



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.  
*Katherine A. Thomas*  
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of § AGREED  
Registered Nurse License Number 735584 §  
issued to KIMBERLY MARTIN § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of KIMBERLY MARTIN, Registered Nurse License Number 735584, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(1),(10)&(13), Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on July 30, 2015.

4. Respondent received an Associate Degree in Nursing from Excelsior College, Albany, New York, on October 21, 2005. Respondent was licensed to practice professional nursing in the State of Texas on November 22, 2006.

5. Respondent's professional nursing employment history includes:

11/2006 - 12/2011	RN	Texas Health Arlington Memorial Hospital Arlington, Texas
01/2012 - 02/2012	Unknown	
03/2012 - 07/2013	RN	Staff Quest Fort Worth, Texas
08/2013 - 10/2013	Unknown	
11/2013 - 05/2015	RN	The Quest Group Frisco, Texas
06/2015 - Present	Unknown	

6. On September 3, 2013, Respondent's license to practice professional nursing was issued an Agreed Order by the Texas Board of Nursing, requiring her to participate in, and successfully complete, the Texas Peer Assistance Program for Nurses (TPAPN). Respondent has not successfully completed the terms of the Order. A copy of the Findings of Fact, Conclusion of Law, and Order of the Board, dated September 3, 2013, is attached and incorporated, by reference, as a part of this Order.
7. On or about November 14, 2013, Respondent became non-compliant with Agreed Order issued to her by the Texas Board of Nursing on May 27, 2014. Non-compliance is the result of her failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract. Stipulation number three (3) of the Order dated May 27, 2014, states in part:

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"RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term ..."

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Respondent failed to notify her employer, Quest Group, a staffing agency in Frisco, Texas, that she was under a Board Order to participate in the Texas Peer Assistance Program for Nurses (TPAPN). Additionally, Respondent was working as a Registered Nurse without approval to return to work.

8. On or about March 28, 2015, Respondent became non-compliant with Agreed Order issued to her by the Texas Board of Nursing on September 3, 2013. Non-compliance is the result of her failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract. Stipulation number three (3) of the Order dated September 3, 2013, states in part:

"RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term ..."

Respondent was discharged from her Intensive Outpatient Treatment Program for non-adherence to treatment recommendations and excessive absences. Furthermore, she failed to submit documentation of meeting attendance and monthly self-reports to TPAPN. Respondent failed to register for drug testing in a timely manner. Upon registering for drug testing, Respondent failed to comply with daily check in requirements. As a result, her case with TPAPN was closed and referred to the Board on April 8, 2015.

9. On or about May 3, 2015, through May 24, 2015, while employed as a Registered Nurse with Quest Group, Frisco, Texas, and on assignment at North Hills Hospital, North Richland Hills, Texas, Respondent withdrew Dilaudid from the Medication Dispensing System for patients but failed to document and/or completely and accurately document the administration of the medication 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. Additionally, Respondent's conduct placed the hospital in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.

10. On or about May 3, 2015, through May 24, 2015, while employed as a Registered Nurse with Quest Group, Frisco, Texas, and on assignment at North Hills Hospital, North Richland Hills, Texas, Respondent withdrew Dilaudid from the Medication Dispensing System for patients but failed to follow the facility's policy and procedure for the wastage of any of the unused portions of the medications. Respondent's conduct left medications unaccounted for, was likely to deceive the hospital pharmacy, and placed the pharmacy in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication, and is a violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
11. On or about May 3, 2015, through May 24, 2015, while employed as a Registered Nurse with Quest Group, Frisco, Texas, and on assignment at North Hills Hospital, North Richland Hills, Texas, Respondent misappropriated Dilaudid belonging to the facility and patients thereof, or failed to take the precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medication, and is a violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
12. On or about May 12, 2015, Respondent's license to practice nursing was Temporarily Suspended by the Texas Board of Nursing due to her noncompliance with the Agreed Order issued to her on September 3, 2013. A copy of the Order of Temporary Suspension, dated May 12, 2015, is attached and incorporated, by reference, as part of this Order.
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.
14. Formal Charges were filed on May 12, 2015.
15. Formal Charges were mailed to Respondent on May 12, 2015.

