

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse License Number           §     AGREED  
428692 issued to MARY L. KUNKLE POWELL                   §     ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 428692, issued to MARY L. KUNKLE POWELL, 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 conference 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, 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 inactive status.
4. Respondent received a Diploma from King's Daughters' Hospital, Ashland, Kentucky, on August 6, 1965. Respondent was licensed to practice professional nursing in the State of Texas on October 9, 1973.
5. Respondent's complete professional nursing employment history includes:  
  
1973-8/83                   Unknown

Respondent's complete professional nursing employment history continued:

9/83-4/04	RN/ Executive Director	The Medical Team, Inc Reston, Virginia
5/04-11/05	Unknown	
12/05-5/07	RN	Air Force Village Home Health San Antonio, Texas
6/07-Present	Unknown	

7. At the time of the initial incident, Respondent was employed as a Registered Nurse with Air Force Village Home Health, San Antonio, Texas, and had been in this position for approximately one (1) year and five (5) months.
8. On or about May 15, 2007, while employed with Air Force Village Home Health, San Antonio, Texas, Respondent lacked fitness to practice professional nursing in that she exhibited impaired behavior while on duty, including but not limited to, slurred speech, difficulty following conversations, and stumbling. 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.
9. On or about May 15, 2007, while employed with Air Force Village Home Health, San Antonio, Texas, Respondent engaged in the intemperate use of alcohol while on duty, in that she produced a specimen for a drug screen which resulted positive at a level of .167 for alcohol. The use of alcohol by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the 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 the patient in potential danger.
10. On December 13, 2007, Respondent called the Board stated she had been in the hospital to detox and for therapy. Respondent states she has been attending daily AA meetings, and intensive after therapy four days a week for three hours a day, and has been sober for eight (8) days. Respondent requested to voluntarily surrender her license.
11. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license 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)(9),(10)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(5)&(10)(A)(D).
4. The evidence received is sufficient cause pursuant to Section 301.453(d), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 428692, heretofore issued to MARY L. KUNKLE POWELL, 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 License Number 428692, heretofore issued to MARY L. KUNKLE POWELL, 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 license, heretofore issued to MARY L. KUNKLE POWELL, to the office of the Texas Board of Nursing.
2. RESPONDENT SHALL NOT practice professional nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying herself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered 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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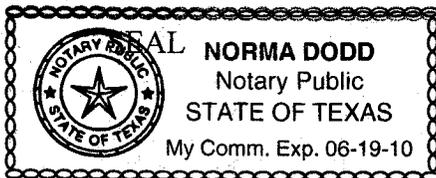
RESPONDENT'S CERTIFICATION

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 13<sup>th</sup> day of February, 2008.

Mary L. Kunkle Powell  
MARY L. KUNKLE POWELL, Respondent

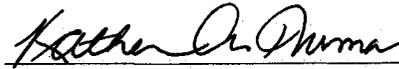
Sworn to and subscribed before me this 13<sup>th</sup> day of February, 2008.



Norma Dodd  
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 428692, previously issued to MARY L. KUNKLE POWELL.

Effective this 26th day of February, 2008.



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