BEFORE THE TEXAS BOARD OF NURSING

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TEXAS BOARD OF NURSING

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.

Executive Director of the Board

In the Matter of Vocational Nurse	§	AGREED
License Number 174193	§	
issued to KELLEY KATHLEEN MARLIN	§	ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Boa accepted the voluntary surrender of Vocational Nurse License Number 174193, issued to KELLI KATHLEEN MARLIN, 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.

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 Ranger Junior College - Brownwood, Brownwood, Texas on August 7, 1999. Respondent was licensed to practice vocational nursing in the State of Texas on October 27, 1999.

5. Respondent's vocational nursing employment history includes:

10/99 - 05/01	Unknown

Respondent's vocational nursing employment history continued:

06/02 - 10/03	LVN	Linden Park Nursing Richardson, Texas
10/03 - 09/05	LVN	Home Team Health Care Carrollton, Texas
10/05 - 12/05	LVN	Linden Park Nursing Richardson, Texas
01/06 - 03/06	Unknown	
04/06 - 05/06	LVN	Walnut Place Dallas, Texas
06/06 - 01/07	LVN	Rowlett Health and Rehabilitation Rowlett, Texas
02/07 - 02/09	Unknown	
03/09 - 10/09	LVN	Garnet Hill Rehabilitation and Skilled Care Wylie, Texas
11/09 - 12/09	Unknown	
01/10 - 03/10	LVN	The Legacy at Willow Bend Plano, Texas

6. On April 30, 2009, Respondent was issued an Agreed Order by the Texas Board of Nursing which required her to participate in and successfully complete the Texas Peer Assistance Program for Nurses (TPAPN). A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated April 30, 2009, is attached and incorporated, by reference, as part of this Order.

7. On or about October 12, 2009, while employed with Garnet Hill Rehabilitation and Skilled Care, Wylie, Texas, Respondent lacked fitness to practice vocational nursing in that she was observed to be overly sedated at work. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

8. On or about February 2010, while employed with Legacy at Willow Bend, Plano, Texas, Respondent became non-compliant with the Agreed Order issued to her by the Texas Board of Nursing on April 30, 2009. Non-compliance is the result of Respondent's failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract in that she removed and passed narcotics at work. Stipulation Number Three (3) of the Order dated April 30, 2009, states:

   (3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her license to practice nursing in the State of Texas current."

   On or about March 10, 2010 Respondent was dismissed from TPAPN and referred back to the Texas Board of Nursing.

9. In a notarized letter to the Board dated April 18, 2010, Respondent states that she does "hereby voluntarily surrender" her nursing license. A copy of the letter is attached and incorporated, by reference, as part of this Order.

10. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license to practice nursing in the State of Texas.

11. 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.

12. 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)(1), (10) & (12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5), (9), & (11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 174193,

heretofore issued to KELLEY KATHLEEN MARLIN, including revocation of Respondent's license 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 Nurse License Number 174193, heretofore issued to KELLEY KATHLEEN MARLIN, 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 herself 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 6 day of May, 2010.

Kelley Kathleen Marlin

KELLEY KATHLEEN MARLIN, Respondent

Sworn to and subscribed before me this 6th day of May, 2010.

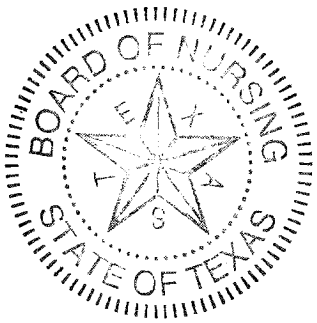
SEAL

Norman L. Nelson

Notary Public in and for the State of Texas

NORMAN L. NELSON
MY COMMISSION EXPIRES
October 14, 2011

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 174193, previously issued to KELLEY KATHLEEN MARLIN.



Effective this 18th day of May, 20 10.

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

4/18/2010

Paul Longoria
Texas Board of Nursing

I, Kelley Kathleen Marlin, do hereby voluntarily surrender my Nursing License. As, with your request, here is my phone number 214-777-2032.

Sincerely,

Kelley Kathleen Marlin

State of Texas
County of Dallas
Before me, on this the 19th Day of April, 2010, personally appeared before, Kelley Kathleen Marlin, known to me to be the person who executed this document the day and year first above written, for the purposes and consideration herein stated.