#### 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(s) of 22 TEX. ADMIN. CODE §217.11

(1)(A), (1)(B), (1)(C) & (1)(D) 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C),(4),(6)(G),(9),(10)(C),(10)(E)&(11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1),(10)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 735584, heretofore issued to KIMBERLY MARTIN, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

### TERMS OF ORDER

#### **I. SANCTION AND APPLICABILITY**

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Registered Nurse License Number 735584, previously issued to KIMBERLY MARTIN, to practice nursing in Texas is hereby **SUSPENDED** and said suspension is **ENFORCED** until Respondent:

- A. Completes an appropriate treatment program approved by the Board;
- B. Provides documentation of successful completion; and
- C. Obtains twelve (12) consecutive months of sobriety, which may be demonstrated by monthly urine drug screens consistent with the "DRUG AND ALCOHOL RELATED REQUIREMENTS" of this Order.

Any relapse prior to the completion of the required twelve (12) consecutive months of sobriety will result in revocation or, at a minimum, an extension of the enforced suspension until such twelve (12) consecutive months of sobriety and additional treatment have been attained.

IT IS FURTHER AGREED, upon verification of successful completion of the above requirements, the Suspension will be **STAYED**, and RESPONDENT will be placed on **PROBATION** for a minimum of three (3) years **AND** until Respondent fulfills the requirements of

this Order.

- D. RESPONDENT SHALL pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.
- E. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

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- F. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- G. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

## II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Order.

## III. SUPERCEDING ORDER

IT IS FURTHER AGREED and ORDERED that the sanction and conditions of this Order SHALL supercede all previous stipulations required by any Order entered by the Texas Board of Nursing.

## IV. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education courses **within one (1) year of entry of the suspension being stayed, unless otherwise specifically indicated:**

- A. **A course in Texas nursing jurisprudence and ethics** that shall be a minimum of six (6) 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 Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. Home study courses and video programs will not be approved.
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- B. **A Board-approved course in nursing documentation** that shall be a minimum of six (6) hours in length. The course's content shall include: 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. Home study courses and video programs will not be approved.
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- C. **The course "Sharpening Critical Thinking Skills,"** a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension.

In order to receive credit for completion of this/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at [www.bon.texas.gov/compliance](http://www.bon.texas.gov/compliance).*

#### V. MONETARY FINE

RESPONDENT SHALL **pay a monetary fine in the amount of five hundred dollars (\$500.00) within forty-five (45) days of suspension being stayed.** Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

#### VI. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse, providing direct patient care in a licensed healthcare setting, **for a minimum of sixty-four (64) hours**

per month for twelve (12) quarterly periods [three (3) years] of employment. This requirement will not be satisfied until twelve (12) quarterly periods of employment as a nurse have elapsed. Any quarterly period without continuous employment with the same employer for all three (3) months will not count towards completion of this requirement. Periods of unemployment or of employment that do not require the use of a registered nurse (RN) or a vocational nurse (LVN) license, as appropriate, will not apply to this period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** RESPONDENT SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.
- C. **Direct Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse. Direct supervision requires another nurse, as applicable, to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on 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.
- D. **No Night or Rotating Shifts, Overtime, or On-Call:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which Respondent is

regularly assigned.

- E. **No Critical Care:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL NOT practice as a nurse in any critical care area. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.
- F. **No Administration of Controlled Medications:** For the first year [four (4) quarters] of employment as a Nurse under this Order, RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, Propofol, or other synthetic opiates.
- G. **Indirect Supervision:** For the remainder of the probation period, RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational 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.
- H. **Nursing Performance Evaluations:** 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 nurse who supervises the RESPONDENT and these reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month quarterly period for twelve (12) quarters [three (3) years] of employment as a nurse.

## VII. DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, RESPONDENT SHALL abstain from the use of alcohol, tramadol and all controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board



by the prescribing practitioner, within ten (10) days of the date of the prescription. In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT SHALL submit to a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.

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B. While working as a nurse under the terms of this Order, RESPONDENT SHALL submit to random periodic screens for alcohol, tramadol, and controlled substances. The Board will provide instructions on how to enroll in the Board's drug and alcohol testing program following the entry of this Order and screening will begin when Respondent obtains employment and submits the Notification of Employment form to the Board.

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- For the first three (3) month [1<sup>st</sup> quarter] period RESPONDENT works as a nurse under the terms of this Order, random screens shall be performed at least once per week.
- For the next three (3) month [2<sup>nd</sup> quarter] period, random screens shall be performed at least twice per month.
- For the next six (6) month period [3<sup>rd</sup> & 4<sup>th</sup> quarters], random screens shall be performed at least once per month.
- For the remainder of the probation period, random screens shall be performed at least once every three (3) month quarterly period.

