



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 A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Register Nurse License Number 597955 § AGREED
& Vocational Nurse License Number 104704 §
issued to KATHLEEN SUE KELLY § ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 597955 and Vocational Nurse License Number 104704, issued to KATHLEEN SUE KELLY, 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's license to practice professional nursing in the State of Texas is currently in delinquent status. Respondent's licence to practice vocational nursing in the State of Texas is currently in delinquent status.
4. Respondent received a Certificate in Nursing from Byng LPN School, Ada, Oklahoma, on August 19, 1984. Respondent was licensed to practice vocational nursing in the State of Texas on May 9, 1984. Respondent received a Baccalaureate Degree in Nursing from East Central University, Ada, Oklahoma, on May 1, 1993. Respondent was licensed to practice professional nursing in the State of Texas on October 4, 1993.

5. Respondent's professional and vocational nursing employment history includes:

05/1984 - 06/1986	LVN	Baptist Hospital Oklahoma City, Oklahoma
07/1986 - 12/1987	Employment History	Unknown
01/1988 - 06/1989	LVN	High Plains Baptist Hospital Amarillo, Texas
06/1989 - 06/1993	Employment History	Unknown
07/1993 - 02/2008	RN	Baptist St. Anthony's Health System Amarillo, Texas
02/2008 - Present	Not Employed in Nursing	

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Baptist St. Anthony's Health System, Amarillo, Texas, and had been in this position for fourteen (14) years and six (6) months.
7. On or about January 1, 2008 through February 6, 2008, while employed as a Registered Nurse with Baptist St. Anthony's Health System, Amarillo, Texas, Respondent withdrew Demerol, Morphine, Zofran, Phenergan, Ativan, Propofol and Fentanyl from the Medication Dispensing System (Accudose) for patients without valid physician's orders. Respondent's conduct was likely to injure the patients, in that the administration of medication, without a valid physician's order, could result in the patients experiencing adverse reactions.
8. On or about January 1, 2008 through February 6, 2008, while employed as a Registered Nurse with Baptist St. Anthony's Health System, Amarillo, Texas, Respondent withdrew Demerol, Morphine, Zofran, Phenergan, Ativan, Propofol and Fentanyl from the Medication Dispensing System (Accudose) for patients, but failed to accurately document the administration of the medications in the patients' Medication Administration Records and/or nurse's notes. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patients which could result in an overdose.
9. On or about January 1, 2008 through February 6, 2008, while employed as a Registered Nurse with Baptist St. Anthony's Health System, Amarillo, Texas, Respondent withdrew Demerol, Morphine, Zofran, Phenergan, Ativan, Propofol and Fentanyl from the Medication Dispensing System (Accudose) for patients, but failed to follow the facility's policy and procedure for wastage of any of the unused portions of the medications. Respondent's

conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and safety Code (controlled Substances Act).

10. On or about January 1, 2008 through February 6, 2008, while employed as a Registered Nurse with Baptist St. Anthony's Health System, Amarillo, Texas, Respondent misappropriated the medications from the facility and patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of medications.
11. On or about September 2007 through February 2008, while employed as a Registered Nurse with Baptist St. Anthony's Health System, Amarillo, Texas, Respondent engaged in the intemperate use of Morphine, in that she admitted that, for an approximate six (6) month period of time, she misappropriated Morphine from the facility and patients thereof, for her own personal use. Possession of Morphine, without a valid prescription, is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Morphine by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.
12. On September 10, 2008, Respondent submitted a statement to the Board voluntarily surrendering the right to practice professional and vocational nursing in Texas. Respondent stated that she did not feel that she can practice in a safe manner. Respondent indicated that she was recently diagnosed as Bipolar, and having chronic depression and a drug addiction. Additionally, Respondent stated that she is not stable, and has been "working" with the Texas Peer Assistance Program for Nurses, but presently, is "struggling with alcohol and drug abuse." 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, judgements, and decisions regarding patient care, thereby placing the patients in potential danger.
13. In Response to Findings of Fact Numbers Seven (7) through Twelve (12), Respondent states, "I do not confirm or deny at this time. What I do confirm is I was taking medications from the Pyxis for personal use, supporting a drug addiction. At no time did I document any drug given to a patient and not giving that medication as documented in the nurse's notes. After mailing the Nursing Board the voluntarily surrender of my right to practice professional nursing, I checked myself into a detox unit in Lubbock, and then into the Walker House, which is a 30 day inpatient drug re-hab program. After completing my stay I moved into a halfway house for drug re-hab where I currently reside. At this point in my life I take it one day at a time. I am very active in NA/AA, working with my sponsor, and actively working the twelve step program. I still struggle with depression and am actively seeking help in this area with a doctor and weekly therapy. As of now, I have started seeking employment in non-nursing areas, am currently unemployed."

14. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license to practice nursing in the State of Texas.
15. 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.
16. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation of Section 301.452(b)(9),(10),(12)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(A),(B),(C),(D),&(T), and 22 TEX. ADMIN. CODE §217.12(1)(A),(E),(4),(5),(6)(G),(8),(10)(A),(C),(E)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Registered License Number 597955 and Vocational Nurse License Number 104704, heretofore issued to KATHLEEN SUE KELLY, 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 Registered Nurse License Number 597955 and Vocational Nurse License Number 104704, heretofore issued to KATHLEEN SUE KELLY, 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 immediately deliver the wallet-sized licenses, heretofore issued to KATHLEEN SUE KELLY, to the office of the Texas Board of Nursing.
2. RESPONDENT SHALL NOT practice professional and vocational nursing, use the title "registered or vocational nurse" or the abbreviation "RN" or "LVN" or wear any insignia identifying herself as a registered or vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered or vocational nurse during the period in which the license is surrendered.
3. 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.
4. 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 multistate privilege, if any, to practice nursing in the State of Texas.

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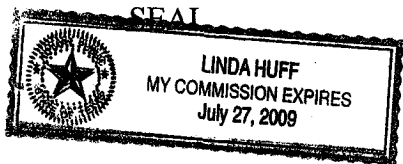
RESPONDENT'S CERTIFICATION

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 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 14 day of July, 2009.

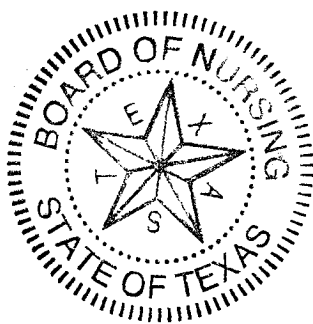
Kathleen Sue Kelly
KATHLEEN SUE KELLY, Respondent

Sworn to and subscribed before me this 14 day of July, 2009.




Linda Huff
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 Registered Nurse License Number 597955 and Vocational Nurse License Number 104704, previously issued to KATHLEEN SUE KELLY.



Effective this 20th day of July, 2009.


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