

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Registered Nurse	§	
License Number 547450	§	AGREED
and Vocational Nurse	§	
License Number 106085	§	ORDER
issued to KATHLEEN MARIE GOTTUS	§	

An investigation by the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, produced evidence indicating that KATHLEEN MARIE GOTTUS, hereinafter referred to as Respondent, Registered Nurse License Number 547450 and Vocational Nurse License Number 106085, may have violated Section 301.452(b)(10)&(13), Texas Occupations Code.

An informal conference was held on November 28, 2006, at the office of the Board of Nurse Examiners, in accordance with Section 301.464 of the Texas Occupations Code.

Respondent appeared in person. Respondent was represented by Kenda B. Dalrymple, Attorney at Law. In attendance were Melinda Hester, MSN, RN, Nursing Consultant, Executive Director's Designee; James W. Johnston, General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Peggy Penn, MEd, RN, Nursing Consultant; Marcia Wilson, RN, Investigator; Laura J. Ferrell, RN, Investigator; Elise Dunham, Investigator; Noemi Reyes, Investigator; and J. L. Skylar Caddell, RN,C, Lead Investigator.

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 notice and hearing, and consented to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas. Respondent was previously licensed to practice vocational nursing in the State of Texas but did not renew her vocational nursing license in May 1988 because she intended to become licensed to practice professional nursing.
4. Respondent received Certificate in Practical Nursing from Alvernia School of Practical Nursing, Pittsburgh, Pennsylvania, on February 14, 1974, and received an Associate Degree in Nursing from Lee College School of Nursing, Baytown, Texas, on May 13, 1988. Respondent was licensed to practice practical nursing in the State of Pennsylvania on June 3, 1974, was licensed to practice vocational nursing in the State of Texas on June 15, 1984, and was licensed to practice professional nursing in the State of Texas on September 1, 1988.
5. Respondent's nursing employment history includes:

06/1974 - 05/1984	Unknown	
06/1984 - 03/1993	Staff Nurse, LVN/RN	Gulf Coast Hospital Baytown, Texas
03/1993 - 07/2000	Assistant Director of Nurses & Director of Nurses	Mariner Health Care Houston, Texas
07/2000 - 07/2004	Risk Management Consult. & Claims Analyst	ProClaim America, Inc. Houston, Texas
08/2004 - 08/2006	Director of Nurses	Parkway Place Assisted Living Houston, Texas
09/2006 - Present	Not employed in nursing	

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as the Director of Nurses with Parkway Place Assisted Living, Houston, Texas, and had been in this position for six (6) months.
7. On or about February 14, 2005, while employed as the Director of Nurses with Parkway Place Assisted Living, Houston, Texas, Respondent failed to document in the medical record that Resident MG had reported a scratchy feeling near her left ear or that Respondent had notified the physician. Although Respondent performed a focused assessment without touching the resident, and reported the resident's complaint to the facility's medical director so that he could evaluate the complaint while completing the facility's admission required history and physical examination, she did not document the complaint, her assessment or the physician notification in the medical record.

8. On or about February 15, 2005, through February 17, 2005, while employed as the Director of Nurses with Parkway Place Assisted Living, Houston, Texas, Respondent did not see the aforementioned Resident MG again except for a brief exchange in the hall at which time the resident said she was doing fine. The medical record reflects during this time that:
- The resident reported daily complaints of undetermined pain;
 - Social services documented that on one day the resident reported cold symptoms and an ear ache;
 - Social services believed the nursing department was aware of the resident's reported cold symptoms and ear ache; and
 - On her last day in the facility the resident was unable to participate in physical therapy due to not feeling well.

Instead of completing her own comprehensive assessments, Respondent relied upon the limited, focused assessment skills of Staff Vocational Nurses to determine whether or not the resident was having a change of condition and/or signs of infection, and to report the information if deemed necessary. On the evening of February 17, 2005, a Staff Vocational Nurse learned from the resident that she had a history of ear infections and called the physician to request an antibiotic for the resident. The physician ordered Amoxicillin and Robitussin for the resident. Shortly after midnight on February 18, 2005, Resident MG was transferred emergently to an acute care facility after she was noted to be lying on the floor, unresponsive and in cardiopulmonary arrest. Resident MG died later that day, and according to the final autopsy report, the resident had suffered from acute onset of sepsis due to severe acute laryngeal infection. According to the death certificate, the resident's immediate cause of death at the hospital was acute myocardial infarction.