All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board. Any test result for a period of time in which the RESPONDENT is not working as a nurse under the terms of this Order will not count towards satisfaction of this requirement. All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the stipulation/probation period.

**Specimens shall be screened** for at least the following substances and their metabolites:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

**A Board representative may appear** at the RESPONDENT'S place of employment at any time during the probation period and require RESPONDENT to produce a specimen for screening.

**Consequences of Positive or Missed Screens.** Any positive result for which RESPONDENT does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject RESPONDENT to further disciplinary action, including TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas. Further, failure to report for a drug screen, excessive dilute specimens, or failure to call in for a drug screen may be considered the same as a positive result or refusal to submit to a drug or alcohol screen.

C. **While under the terms of this Order, RESPONDENT SHALL attend at least two (2) support group meetings each week,** one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. RESPONDENT SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by RESPONDENT. RESPONDENT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) month quarterly period. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

## VIII. FURTHER COMPLAINTS

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

## RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

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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(s) alleged herein. By my signature on this Order, I agree to the entry of this 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 when this Order becomes final and the terms of this Order become effective, 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 possible revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 31<sup>st</sup> day of August, 2015.  
Kimberly Martin  
KIMBERLY MARTIN, Respondent

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

SEAL

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby ratify and adopt the Agreed Order that was signed on the 31<sup>st</sup> day of August, 2015, by KIMBERLY MARTIN, Registered Nurse License Number 735584, and said Order is final.

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Effective this 1<sup>st</sup> day of September, 2015.

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

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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.  
*Stephanie P. Plummer*  
Executive Director of the Board

In the Matter of § BEFORE THE TEXAS  
Permanent Registered Nurse §  
License Number 735584 §  
Issued to KIMBERLY MARTIN, §  
Respondent § BOARD OF NURSING

**ORDER OF TEMPORARY SUSPENSION**

TO: KIMBERLY MARTIN  
303 LONE OAK CIR  
EULESS, TX 76039

A public meeting of the Texas Board of Nursing was held on May 12, 2015 at 333

Guadalupe, Room 3-460, Austin, Texas, in which the Temporary Suspension of Permanent Registered Nurse License Number 735584, issued to KIMBERLY MARTIN was considered pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE. Staff of the Texas Board of Nursing appeared and presented evidence and information concerning the conduct of KIMBERLY MARTIN and whether continued practice as a nurse would constitute a continuing and imminent threat to the public welfare.

After review and due consideration of the evidence and information presented, the Board finds that the following charges are substantiated:

On or about March 28, 2015, Respondent became non-compliant with Agreed Order issued to her by the Texas Board of Nursing on September 3, 2013. Non-compliance is the result of her failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract.

Stipulation number three (3) of the Order dated September 3, 2013, states in part:

"RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term ..."

Respondent was discharged from her Intensive Outpatient Treatment Program for non-adherence to treatment recommendations and excessive absences. Furthermore, she failed to submit documentation of meeting attendance and monthly self-reports to TPAPN. Respondent failed to

register for drug testing in a timely manner. Upon registering for drug testing, Respondent failed to comply with daily check in requirements. As a result, her case with TPAPN was closed and referred to the Board on April 8, 2015.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(9)&(11)(B).

The Texas Board of Nursing further finds that, given the nature of the charges concerning her fitness to practice, the continued practice of nursing by KIMBERLY MARTIN constitutes a continuing and imminent threat to public welfare and that the temporary suspension of Permanent Registered Nurse License Number 735584, is justified pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE.

NOW, THEREFORE, IT IS ORDERED that Permanent Registered Nurse License Number 735584, issued to KIMBERLY MARTIN, to practice nursing in the State of Texas be, and the same is/are, hereby SUSPENDED IMMEDIATELY in accordance with Section 301.4551, TEXAS OCCUPATIONS CODE.

IT IS FURTHER ORDERED that a probable cause hearing be conducted in accordance with Section 301.455(c) not later than seventeen (17) days following the date of the entry of this order, and a final hearing on the matter be conducted in accordance with 301.455(d) not later than the 61<sup>st</sup> day following the date of the entry of this order.

Entered this 12<sup>th</sup> day of May, 20 15.

