



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

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse §
License Number 582656 §
issued to KARY DENISE GUTIERREZ §

ORDER OF THE BOARD

On this day, the Texas Board of Nursing for the State of Texas, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 582656, issued to KARY DENISE GUTIERREZ, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal conference, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent is currently licensed to practice professional nursing in the State of Texas.
2. Respondent waived representation by counsel, informal conference, notice and hearing.
3. Respondent received an Associate Degree in Nursing from Angelo State University, San Angelo, Texas, on May 1, 1992. Respondent was licensed to practice professional nursing in the State of Texas on August 31, 1992.

4. Respondent's professional nursing employment history includes:

September 1992 - January 1993	Unknown
February 1993 - September 1995	Staff RN Christus Spohn Shoreline Corpus Christi, Texas

Respondent's professional nursing employment history continued:

October 1995 - February 1997	Not employed in nursing
March 1997 - December 1998	Staff RN Charter Hospital Corpus Christi, Texas
December 1998 - December 1999	Staff RN Christus Spohn South Corpus Christi, Texas
January 2000 - June 2003	Not employed in nursing
July 2003 - October 2005	Staff RN Christus Spohn South Corpus Christi, Texas
November 2005 - February 2006	Unknown
March 2006 - August 2007	Staff RN Bay Area Medical Center Corpus Christi, Texas
September 2007 - Present	Unknown

5. On March 2, 1998, Respondent was issued the sanction of a FINE by the Board of Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated March 2, 1998, is attached and incorporated, by reference, as part of this Order.
6. In letters dated July 24, 2007, September 4, 2007, and March 3, 2008, Respondent was notified by the Board of the following alleged violations of the Nursing Practice Act of the State of Texas:

On or about September 5, 2005, while employed with Christus Spohn South, Corpus Christi, Texas, Respondent may have lacked fitness to practice professional nursing in that she was observed exhibiting impaired behavior including, but not limited to, slurred speech.

On or about October 10, 2005, while employed with Christus Spohn South, Corpus Christi, Texas, Respondent misappropriated Demerol belonging to the facility and patients thereof, or failed to take precautions to prevent such misappropriation, in that Demerol was found on her person, and she admitted to such misappropriation for her personal use.

On or about October 10, 2005, while employed with Christus Spohn South, Corpus Christi, Texas, Respondent engaged in the intemperate use of Demerol in that she admitted to such intemperate use.

On or about May 1, 2007, while employed with Bay Area Medical Center, Corpus Christi, Texas, Respondent engaged in the intemperate use of Morphine in that she submitted a specimen for a drug screen which resulted positive for Morphine.

On or about August 9, 2007, while employed with Bay Area Medical Center, Corpus Christi, Texas, Respondent attempted to pass a falsified and unauthorized written prescription for Demerol and/or Lortab for a patient to the hospital pharmacy.

On or about August 9, 2007, while employed with Bay Area Medical Center, Corpus Christi, Texas, Respondent falsified a patient's Medication Administration Record (MAR) in that she documented the administration of Demerol and/or Lortab to the patient but did not actually administer the medication(s).

On or about August 9, 2007, while employed with Bay Area Medical Center, Corpus Christi, Texas, Respondent removed Demerol and/or Lortab from the facility's medication dispensing system for patients in excess frequency or dosage, or without valid physician's orders, but failed to follow facility policy and procedure in place for proper wastage of the unused portions of the narcotics.

On or about August 9, 2007, while employed with Bay Area Medical Center, Corpus Christi, Texas, Respondent misappropriated Demerol and/or Lortab belonging to the facility and patients thereof, or failed to take precautions to prevent such misappropriation.

On or about August 9, 2007, while employed with Bay Area Medical Center, Corpus Christi, Texas, Respondent engaged in the intemperate use of Demerol and/or Lortab.

7. On March 19, 2008, Respondent submitted a notarized statement to the Board voluntarily surrendering the right to practice professional nursing in Texas and subsequently returned License Number 582656. A copy of the notarized statement is attached and incorporated, by reference, as part of this Order.
8. 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.
9. 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(1)(E), (5), (6)(A)(G)(H), (8), (10)(A)(B)(C)(D)(E) & (11)(B).
4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC§§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

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ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 582656, heretofore issued to KARY DENISE GUTIERREZ, to practice professional nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:


1. RESPONDENT SHALL NOT practice professional nursing, use the title of "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.
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 multistate licensure privilege, if any, to practice professional nursing in compact states.