NORMAN L. NELSON
MY COMMISSION EXPIRES
October 14, 2011

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§	AGREED
License Number 174193	§	
issued to KELLEY KATHLEEN MARLIN	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of KELLEY KATHLEEN MARLIN, Vocational Nurse License Number 174193, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10), (12) & (13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on March 27, 2009, by Katherine A. Thomas, MN, RN, Executive Director.

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.

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 Ranger Junior College - Brownwood, Brownwood, Texas on August 7, 1999. Respondent was licensed to practice vocational nursing in the State of Texas on October 27, 1999.

5. Respondent's vocational nursing employment history includes:

   10/99 - 05/01 Unknown

Respondent's vocational nursing employment history continued:

06/02 - 10/03	LVN	Linden Park Nursing Richardson, Texas
10/03 - 09/05	LVN	Home Team Health Care Carrollton, Texas
10/05 - 12/05	LVN	Linden Park Nursing Richardson, Texas
01/06 - 03/06	Unknown	
04/06 - 05/06	LVN	Walnut Place Dallas, Texas
06/06 - 01/07	LVN	Rowlett Health and Rehabilitation Rowlett, Texas
02/07 - Present	Unknown	

6. On or about January 12, 2007, while employed as a Licensed Vocational Nurse with Rowlett Health and Rehabilitation, Rowlett, Texas, Respondent lacked fitness to practice vocational nursing in that she was observed arriving late for work with her clothes wrinkled and in disarray, and her hair not combed. Respondent was also observed to be acting tired and sluggish. Upon returning from the bathroom Respondent was notably changed, in that her speech was faster than usual, she was full of energy, and she constantly rubbed her nose causing others to believe she had taken drugs or narcotics. Additionally, when asked to take a drug screen test, Respondent refused and resigned her position. Furthermore, Respondent admitted to a coworker that she had used drugs two (2) weeks prior at a party. Respondent's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

7. The Respondent's conduct described in the preceding Finding of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.

8. 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.

9. Regarding the conduct outlined in Finding of Fact Number Six (6), Respondent states that she was working more than sixty (60) hours a week for three (3) to four (4) weeks. In order to get to work for her 5:45am shift, Respondent states that she had to get up at 4:30am in order to get her child up, dressed and dropped off before going to work. Respondent denies telling anyone that she did drug drugs prior to the day in question. Respondent acknowledges that she received treatment for substance abuse at Hazelden, Center City, Minnesota, from April 14, 2007, to May 12, 2007.

10. On or about March 16, 2009, Respondent submitted information to the Board as part of her application for renewal of her vocational nursing license. She states that in her twenty-two (22) months of recovery she has had two (2) relapses, and she states January 8, 2009, as her new date of sobriety. Respondent also included a letter from Kenneth Osean, M.Ed., LCDC, who has been her continuing care counselor on a regular basis since her discharge from Hazelden on May 12, 2007. He states that Hazelden diagnosed Respondent with a chemical dependency, anxiety disorder and an adjustment disorder. He states there her current prognosis is good, and that she has been staying with the recovery program at a very significant level of involvement. He acknowledged Respondent's two relapses during her recovery and states that she came back quickly each time and learned from each experience. Respondent adds that she wishes to participate in the Texas Peer Assistance Program for Nurses (TPAPN).

11. Respondent's conduct described in Finding of Fact Number Six (6) resulted from Respondent's impairment by dependency on chemicals.

12. 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 301.451-301.455, the Board has jurisdiction over this matter.

2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violation of Section 301.452(b)(10), (12) & (13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(T), and 22 TEX. ADMIN. CODE §217.12(5).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 174193, heretofore issued to KELLEY KATHLEEN MARLIN, including revocation of Respondent's license to practice nursing in the State of Texas.

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.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, 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):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars ($350) payable to TPAPN.

(2) 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.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her license to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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.

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

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED, 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 revocation of Respondent's license and multistate licensure 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 waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation 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 Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this 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 revocation of my license to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 28th day of April, 2009.

Kelley Kathleen Marlin

KELLEY KATHLEEN MARLIN, Respondent

Sworn to and subscribed before me this 28th day of April, 2009.

SEAL

Karen A. Hathorn

Notary Public in and for the State of Texas

KAREN HATHORN
Notary Public, State of Texas
My Commission Expires
December 12, 2012

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Agreed Order that was signed on the 28th day of April, 20 09, by KELLEY KATHLEEN MARLIN, Vocational Nurse License Number 174193, and said Order is final.

Entered and effective this 30th day of April, 20 09.

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