TEXAS BOARD OF NURSING

BY:



KATHERINE A. THOMAS, MN, RN, FAAN  
EXECUTIVE DIRECTOR

In the Matter of § BEFORE THE TEXAS  
Permanent Registered Nurse §  
License Number 735584 §  
Issued to KIMBERLY MARTIN, §  
Respondent § BOARD OF NURSING

#### FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, KIMBERLY MARTIN, is a Registered Nurse holding License Number 735584, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

#### CHARGE I.

On or about March 28, 2015, Respondent became non-compliant with Agreed Order issued to her by the Texas Board of Nursing on September 3, 2013. Non-compliance is the result of her failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) contract. Stipulation number three (3) of the Order dated September 3, 2013, states in part:

"RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term ..."

Respondent was discharged from her Intensive Outpatient Treatment Program for non-adherence to treatment recommendations and excessive absences. Furthermore, she failed to submit documentation of meeting attendance and monthly self-reports to TPAPN. Respondent failed to register for drug testing in a timely manner. Upon registering for drug testing, Respondent failed to comply with daily check in requirements. As a result, her case with TPAPN was closed and referred to the Board on April 8, 2015.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(9)&(11)(B).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records,



Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, which can be found at the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at [www.bon.texas.gov/disciplinaryaction/discp-matrix.html](http://www.bon.texas.gov/disciplinaryaction/discp-matrix.html).

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order dated September 3, 2013.

Filed this 12<sup>th</sup> day of May, 2015.

TEXAS BOARD OF NURSING

*R. Kyle Hensley*

James W. Johnston, General Counsel  
Board Certified - Administrative Law  
Texas Board of Legal Specialization  
State Bar No. 10838300

Jena Abel, Assistant General Counsel  
State Bar No. 24036103

Natalie E. Adelaja, Assistant General Counsel  
State Bar No. 24064715

John R. Griffith, Assistant General Counsel  
State Bar No. 24079751

Robert Kyle Hensley, Assistant General Counsel  
State Bar No. 50511847

John F. Legris, Assistant General Counsel  
State Bar No. 00785533

John Vanderford, Assistant General Counsel  
State Bar No. 24086670

333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701  
P: (512) 305-8657

F: (512) 305-8101 or (512)305-7401

Attachments: Order of the Board dated September 3, 2013

D(2015.02.24)

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of § CONFIDENTIAL  
Registered Nurse License Number 735584 § AGREED ORDER FOR  
issued to KIMBERLY MARTIN § PEER ASSISTANCE PROGRAM

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of KIMBERLY MARTIN, Registered Nurse License Number 735584, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(9),(10),(12)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered under the authority of Section 301.466(d), Texas Occupations Code, and approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on August 21, 2013.

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(s).
2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed 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 Excelsior College, Albany, New York, on October 21, 2005. Respondent was licensed to practice professional nursing in the State of Texas on November 22, 2006.
5. Respondent's professional nursing employment history includes:

735584:149

RECEIVED SEP 12 2013  
C40 (2013.09.01)

11/2006 - 12/2011

RN

Texas Health Arlington Memorial Hospital  
Arlington, Texas

Respondent's professional nursing employment history continued:

12/2011 - Present      Employment history unknown.

6. At the time of the incidents, Respondent was employed as a Registered Nurse with Texas Health Arlington Memorial Hospital, Arlington, Texas, and had been in this position for five (5) years and one (1) month.
7. On or about December 8, 2011, while employed as a Registered Nurse with Texas Health Arlington Memorial Hospital, Arlington, Texas, Respondent lacked fitness to practice professional nursing, in that while on duty she was crying and appeared to be sleepy. Additionally, she was carrying patients' medications around in her pockets. 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.
8. On or about December 9, 2011, while employed as a Registered Nurse with Texas Health Arlington Memorial Hospital, Arlington, Texas, Respondent engaged in the intemperate use of Cocaine, Hydromorphone, and Benzodiazepines, in that she produced a specimen for a drug screen that resulted positive for Cocaine, Hydromorphone, and Benzodiazepines. Possession of Hydromorphone and Benzodiazepines, without a valid prescription, is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Cocaine, Hydromorphone, and Benzodiazepines by a Registered Nurse, while subject to call or duty, 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.
9. On or about December 11, 2012, through January 3, 2013, while employed as a Registered Nurse with StaffQuest, Fort Worth, Texas, and on assignment with LifeCare Hospital of Fort Worth, Fort Worth, Texas, Respondent withdrew Dilaudid from the Medication Dispensing System for patients in excess frequency/dosage of physicians' orders. Respondent's conduct was likely to injure the patients, in that the administration of Morphine in excess dosage/frequency physician's order, could result in the patients suffering from adverse reactions, including, respiratory depression.
10. On or about December 11, 2012, through January 3, 2013, while employed as a Registered Nurse with StaffQuest, Fort Worth, Texas, and on assignment with LifeCare Hospital of Fort Worth, Fort Worth, Texas, Respondent withdrew Dilaudid and Norco from the Medication Dispensing System for patients, but failed to document, or 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.

