



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 § AGREED ORDER  
Advanced Practice Registered Nurse License §  
Number AP139515 with Prescription §  
Authorization Number 28295 §  
& Registered Nurse License Number 772708 §  
issued to RACHEAL MARIE HARDIN §

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of RACHEAL MARIE HARDIN, Advanced Practice Registered Nurse License Number AP139515 with Prescription Authorization Number 28295, and Registered Nurse License Number 772708, 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)(9),(10)&(13), 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 January 2, 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. Respondent's license to practice as an advanced practice registered nurse in the State of Texas with authorization as a Women's Health Nurse Practitioner is in current status with Prescription Authorization Number 28295 in current status.
4. Respondent received an Associate Degree in Nursing from the University of Texas Medical Branch, Galveston, Texas, on May 19, 2008. Respondent completed a Women's Health Nurse Practitioner Program from University of Cincinnati, Cincinnati, Ohio, on April 28, 2018. Respondent was licensed to practice professional nursing in the State of Texas on

July 14, 2009. Respondent was licensed to practice advanced practice registered nursing in the State of Texas with authorization as a Women's Health Nurse Practitioner on October 29, 2018. Respondent was licensed to practice advanced practice registered nursing in the State of Texas with authorization as a Women's Health Nurse Practitioner with Prescription Authorization on October 29, 2018.

5. Respondent's nursing employment history includes:

07/2009 – 03/2019	RN	University of Texas Medical Branch – Galveston, Texas
04/2019 – 5/2021	Unknown	
6/2021 – Present	L&D Nurse	HCA Clear Lake Webster, Texas

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with University of Texas Medical Branch, Galveston, Texas, and had been in that position for nine (9) years and seven (7) months.
7. On or about February 22, 2019, while employed as an Advanced Practice Registered Nurse with University of Texas Medical Branch, Galveston, Texas, and assigned to two (2) maternity patients who required fetal monitoring, Respondent lacked fitness to practice nursing in that she was found sleeping in the hallway outside of her patients' room. Respondent's conduct was likely to injure the patient in that it adversely affected her ability to recognize subtle signs, symptoms or changes in the patient's conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
8. On or about February 22, 2019, while employed as an Advanced Practice Registered Nurse with University of Texas Medical Branch, Galveston, Texas, and assigned to two (2) maternity patients who required fetal monitoring, Respondent engaged in the intemperate and/or unlawful use of cocaine in that she produced a specimen for a for cause drug screen that resulted positive for cocaine. The use of a cocaine by a Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms, or changes in a 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 a patient in potential danger.
9. In response to Findings of Fact Numbers Seven (7) and Eight (8), Respondent states her physician prescribed her Lexapro, which she explains provided incomplete relief and the physician had to adjust the dosage several times. Each time the dosage was adjusted, Respondent states the side effects would increase but eventually level out. Respondent admits on February 22, 2019, she attended a party with several friends and against her better judgement, she tried cocaine. Respondent states a few days later, she reported for her shift at UTMB, noting her Lexapro dosage had recently been changed, making her feel

very fatigued. Respondent states she does remember unintentionally falling asleep for a brief period while on duty. Respondent states she consented to a drug screen, which tested positive for cocaine.

10. On or about November 5, 2019, Respondent underwent a Chemical Dependency Evaluation performed by Dr. Joyce Gayles. Dr. Gayles recommends after a thorough evaluation, Respondent should be monitored by random drug screens for illegal drugs for approximately one (1) year to ensure that her case is truly an isolated episode and does not warrant additional restrictions; and due to Respondent's problems with self-esteem and challenges in close relationships, she would likely benefit from participating in sessions of psychotherapy that focus on esteem building, emotional self-management, coping in relationships, and stress management.

### 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)(B)&(1)(T) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(E),(4),(5), (10)(A),(10)(D)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(9),(10)&(13), Texas Occupations Code, to take disciplinary action against Advanced Practice Registered Nurse License Number AP139515 with Prescription Authorization Number 28295, and Registered Nurse License Number 772708, heretofore issued to RACHEAL MARIE HARDIN.
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 **WARNING WITH STIPULATIONS** in accordance with the terms 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. 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. UNDERSTANDING BOARD ORDERS

Within thirty (30) days of entry of this Order, RESPONDENT must successfully complete the Board's online course, "Understanding Board Orders", which can be accessed on the Board's website from the "Discipline & Complaints" drop-down menu or directly at: <http://www.bon.texas.gov/UnderstandingBoardOrders/index.asp>. Upon successful completion, RESPONDENT must submit the course verification at the conclusion of the course, which automatically transmits the verification to the Board.

## 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. **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.
  
- 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).*

**V. RN EMPLOYMENT REQUIREMENTS PRIOR TO OBTAINING EMPLOYMENT AS AN APRN**

In order to complete the terms of this Order, prior to obtaining employment as an advanced practice registered nurse, RESPONDENT must work as a nurse in the State of Texas, providing direct patient care in a clinical healthcare setting, for a minimum of sixty-four (64) hours per month for four (4) quarterly periods [one (1) year] of employment or until RESPONDENT becomes employed as an advanced practice registered nurse. This requirement will not be satisfied until four (4) quarterly periods of employment as a nurse have elapsed. Periods of unemployment or of employment that do not require the use of a registered nurse (RN) will not apply to this period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** RESPONDENT SHALL notify each present employer in nursing and present each with a complete copy of this Order,

including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.

