28, 2019, Licensee was unsatisfactorily discharged from the HPSP for non-compliance.

IV.

LAWS

6. Licensee acknowledges the conduct described in section III. above constitutes a violation of Minnesota Statutes section 148.261, subdivision 1(9) and Minnesota Statutes section 214.355 and justifies the disciplinary action described in section V. below.

V.

DISCIPLINARY ACTION

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

A. Voluntary Surrender

7. The Board accepts Licensee's **VOLUNTARY SURRENDER** of his registration to practice professional nursing. Licensee must not engage in any act which constitutes the practice of nursing as defined in Minnesota Statutes section 148.171 and must not imply by words or conduct that Licensee is authorized to practice nursing.

B. Reinstatement

8. Licensee may petition for reinstatement of his registration to practice professional nursing after 12 months from the date of this Order and when Licensee is able to demonstrate by a preponderance of the evidence that Licensee is capable of practicing professional nursing in a fit and competent manner, is successfully participating in a program of substance use disorder rehabilitation, and has abstained from mood-altering chemicals during the 12 months immediately preceding his petition. At the time of Licensee's petition, Licensee may be required to meet with a Board Review Panel. The meeting with the Board Review Panel will be scheduled after Licensee has complied with, at a minimum, the following:

a. Self-Report. Licensee must submit a report to the Board at the time Licensee petitions for reinstatement of his registration. The report must provide and address:

1) Licensee's sobriety, including the date Licensee last used mood-altering substances, including alcohol, and the circumstances surrounding any use while this Order is in effect;

2) Licensee's treatment and participation in a substance use disorder rehabilitation program, including weekly attendance at a substance use disorder support group during the 12 months preceding the petition; evidence of participation must include, but need not be limited to, attendance sheets on a form provided by the Board and that have been legibly signed or initialed and dated by a participant who attended the weekly meeting;

3) Licensee's job title, dates of employment, work schedule, and the employer's name for every employment Licensee has held while this Order has been in effect;

4) Licensee's physical and mental health status, treatment plan, medications, and compliance with treatment;

5) Licensee's future plans in nursing and the steps he has taken to prepare himself to return to nursing practice; and

6) Any other information Licensee believes would assist the Board in its ultimate review of this matter.

b. Report From Employer. During the petition process, if requested by Board staff, Licensee must cause to be submitted to the Board a report from any employer who has employed Licensee while this Order is in effect. The report(s) are due within two months of any such request from the Board. The report(s) must provide and address:

1) Licensee's ability to perform assigned tasks, and if any performance deficiencies are identified, the actions taken to address them;

2) Licensee's attendance and reliability;

3) Licensee's typical work schedule;

4) Any other information reasonably requested by the Board; and

5) Any other information the employer believes would assist the Board in its ultimate review of this matter.

c. Report From Mental Health Treatment Professional. Licensee must cause to be submitted to the Board a report from any mental health treatment professional whom Licensee consulted during the 12 months immediately preceding the petition. The report must be submitted to the Board at the time Licensee petitions for reinstatement of his registration. Each report must provide and address:

- 1) Verification the mental health professional has reviewed this Order;
- 2) Identification of a plan of treatment, including any medications, devised for Licensee;
- 3) A statement of the involvement between Licensee and the mental health professional, including the number and frequency of meetings;
- 4) Licensee's progress with therapy and compliance with the treatment plan;
- 5) Licensee's awareness of his personal problems;
- 6) The mental health professional's conclusion as to the need for continuing therapy and Licensee's discontinuance of therapy; and
- 7) Any other information the mental health professional believes would assist the Board in its ultimate review of this matter.

d. Report From Health Care Professional. Licensee must cause to be submitted to the Board a report from any health care professional whom Licensee consults for physical health, mental health, or substance use disorder treatment during the 12 months immediately preceding the petition. The reports must be submitted at the time Licensee petitions for reinstatement of his registration. Each report must provide and address:

- 1) Verification the health care professional has reviewed this Order;
- 2) Identification of diagnoses and any plans of treatment, including medications, devised for Licensee;
- 3) Licensee's progress with therapy and compliance with the treatment plan;