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11. On or about December 11, 2012, through January 3, 2013, while employed as a Registered Nurse with StaffQuest, Fort Worth, Texas, and on assignment with LifeCare Hospital of Fort Worth, Fort Worth, Texas, Respondent withdrew Dilaudid and Norco from the Medication Dispensing System for patients, but failed to follow the facility's policy and procedures for 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).
12. On or about December 11, 2012, through January 3, 2013, while employed as a Registered Nurse with StaffQuest, Fort Worth, Texas, and on assignment with LifeCare Hospital of Fort Worth, Fort Worth, Texas, Respondent misappropriated Dilaudid and Norco belonging to the facility and patients thereof, or failed to take the precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of medications, and is a violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).
13. In response to Findings of Facts Numbers Seven (7) and Eight (8), Respondent states: "Medications taken from the Pyxis or any other med dispenser were used solely for the patient it was taken for. If a patient is unavailable to receive medication at the time of removal, I would return that patient's medicine to his/her bin until I was able to administer it. The only time medication was kept with me, would be if I needed to go into another patient's room prior to returning to the medication room. Concerning the drug screen, I spoke with the medical doctor regarding the results of my urine test. He stated that if I was involved with anyone that engaged in the use of Cocaine for a length of time, that it would transfer into my system which I was totally unaware of. During that time, I was involved with a gentleman that did engage in the use of that drug, and I had recently discovered that he had been. I was emotionally torn at that time, crying frequently and not sleeping well because I had been unaware of what was going on for so long. Around December 7, 2011, my daughter became very concerned with my emotional state and lack of rest and offered me something she thought would help me to sleep, which was her prescription for Xanax. Although I didn't at the time question it, I realized I should have, after the fact, because I had never taken any type of medicine like that before, and I remained drowsy because of it."
14. The Respondent's conduct as described in the preceding Finding(s) of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
15. 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.
16. First Amended Formal Charges were filed on June 18, 2013.
17. First Amended Formal Charges were mailed to Respondent on June 18, 2013.
18. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use disorder.

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16. First Amended Formal Charges were filed on June 18, 2013.
17. First Amended Formal Charges were mailed to Respondent on June 18, 2013.
18. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use disorder.

19. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

#### 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 violation(s) of 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B),(1)(C)&(1)(D) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(E),(4),(5),(6)(G),(8),(10)(A),(10)(C),(10)(D),(10)(E)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(9),(10),(12)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 735584, heretofore issued to KIMBERLY MARTIN, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

#### ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement and complete the enrollment process, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality

and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep all applicable license(s) to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/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 Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that, while RESPONDENT remains in compliance with the terms of this Order, this Order shall remain confidential in accordance with the authority outlined in Section 301.466(d), Texas Occupations Code. However, should Respondent fail to successfully complete the terms of this Order or should Respondent commit a subsequent violation of the Nursing Practice Act or Board Rules, this Order shall be treated as prior disciplinary action and will become public information.

IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this

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Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

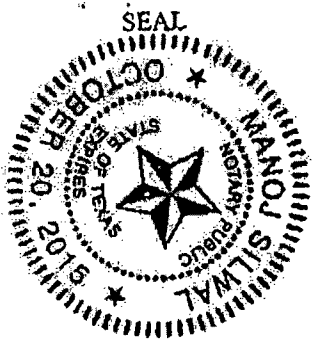
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 21<sup>st</sup> day of August, 2018.

Kimberly Martin  
KIMBERLY MARTIN, RESPONDENT

Sworn to and subscribed before me this 21<sup>st</sup> day of August, 2018.

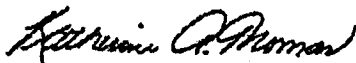
[Signature]  
Notary Public in and for the State of TEXAS.



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WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Confidential Agreed Order for Peer Assistance Program that was signed on the 21st day of August, 2013, by KIMBERLY MARTIN, Registered Nurse License Number 735584, and said Order is final.

Entered and effective this 3rd day of September, 2013.



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

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