Effective this 25th day of March, 2008.

TEXAS BOARD OF NURSING

By:


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

**BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS**

In the Matter of Permanent	§	
Certificate Number 582656	§	AGREED ORDER
Issued to: KARY DENISE GUTIERREZ	§	

On this day, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of KARY DENISE GUTIERREZ, Permanent Certificate Number 582656, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Article 4518, Section 7 and Article 4525(b)(1), TEX. REV. CIV. STAT. ANN., as amended and 22 Texas Administrative Code, §217.15.

Respondent waived representation by counsel, informal conference, notice, hearing and agreed to the entry of this Order offered by Katherine A. Thomas, MN, RN, Executive Director, on behalf of the Board.

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 conference, notice and hearing, and consented to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in Texas.
4. Respondent failed to make full and timely compliance with the Board's requirements for continuing education for the period ending August 1997.

CONCLUSIONS OF LAW

1. Pursuant to Article 4525, TEX. REV. CIV. STAT. ANN., as amended, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. Evidence received was sufficient to prove violation of Article 4518, Section 7 and 4525(b)(1) TEX. REV. CIV. STAT. ANN., and 22 Texas Administrative Code §217.15(b).
4. Respondent's failure to comply with Continuing Education requirements is sufficient cause pursuant to Article 4525(b) TEX. REV. CIV. STAT. ANN. to take disciplinary action against license number 582656, heretofore issued to KARY DENISE GUTIERREZ.

AGREED SANCTIONS

IT IS THEREFORE AGREED, that RESPONDENT SHALL receive the sanction of a fine in the amount of One Hundred Dollars (\$100), and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas, Annotated, as amended, Article 4513 et seq., the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 Texas Administrative Code, §211.01 et seq., and this Order.

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RESPONDENT'S CERTIFICATION

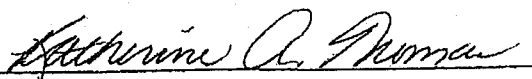
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation alleged herein. By my signature on this Order, I agree to the Findings of Fact and Conclusions of Law and consent to the issuance of the Agreed Order, the Agreed Sanctions, and any condition stated in this Order to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes final and effective when entered by the Executive Director and that a copy will be mailed to me.

Signed this 17 day of February, 1998.


KARY DENISE GUTIERREZ, Respondent

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas ratifies and acknowledges satisfaction of the requirements of the Agreed Order that was signed on the 17th day of February, 1998, by KARY DENISE GUTIERREZ, Permanent Certificate Number 582656, and said Order is final.

Signed this 2nd day of March, 1998.


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

March 17, 2008

To: Texas State Board of Nurse Examiners

Attn: Paul Longoria, Investigator, Enforcement Division

Re: Kary Gutierrez (License # 582656)

I am writing in order to voluntarily surrender my nursing license to The State Board of Nurse Examiners. I am currently not practicing nursing and have made a decision to change career paths as well as my life. I am a recovering addict have been clean and sober since August 18,2007. I understand that my addiction has affected every area of my life, including my nursing career. However, I do not want to close the door to nursing permanently. I am a good nurse and I truly love the profession, but my recovery must come first and this has led me to this decision. My hope is that one day I can be reinstated as a professional nurse and can provide care to other addicts seeking recovery. I am currently enrolled in college with an emphasis on addiction and recovery. Thank you for your time and consideration. Enclosed is my wallet sized nursing license.

Sincerely,

Kary Gutierrez

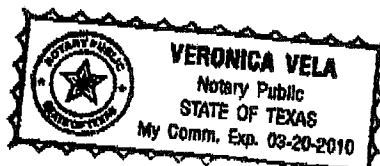
Kary Gutierrez

State of Texas
County of Nueces

This instrument was acknowledged before me on

March 19, 2008 By

Kary Gutierrez
[Signature]
NOTARY PUBLIC



DISPOSITION FORM

Date Assigned: 06/30/2009

Log #: 0906R042

Investigator Assigned: 007

Name of RN: KARY DENISE GUTIERREZ

License #: 582656

Date Referred to TPAPN: _____ Date Referred to Other Agency: _____

CHECK IF APPLICABLE AND INCLUDE DATES FOR ALL MARKED RESPONSES

Informal Conference date: 07/14/2009 Recommendations: Deny Reinstatement

_____ Charges Filed date: _____ Charges Dismissed: _____ Legal initials _____

_____ ALJ Hearing date: _____

_____ Voluntary Surrender effective date: _____ (date received in office)

DATE INVESTIGATION WAS COMPLETED 07/14/2009

DATE OF RATIFICATION BY KT/BOARD N/A

FINAL DISPOSITION: Denied Reinstatement

DURATION _____

(Please complete only if applicable)