- 4) A statement regarding Licensee's mental health status;
 - 5) A statement regarding Licensee's sobriety;
 - 6) Recommendations for additional treatment, therapy, or monitoring;
- and
- 7) Any other information the health care professional believes would

assist the Board in its ultimate review of this matter.

e. Substance Use Assessment. Within 60 days prior to petitioning, Licensee must undergo a substance use assessment performed by a substance use disorder treatment professional. Licensee must submit, or cause to be submitted, the credentials of the substance use disorder treatment professional for review and preapproval by Board staff for purposes of this assessment. Licensee is responsible for the costs of the assessment. The results of the assessment must be sent directly to the Board and must include a statement verifying the treating professional has reviewed this Order and any evaluation or treatment records deemed pertinent by the Board or the evaluator prior to the assessment.

f. Compliance With Evaluator's Recommendations. Licensee must comply promptly with any recommendations for additional evaluation and treatment made by the substance use disorder evaluator.

g. Mental Health Evaluation. During the petition process, the Board may direct Licensee to obtain a mental health evaluation. Licensee must undergo a mental health evaluation performed by a mental health professional as defined in Minnesota Statutes sections 245.462, subdivision 18, within 60 days if directed to do so by Board staff. Licensee must submit, or cause to be submitted, the credentials of the evaluator for review and pre-approval by Board staff for purposes of this evaluation. Licensee is responsible for the cost of the evaluation. The results must be sent directly to the Board and must provide and address:

- 1) Verification the evaluator has reviewed a copy of this Order and any evaluation or treatment records deemed pertinent by the Board or the evaluator prior to the evaluation;

- 2) Diagnosis and any recommended treatment plan;
- 3) Licensee's ability to handle stress;
- 4) Recommendations for additional evaluation or treatment; and
- 5) Any other information the evaluator believes would assist the Board

in its ultimate review of this matter.

h. Compliance With Evaluator's Recommendations. Licensee must comply promptly with any recommendations for additional evaluation and treatment made by the mental health evaluator.

i. Random Alcohol and Drug Screens. At any time during the petition process, the Board may direct Licensee, without prior notice, to submit to laboratory hair, blood, and urine screenings to determine the presence or absence of alcohol or drugs. The Board may contact Licensee by telephone, letter, or through personal contact by an agent to direct him to submit to the tests. Licensee must provide the directed specimen, using a collection site and process approved by the Board, not later than 6:00 p.m. on the day he is contacted by the Board. Licensee must abstain from substances known to interfere with the toxicology screening process, including but not limited to certain foods, beverages, over-the-counter medications, and other products that contain poppy seeds, hempseeds, and ethyl alcohol. Examples include but are not limited to, nonalcoholic beer or wine; some desserts, salad dressings, soups and herbal remedies; and hand sanitizing and mouthwash products. Licensee must arrange with his employer for release from work for purposes of fulfilling the requirements of the laboratory screening. The specimens must be handled through legal chain-of-custody methods and tested at a facility approved by the Board. The results of the screens must be reported directly to the Board. Licensee is responsible for the cost of the screens.

j. Waivers. If requested by the Board at any time during the petition process, Licensee must complete and sign health records waivers and substance use disorder treatment records waivers supplied by the Board to allow representatives of the Board to discuss Licensee's case with and to obtain written evaluations and reports and copies of all of Licensee's health,

mental health, or substance use disorder records from his physician, mental health professional, substance use disorder treatment provider, counselor, or others from whom Licensee has sought or obtained treatment, support, or assistance.

k. Additional Information. Licensee must provide any additional information relevant to his petition reasonably requested by the Board. The Board will consider all competent evidence of rehabilitation presented by Licensee.

l. Reregistration Requirements. Licensee must meet all reregistration requirements in effect at the time of his petition to reinstate his registration, including but not limited to completing the appropriate application, paying the requisite fees, and completing any necessary continuing education requirements.

9. The Board may, at any regularly scheduled meeting following Licensee's petition for reinstatement pursuant to paragraph 8 above, take any of the following actions:

- a. Grant nursing registration to Licensee;
- b. Grant nursing registration to Licensee with limitations upon Licensee's scope of practice, conditions for Licensee's practice, or both; or
- c. Deny Licensee's request for issuance of nursing registration based upon his failure to meet the burden of proof.

