

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§	AGREED
License Number 180156	§	
issued to CARL DAVID FINCH	§	ORDER



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.  
*Patricia P. Thomas*  
 Executive Director of the Board

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Vocational Nurse License Number 180156, issued to CARL DAVID FINCH, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c) of the Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, 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 provided to 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 representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Tyler Jr. College, Jacksonville, Texas, on December 14, 2000. Respondent was licensed to practice vocational nursing in the State of Texas on May 3, 2001.
5. Respondent's vocational nursing employment history is unknown.

6. On or about May 7, 2001, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED (a Class B misdemeanor offense), in the County Court At Law, Cherokee County, Texas, under Cause No. 41175. Respondent was sentenced to confinement in the Cherokee County Jail for a period of one hundred twenty (120) days; however, the imposition of sentence of confinement was suspended, and Respondent was placed on community supervision for a period of eighteen (18) months. Additionally, Respondent was ordered to pay a fine and court costs.
  
7. On or about October 29, 2008, Respondent submitted a Online Renewal Document to the Texas Board of Nursing in which Respondent provided false, deceptive, and/or misleading information, in that Respondent answered "No" to the question which reads, "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 judgement/punishment/action?"
  
8. On or about February 4, 2009, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED 2<sup>ND</sup> (a Misdemeanor offense committed on May 9, 2007), in the County Court of Law, Cherokee County, Texas, under Cause No. 48440. Respondent was sentenced to confinement in the Cherokee County Jail for a period of three hundred sixty-five (365) days; however, the imposition of sentence of confinement was suspended, and Respondent was placed on community supervision for a period of eighteen (18) months. Additionally, Respondent was ordered to pay a fine and court costs.
  
9. On February 22, 2010, Respondent underwent a Chemical Dependency evaluation with forensic and polygraph with Dr. Antoinette R. McGarrahan, PH.D., Psychologist and Neuropsychologist, Dallas, Texas. Dr. McGarrahan states based on the available information, Mr. Finch meets current criteria for alcohol dependence, although he does not meet criteria for any psychiatric or personality disorder at this time. Despite his positive work performance in the last couple of years, and the glowing recommendations by his supervisor and those that work with him, this examiner cannot say with confidence that Mr. Finch will be able to behave in accordance with Board rules concerning professional conduct until he receives treatment above and beyond what he is required to do for probation. In

addition, and for similar reasons, this examiner cannot say with confidence that Mr. Finch will be able to avoid engaging in unprofessional conduct until such treatment is obtained. He needs to be able to show a sustained period of sobriety and avoidance of any arrests. It is suggested that he be accepted to and participate in TPAPN for a time-period as determined by the Board. He should be able to demonstrate successful completion of probation, although this may be moot as he may be sent to prison for a felony DWI in the near future, and his criminal record should be monitored for new arrests.

10. On or about May 7, 2010, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED, SUBSEQUENT OFFENSE (a Third Degree felony of offense committed on January 27, 2010), in the Second Judicial District Court, Cherokee County, Texas, under Case No. 17775. Respondent was sentenced to confinement in the Texas Department of Criminal Justice, Institutional Division for a period of ten (10) years; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of ten (10) years. Additionally, Respondent was ordered to pay court costs.
11. Respondent, by his signature to this Order, expresses his desire to voluntarily surrender his license(s) to practice nursing in the State of Texas.
12. 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.
13. 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 violations of Section 301.452(b)(2),(3)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(I)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Vocational License Number 180156, heretofore issued to CARL DAVID FINCH, including revocation of Respondent's license(s) to practice

nursing in the State of Texas.

5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. 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.

### ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Vocational License Number 180156, heretofore issued to CARL DAVID FINCH, 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 vocational nursing, use the title "vocational nurse" or the abbreviation "LVN" or wear any insignia identifying himself as a vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a vocational nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order.

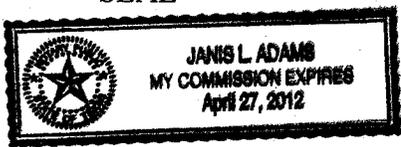
I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive 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 7 day of Feb, 2011.

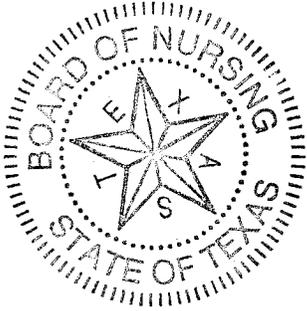
  
CARL DAVID FINCH, Respondent

Sworn to and subscribed before me this 7<sup>th</sup> day of February, 2011.

  
Notary Public in and for the State of Texas



WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Vocational Nurse License Number 180156, previously issued to CARL DAVID FINCH.



Effective this 9th day of February, 2011.

*Katherine A. Thomas*

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