FINAL CLOSE DATE

Impostor - date referred to DA: _____

No Violation - date closed: _____

Admonishment Letter - date closed: _____

Insufficient Evidence - date closed: _____

No Action - date closed: _____

Other - date closed: _____ Reason for closure: _____

PRIOR DISCIPLINARY ACTION

Voluntary Surrender

Date: 03/25/2008

FINAL VIOLATIONS:

Sec. 302.402
§239.11

Sec. 301.452(b)
§ 217.11
§ 217.12

Complaint Narrative: Denied reinstatement due to lack of evidence for sobriety.

Date submitted to Supervisor: _____ Date Approved by Supervisor: _____

Posted on RN FILE: mb Caselog: mb NURSYS 8/2/09 ck

07/14/09

INFORMAL CONFERENCE - REINSTATEMENT

Diane E. Burell, Investigator

July 14, 2009 @ 8:30 am

Deny
not
enough
evidence

NAME OF RN: KARY DENISE GUTIERREZ

ATTORNEY:

LICENSE #: 582656

LOG #: 0906R042

Staff Present: ~~KT, MBT, DE, DJ, VA, JL, KH, TD, DB,~~ _____

EDUCATION: Petitioner received an Associate Degree in Nursing from Angelo State University, San Angelo, Texas, on May 1, 1992. Petitioner was licensed to practice professional nursing in the State of Texas on August 31, 1992.

PRIOR DISCIPLINE: Voluntary Surrender accepted March 25, 2008. *Findings of Fact* reflect:

- On or about September 5, 2005, while employed with Christus Spohn South, Corpus Christi, Texas, Petitioner may have lacked fitness to practice professional nursing in that she was observed exhibiting impaired behavior including, but not limited to, slurred speech;
- On or about October 10, 2005, while employed with Christus Spohn South, Corpus Christi, Texas, Petitioner misappropriated Demerol belonging to the facility and patients thereof, or failed to take precautions to prevent such misappropriation, in that Demerol was found on her person, and she admitted to such misappropriation for her personal use;
- On or about October 10, 2005, while employed with Christus Spohn South, Corpus Christi, Texas, Petitioner engaged in the intemperate use of Demerol in that she admitted to such intemperate use;
- On or about May 1, 2007, while employed with Bay Area Medical Center, Corpus Christi, Texas, Petitioner engaged in the intemperate use of Morphine in that she submitted a specimen for a drug screen which resulted positive for Morphine;
- On or about August 9, 2007, while employed with Bay Area Medical Center, Corpus Christi, Texas, Petitioner attempted to pass a falsified and unauthorized written prescription for Demerol and/or Lortab for a patient to the hospital pharmacy;
- On or about August 9, 2007, while employed with Bay Area Medical Center, Corpus Christi, Texas, Petitioner falsified a patient's Medication Administration Record (MAR) in that she documented the administration of Demerol and/or Lortab to the patient but did not actually administer the medication(s);
- On or about August 9, 2007, while employed with Bay Area Medical Center, Corpus Christi, Texas, Petitioner removed Demerol and/or Lortab from the facility's medication dispensing system for patients in excess frequency or dosage, or without valid physician's orders, but failed to follow facility policy and procedure in place for proper wastage of the unused portions of the narcotics;

- On or about August 9, 2007, while employed with Bay Area Medical Center, Corpus Christi, Texas, Petitioner misappropriated Demerol and/or Lortab belonging to the facility and patients thereof, or failed to take precautions to prevent such misappropriation;
- On or about August 9, 2007, while employed with Bay Area Medical Center, Corpus Christi, Texas, Petitioner engaged in the imtemperate use of Demerol and/or Lortab; and
- In response to the preceding Findings of Fact, Petitioner states that her addiction to pain medication began in 1995 following the birth of her child. Petitioner states that she was admitted to inpatient treatment in May 1996 and entered the Texas Peer Assistance Program for Nurses (TPAPN) in August 1996. Petitioner completed TPAPN in August 1998. Petitioner re-entered TPAPN on or about October 2005. TPAPN closed Petitioner's case for non-compliance on or about May 2007, and she was referred to the Board.

