

§ AGREED
§ ORDER

An informal conference was held on July 31, 2007, 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 notified of her right to be represented by legal counsel and elected to waive representation by counsel. In attendance were Katherine A. Thomas, MN, RN, Executive Director; George Buchenau, Jr., Board Member; James W. Johnston, General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Jolene Zych, MS, RNC, WHNP, Advanced Practice Nurse Consultant; and Noemi Leal, Supervising 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 representation by counsel, 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.
4. Respondent received an Associate Degree in Nursing from Eastern New Mexico University,

Clovis, New Mexico, on June 19, 1984, and received a Certificate from the Women's Health Care Nurse Practitioner Program from The University of Texas Southwestern Medical Center, Dallas, Texas, on November 15, 1993. Respondent was licensed to practice professional nursing in the State of Texas on April 12, 1985; became Board recognized as a Women's Health Care Nurse Practitioner in the State of Texas on December 30, 1993; and became Board recognized with Prescriptive Authority as a Women's Health Care Nurse Practitioner in the State of Texas on February 25, 1996.

5. Respondent's professional nursing employment history includes:

05/1985 to 09/1986	Staff Nurse	Scott & White Temple, Texas
10/1986 to 1987	Staff Nurse	Irving Community Hospital Irving, Texas
1987 to 01/1992	Staff Nurse	Judy Taylor, MD Irving, Texas
02/1992 to 12/1993	Staff Nurse	Parkland Memorial Hospital Dallas, Texas
01/1994 to 01/2005	Nurse Practitioner	Parkland Memorial Hospital Dallas, Texas
02/2005 to 07/2005	Unknown	
08/2005 to Present	Women's Health Nurse Practitioner	James Erich Cawley, MD Graham, Texas

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as a Nurse Practitioner with Parkland Memorial Hospital, Dallas, Texas, and had been in this position for ten (10) years and nine (9) months.

7. On or about September 3, 2004 through December 29, 2004, while employed as a Nurse Practitioner with Parkland Memorial Hospital, Dallas, Texas, Respondent failed to refer Patient DAF to the Gestational Diabetes Clinic, as required, after having at least two (2) abnormal Oral Glucose Tolerance Test results. Patient DAF had abnormal Oral Glucose Tolerance Test results on the following dates:

- September 3, 2004;
- September 23, 2004;
- October 29, 2004; and
- December 29, 2004.

On January 11, 2005, the patient was admitted to the Labor and Delivery Unit, where it was determined that she had suffered an intrauterine fetal demise, most probably caused by gestational diabetes mellitus. Respondent's conduct may have contributed to the fetal demise.

8. On or about September 15, 2004 through December 27, 2004, while employed with Parkland Memorial Hospital, Dallas, Texas, Respondent failed to accurately and completely document lab and ultrasound results for Patient MM and Patient DAF. Respondent's conduct exposed the patients unnecessarily to risk of harm in that the significant findings went undetected and prevented timely intervention.
9. In response to the incidents in Findings of Fact Numbers Seven (7) and Eight (8), Respondent states that with regard to the abnormal glucose findings, she was not reviewing lab results on the days the abnormal results were returned to the clinic. Regarding the documentation failure, Respondent states she always signs and initials all the charts she reviews, but admits to only being human in that she missed the 4+ sugar. With regard to the ultrasound, Respondent states that she never saw the sonogram and that these records were kept in a different file. Respondent states the clinic served an abnormally high volume of prenatal patients, usually 79 patients per day with only two Nurse Practitioners and one student. The clinic where Respondent is currently employed, sees only 20 patients a day maximum. Respondent states she is doing well at her new job and has had no reports of incidents since 2004.

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)(A),(1)(B),(1)(D), (1)(M),(1)(Q)&(4)(A) and 217.12(1)(A),(1)(B)&(4).
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 523029, heretofore issued to KIMBERLEE DAVIS, including revocation of Respondent's license to practice professional nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a WARNING 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 Professional 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 privilege, if any, to practice professional nursing in compact states.

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 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 deliver the wallet-sized license issued to KIMBERLEE DAVIS, to the office of the Texas Board of Nursing within ten (10) days of the date of ratification of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and 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. 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, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding Sexual Misconduct, Fraud, Theft and Deception, Nurses with Chemical Dependency, and Lying and Falsification. 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.bon.state.tx.us/about/stipscourses.html>.*

(3) RESPONDENT SHALL, within one (1) year of 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.bon.state.tx.us/about/stipscourses.html>.*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A REGISTERED NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE

FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD.

(4) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT's license. 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 license. 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.

(5) 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.

(6) 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 Obstetrician/ Gynecologist who supervises the RESPONDENT. These reports shall be submitted by the supervising physician 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 an unencumbered license and multistate licensure privileges, if any, to practice professional 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.

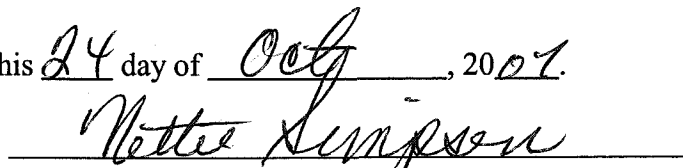
I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order 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 license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

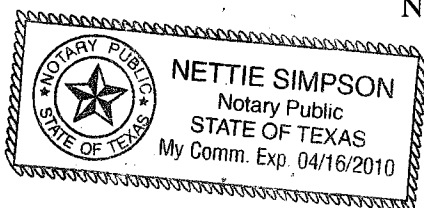
Signed this 24 day of Oct, 2007.


KIMBERLEE DAVIS, Respondent

Sworn to and subscribed before me this 24 day of Oct, 2007.

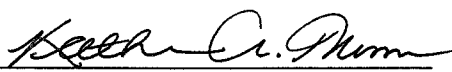
SEAL


Notary Public in and for the State of _____



WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 24th day of October, 2007, by KIMBERLEE DAVIS, Registered Nurse License Number 523029, and said Order is final.

Effective this 11th day of December, 2007.


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