- B. **Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.
- C. **Indirect Supervision:** RESPONDENT SHALL be supervised by a Registered Nurse who is on the premises. The supervising nurse 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 nurse shall have a minimum of two (2) years of experience in the same or similar practice setting to which the RESPONDENT is currently working. 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. **Nursing Performance Evaluations:** RESPONDENT SHALL CAUSE each employer 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 individual who supervises the RESPONDENT and these reports shall be submitted by the supervising individual to the office of the Board at the end of each three (3) month quarterly period for four (4) quarterly periods [one (1) year] of employment as a nurse.

## VI. EMPLOYMENT REQUIREMENTS AFTER OBTAINING EMPLOYMENT AS AN APRN

Upon obtaining employment as an APRN and in order to complete the remaining terms of this Order, RESPONDENT must work as an advanced practice registered nurse in the State of Texas, providing direct patient care in a clinical healthcare setting, for a minimum of sixty-four (64) hours per month for the remainder of four (4) quarterly periods [one (1) year] of employment, if any. This requirement will not be satisfied until four (4)

quarterly periods of employment either as a RN and/or as an APRN under the terms of this Order have elapsed. Periods of unemployment or of employment that do not require the use of an 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) after becoming employed as an APRN 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:** 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 of experience in the same or similar practice setting to which the RESPONDENT is currently working. If being supervised by an Advanced Practice Registered Nurse, the supervising APRN must be in the same advanced role and population focus area as RESPONDENT. 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. **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 the remainder of four (4) quarters [one (1) year] of employment as a nurse, if any.

## VII. DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, RESPONDENT SHALL **abstain from the use of alcohol, nalbuphine, propofol 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 the 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, nalbuphine, propofol and all 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, if any, random screens shall be performed at least once every three (3) month quarterly period.

All random screens SHALL BE conducted through urinalysis. 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 any or all of the following substances and/or their metabolites:

Amphetamine	Methamphetamine	MDMA
MDA	Alprazolam	Diazepam
Alpha-o-alprazolam	Alpha-Hydroxytriazolam	Clonazepam
Desmethyldiazepam	Lorazepam	Midazolam
Oxazepam	Temazepam	Amobarbital
Butobarbital	Butalbital	Pentobarbital
Phenobarbital	Secobarbital	Codeine
Hydrocodone	Hydromorphone	Methadone
Morphine	Opiates	Oxycodone
Oxymorphone	Propoxyphene	Cannabinoids
Cocaine	Phencyclidine	Ethanol
Heroin	Fentanyl	Tramadol
Meperidine	Carisoprodol	Butorphanol
Nalbuphine	Ketamine	Propofol

Upon enrollment in the Board's drug and alcohol testing program, **RESPONDENT SHALL, on a daily basis, call or login online to the Board's designated drug and alcohol testing vendor to determine whether or not RESPONDENT has been selected to produce a specimen for screening that day** and SHALL, if selected, produce a specimen for screening that same day at an approved testing location and/or comply with any additional instructions from the vendor or Board staff. Further, **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.

**VIII. THERAPY REPORTS**

**While working as a nurse under the terms of this Order, RESPONDENT SHALL participate in therapy with a professional counselor with credentials approved by the Board.** RESPONDENT SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT'S progress in therapy, rehabilitation and capability to safely practice nursing. The report must indicate whether or not the RESPONDENT'S stability is sufficient to provide direct patient care safely. For the first three (3) month quarterly period RESPONDENT works as a nurse under the terms of this Order, reports are to be submitted to the Board each and every month. If therapy is recommended by the counselor for an additional period of time, the reports shall then be submitted to the Board at the end of each three (3) month quarterly period in which the RESPONDENT is working as a nurse under the terms of this Order, for the remainder of the term of the Order, or until RESPONDENT is dismissed from therapy, whichever is earlier.

**IX. 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.

**X. 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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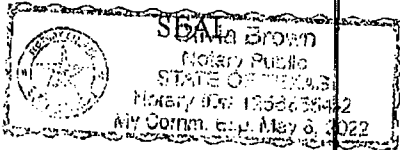
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**RESPONDENT'S CERTIFICATION**

I understand that I have the right to legal counsel prior to signing this 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 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 2 day of October, 2021.  
Racheal Marie Hardin  
RACHEAL MARIE HARDIN, RESPONDENT

Sworn to and subscribed before me this 2 day of October, 2021.



Oliver Brown

Notary Public in and for the State of TX

Approved as to form and substance.  
[Signature]

Dan Lype, Attorney for Respondent

Signed this 4 day of October, 2021

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 2<sup>ND</sup> day of October, 2021, by RACHEAL MARIE HARDIN, Advanced Practice Registered Nurse License Number AP139515, and Registered Nurse License Number 772708, and said Agreed Order is final.

Effective this 9<sup>th</sup> day of November, 2021.



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