DATE OF SOBRIETY: August 18, 2007

PETITION FOR REINSTATEMENT:

On May 26, 2009, Petitioner submitted a *Petition for Reinstatement of License* which included the following documents:

1. Letter of support, dated May 10, 2009, from Melodee C. Whitt, Corpus Christi, Texas, states she is a recovering addict and has fourteen (14) years clean and is a member of Narcotics Anonymous. Ms. Whitt has been sponsoring Petitioner since about June 2007. She has eagerly shared her life with Ms. Whitt. Petitioner has shown a willingness to charge her life by continuously working the 12 steps of NA with Ms. Whitt. Petitioner has grown into a responsible and productive part of society. Petitioner has great empathy for people suffering from the disease of addiction and has a special knack for helping newcomers find a new way of life.
2. Letter of support, dated May 20, 2009, from Renee Lovett, LCDC, Corpus Christi, Texas, states he has known Petitioner as a personal friend for three (3) years and has worked with her as a professional for the past eighteen (18) months. Petitioner is an active member of the recovering community of Corpus Christi, Texas, She lives a life based on spiritual principals and is an admirable example of a woman in recovery.
3. Verification of successful completion of twenty (20) Type I Continuing Education Contact Hours.

Employment History:

1992 - 1/93	Unknown	
2/93 - 9/95	Staff Nurse	Christus Spohn Shoreline Corpus Christi, Texas
10/95 - 2/97	Not employed in nursing	
3/97 - 12/98	Staff Nurse	Charter Hospital Corpus Christi, Texas

Employment History continued:

12/98 - 12/99	Staff Nurse	Christus Spohn South Corpus Christi, Texas
1/00 - 6/03	Not employed in nursing	
7/03 - 10/05	Staff Nurse	Christus Spohn South Corpus Christi, Texas
11/05 - 2/06	Unknown	
3/06 - 8/07	Staff Nurse	Bay Area Medical Center Corpus Christi, Texas
9/07 - present	Not employed in nursing	

Notes:

2005 - out-pt - 32 days
member of NA
did not go to treatment in 07

had 9 years sober prior to
relapsing

has worked 12 steps
has problem w/ controlling
things

wants to work in recovery

began using at 13

addiction began late 94

had another child 10/04 & relapsed

May 07 - back injury
& relapsed

relapse prev - goes to 4-5
meetings a week

continue helping others

Contact sponsor

not do things on her own

speaks to sponsor every
other day.



Texas Board of Nursing

333 Guadalupe Street, Ste. 3-460, Austin, Texas 78701
Phone: (512) 305-7400 Fax: (512) 305-7401 www.bon.state.tx.us

July 15, 2009

Katherine A. Thomas, MN, RN
Executive Director

Kary Gutierrez
7725 Jim Wells
Corpus Christi, Texas 78413

Dear Ms. Gutierrez:

Upon review of the information introduced at the Informal Conference held on July 14, 2009, the decision was to deny your petition for reinstatement of your license to practice professional nursing in the State of Texas due to your lack of evidence for sobriety. You will not be allowed to petition for reinstatement until one (1) from the date of your hearing.

The Texas Nursing Practice Act provides in pertinent part that the Board may refuse to issue a license, pursuant to Texas Occupations Code, Sections 301.452(b) and 301.467, and 22 TEX. ADMIN. CODE §§213.26 - 213.29.

If you do not agree with this decision, you have a right to request that this matter be set for a public hearing at the State Office of Administrative Hearings. If you want to have this matter heard at a public hearing, please send a written request for a hearing to our office. We will inform you of the date and time set for your hearing.

If you have any questions, please contact the Department of Enforcement at (512) 305-6838.

Sincerely,

Katherine A. Thomas, MSN, RN
Executive Director

KAT:deb

09/99-J5

Members of the Board

Linda Rounds, PhD, FNP, RN
Galveston, *President*

Deborah Bell, CLU, ChFC
Abilene

Kristina Benton, MSN, RN
Austin

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Patricia Clapp, BA
Dallas

Sheri Crosby, JD
Dallas

Marilyn Davis, BSN, RN, MPA
Sugar Land

Blanca Rosa Garcia, PhD, RN
Corpus Christi

Richard Gibbs, LVN
Mesquite

Rachel Gomez, LVN
Harlingen

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San Antonio

Beverly Jean Nutall, LVN
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Mary Jane Salgado, MEd
Eagle Pass