VI.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

10. If Licensee fails to comply with or violates this Stipulation and Consent Order the Review Panel may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

- a. The Review Panel will schedule a hearing before the Board. At least 20 days prior to the hearing, the Review Panel will mail Licensee a notice of the violation(s) alleged by the Review Panel. In addition, the notice will designate the time and place of the hearing. Within

ten days after the notice is mailed, Licensee must submit a written response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Review Panel, in its discretion, may schedule a conference with the Licensee prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

c. Prior to the hearing before the Board, the Review Panel and Licensee may submit affidavits and written argument in support of their positions. At the hearing, the Review Panel and Licensee may present oral argument. Argument will not refer to matters outside the record. The evidentiary record will be limited to the affidavits submitted prior to the hearing and this Stipulation and Consent Order. Unless stated otherwise in this Stipulation and Consent Order, the Review Panel will have the burden of proving by a preponderance of the evidence that a violation has occurred. If Licensee has failed to submit a timely response to the allegations, Licensee may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Licensee waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

d. Licensee's correction of a violation prior to the conference, hearing, or meeting of the Board may be taken into account by the Board but will not limit the Board's authority to impose discipline for the violation. A decision by the Review Panel not to seek discipline when it first learns of a violation will not waive the Review Panel's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while this order is in effect.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board will dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including revocation of Licensee's license.

f. Nothing herein will limit the Review Panel's or the Board's right to temporarily suspend Licensee's license pursuant to Minnesota Statutes section 214.077, based on

a violation of this Stipulation and Consent Order or based on conduct of Licensee not specifically referred to herein. Similarly, nothing herein will limit the Review Panel's or the Board's right to automatically suspend Licensee's license pursuant to Minnesota Statutes section 148.262, subdivision 2.

VII.

ADDITIONAL INFORMATION

11. Licensee waives the contested case hearing and all other procedures before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or rules.

12. Licensee waives any claims against the Board, the Minnesota Attorney General, the State of Minnesota, and their agents, employees, and representatives related to the investigation of the conduct herein, or the negotiation or execution of this Stipulation and Consent Order, which may otherwise be available to Licensee.

13. This Stipulation and Consent Order, the files, records, and proceedings associated with this matter will constitute the entire record and may be reviewed by the Board in its consideration of this matter.

14. Either party may seek enforcement of this Stipulation and Consent Order in any appropriate civil court.

15. Licensee has read, understands, and agrees to this Stipulation and Consent Order and has voluntarily signed the Stipulation and Consent Order. Licensee is aware this Stipulation and Consent Order must be approved by the Board before it goes into effect. The Board may approve the Stipulation and Consent Order as proposed, approve it subject to specified change, or reject it. If the changes are acceptable to Licensee, the Stipulation and Consent Order will take effect and the order as modified will be issued. If the changes are unacceptable to Licensee or the Board rejects the Stipulation and Consent Order, it will be of no effect except as specified in the following paragraph.

16. Licensee agrees that if the Board rejects this Stipulation and Consent Order or a lesser remedy than indicated in this settlement, and this case comes again before the Board, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Consent Order or of any records relating to it.

17. This Stipulation and Consent Order does not limit the Board's authority to proceed against Licensee by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Licensee which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth herein.

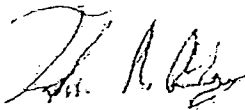
VIII.

DATA PRACTICES NOTICES

18. This Stipulation and Consent Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Data regarding this action will be provided to data banks as required by Federal law or consistent with Board policy. While this Stipulation and Consent Order is in effect, information obtained by the Board pursuant to this Order is considered active investigative data on a licensed health professional, and as such, is classified as confidential data pursuant to Minnesota Statutes section 13.41, subdivision 4.

19. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation.

CONSENT:



JOHN A. GARY, RN
Licensee

Dated: 12/8, 2019

BOARD OF NURSING
REVIEW PANEL.



ERIC THOMPSON
Board Member

Dated: Feb 5, 2019

ORDER

Upon consideration of the Stipulation, the Board accepts the VOLUNTARY SURRENDER of Licensee's registration and adopts all of the terms described above on this

6th day of January, ²⁰²⁰ 2019.

MINNESOTA BOARD
OF NURSING



SHIRLEY A. BREKKEN
Executive Director