9. On or about May 5, 2005, The Texas Department of Aging and Disability Services substantiated an allegation of facility neglect and cited Parkway Place Assisted Living, Houston, Texas, for failure to provide medical intervention in a timely manner for Resident MG, who had experienced a change of condition.
10. In response to the incidents in Findings of Fact Numbers Seven (7) through Nine (9), Respondent states that she believes she took the clinically appropriate measures for the resident, based upon the assessments of Staff Vocational Nurses, which indicated that the resident was not demonstrating signs of infection, and that she checked the "24 Hour Report" sheet everyday in expectation that if the resident had a change of condition it would be reported on the sheet. Respondent states that to her knowledge, the resident did not have daily complaints of pain, and that she remained unaware of the resident's status as documented by the social services and physical therapy departments until she learned of their reports during the investigation of this case. Further, as the Director of Nurses, Respondent states she did not provide direct patient care because she was responsible for overseeing delivery of patient care by staff. Finally, as an assisted living facility, Parkway Place is not required to have health care professionals on staff, and Respondent believes that the level of documentation required by the standard of care in an assisted living facility is different than the level of documentation required in other, acute care practice settings.

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 violations of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§ 217.11(1)(D)&(3)(A) and 217.12(1)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 547450 and Vocational Nurse License Number 106085, heretofore issued to KATHLEEN MARIE GOTTUS, including revocation of Respondent's licenses to practice nursing in the State of Texas.
5. Section 301.463(d) of the Act provides that this Agreed Order is a settlement agreement under Rule 408 of the Texas Rules of Evidence for purposes of civil or criminal litigation.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of REPRIMAND WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE § 211.01 *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 compact states.

IT IS FURTHER AGREED and ORDERED that while Respondent's licenses are 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 State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

(2) RESPONDENT SHALL deliver the wallet-sized licenses issued to KATHLEEN MARIE GOTTUS, to the office of the Board of Nurse Examiners within ten (10) days of the date of this Order for appropriate notation.

(3) RESPONDENT SHALL, within one (1) year of the entry of this Order, successfully complete a course in Texas nursing jurisprudence. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, and documentation of care. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bne.state.tx.us/about/stipscourses.html>.*

(4) RESPONDENT SHALL, within one (1) year of the entry of this Order, successfully complete a course in physical assessment. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include Nurses. The didactic portion of this course shall be a minimum of six (6) hours in length. RESPONDENT SHALL perform physical assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The clinical component SHALL focus on tasks of physical assessment only and shall be provided by the same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. Performing assessments on mock patients or mannequins WILL NOT be accepted. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form, provided by the Board, to the office of the Board to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bne.state.tx.us/about/stipscourses.html>.*

(5) RESPONDENT SHALL, within one (1) year of the entry of this Order, successfully complete a course in nursing documentation. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. The course

shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bne.state.tx.us/about/stipscourses.html>.*

(6) RESPONDENT SHALL, within one (1) year of the entry of this Order, successfully complete a course in nursing ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. The course shall be a minimum of six (6) contact hours in length. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: principles of nursing ethics; confidentiality; and professional boundaries. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to verify RESPONDENT's successful completion of the course. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bne.state.tx.us/about/stipscourses.html>.*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT, EMPLOYMENT AS A LEGAL NURSE CONSULTANT OR EMPLOYMENT THAT DOES NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(7) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT's licenses. 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 within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT's licenses. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(8) RESPONDENT SHALL CAUSE each present employer in nursing to submit the 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 to submit the 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.

(9) 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 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.

(10) 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 Registered Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) months for one (1) year of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued unencumbered licenses 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 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 is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, 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 licenses to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 20 day of April, 2007.

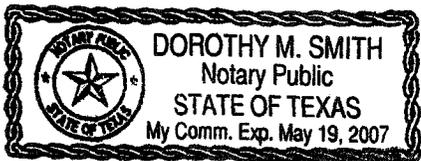
Kathleen M. Gottus (Kathleen Marie Gottus)
KATHLEEN MARIE GOTTUS, Respondent

Sworn to and subscribed before me this 20 day of April, 2007.

SEAL

Dorothy M. Smith

Notary Public in and for the State of TEXAS



Approved as to form and substance.

Kenda B. Dalrymple
Kenda B. Dalrymple, Attorney for Respondent

Signed this 20th day of April, 2007.

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 20th day of April, 2007, by KATHLEEN MARIE GOTTUS, Registered Nurse License Number 547450 and Vocational Nurse License Number 106085, and said Order is final.

Effective this 12th day of June, 2007.



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