



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or its record in the offices of the Texas Board of Nursing.  
*Patricia P. Thomas*  
Executive Director of the Board

**In the Matter of  
Permanent Registered Nurse  
License Number 745269 &  
Permanent Vocational Nurse  
License Number 207396  
Issued to KIMBERLY D SUDDERTH,  
Respondent**

§ **BEFORE THE TEXAS**  
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§ **BOARD OF NURSING**

**ORDER OF TEMPORARY SUSPENSION**

TO: KIMBERLY D SUDDERTH  
10995 LOIS LN  
MONTGOMERY, TX 77316

A public meeting of the Texas Board of Nursing was held on October 7, 2016 at 333 Guadalupe, Room 3-460, Austin, Texas, in which the Temporary Suspension of Permanent Registered Nurse License Number 745269, and Permanent Vocational Nurse License Number 207396, issued to KIMBERLY D SUDDERTH 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 D SUDDERTH and whether her 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 September 7, 2016, Respondent became non-compliant with the Agreed Order issued to her by the Texas Board of Nursing on December 20, 2013. Non-compliance is the result of her failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) participation agreement. Stipulation number three (3) of the Agreed Order dated April 8, 2014, states:

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

On or about September 7, 2016, Respondent was dismissed from the Texas Peer Assistance Program for Nurses (TPAPN) for testing positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), metabolites of alcohol. Additionally, Respondent admitted to her case manager she knowingly drank alcohol the night before she tested on August 26, 2016.

The Texas Board of Nursing further finds that, given the nature of the charges concerning fitness to practice, the continued practice of nursing by KIMBERLY D SUDDERTH constitutes a continuing and imminent threat to public welfare and that the temporary suspension of Permanent Registered Nurse License Number 745269, and Permanent Vocational Nurse License Number 207396, is justified pursuant to Section 301.4551, TEXAS OCCUPATIONS CODE.

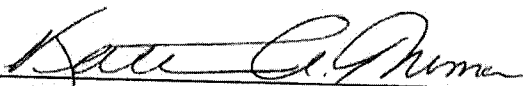
NOW, THEREFORE, IT IS ORDERED that Permanent Registered Nurse License Number 745269, and Permanent Vocational Nurse License Number 207396, issued to KIMBERLY D SUDDERTH, to practice nursing in the State of Texas be, and the same is/are, hereby SUSPENDED IMMEDIATELY in accordance with Section 301.4551, 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 7<sup>th</sup> day of October, 2016.

TEXAS BOARD OF NURSING

BY:

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

<b>In the Matter of</b>	§	<b>BEFORE THE TEXAS</b>
<b>Permanent Registered Nurse</b>	§	
<b>License Number 745269 &amp;</b>	§	
<b>Permanent Vocational Nurse</b>	§	
<b>License Number 207396</b>	§	
<b>Issued to KIMBERLY D SUDDERTH,</b>	§	
<b>Respondent</b>	§	<b>BOARD OF NURSING</b>

**FORMAL CHARGES**

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, KIMBERLY D SUDDERTH, is a Registered Nurse holding License Number 745269, which is in current status at the time of this pleading, and is a Vocational Nurse holding License Number 207396, which is in delinquent 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 September 7, 2016, Respondent became non-compliant with the Agreed Order issued to her by the Texas Board of Nursing on December 20, 2013. Non-compliance is the result of her failure to comply with all requirements of the Texas Peer Assistance Program for Nurses (TPAPN) participation agreement. Stipulation number three (3) of the Agreed Order dated April 8, 2014, states:

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

On or about September 7, 2016, Respondent was dismissed from the Texas Peer Assistance Program for Nurses (TPAPN) for testing positive for Ethyl Glucuronide (EtG) and Ethyl Sulfate (EtS), metabolites of alcohol. Additionally, Respondent admitted to her case manager she knowingly drank alcohol the night before she tested on August 26, 2016.

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).

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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 policies related to Substance Use Disorders and Other Alcohol and Drug Related Conduct; which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of 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, located at 22 TEX. ADMIN. CODE §213.33(b), which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

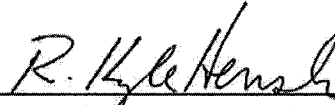
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NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order dated December 20, 2013.

Filed this 7<sup>th</sup> day of October, 2016.

TEXAS BOARD OF NURSING



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

John R. Griffith, Assistant General Counsel  
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333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701

P: (512) 305-8657

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Attachments: Order of the Board dated December 20, 2013

D(2015.11.18)

BEFORE THE TEXAS BOARD OF NURSING

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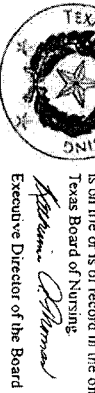
In the Matter of	§	AGREED
Registered Nurse License Number 745269	§	
& Vocational Nurse License Number 207396	§	
issued to KIMBERLY D. SUDDERTH	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of KIMBERLY D. SUDDERTH, Registered Nurse License Number 745269, and Vocational Nurse License Number 207396, 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) and 301.453, Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on November 15, 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 and vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from North Harris Community College, Houston, Texas, on August 18, 2006, and an Associate Degree in Nursing from North Harris Community College, Houston, Texas, on May 11, 2007. Respondent was licensed to practice vocational nursing in the State of Texas on November 14, 2006, and Respondent was licensed to practice professional nursing in the State of Texas on July 24, 2007.
5. Respondent's complete nursing employment history is unknown.



6. On or about September 1, 2013, through September 19, 2013, while utilizing the multi-state Nurse Licensure Compact privilege associated with her license to practice as a Registered Nurse in the State of Texas, and while employed as a Registered Nurse with Areus Medical Group, Omaha, Nebraska, and assigned to Valley Regional Hospital, Claremont, New Hampshire, Respondent withdrew medications from the medication dispensing system for patients without a valid physicians' order. Respondent's conduct was likely to injure the patient in that the administration of medications without a valid physicians' order could result in the patient suffering from adverse reactions.
7. On or about September 1, 2013, through September 19, 2013, while utilizing the multi-state Nurse Licensure Compact privilege associated with her license to practice as a Registered Nurse in the State of Texas, and while employed as a Registered Nurse with Areus Medical Group, Omaha, Nebraska, and assigned to Valley Regional Hospital, Claremont, New Hampshire, Respondent withdrew medications from the medication dispensing system for patients but failed to document, or completely and accurately document the administration of the medications, including signs, symptoms and responses to the medications in the patients' Medication Administration Records and/or nurses notes. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an overdose, and Respondent's conduct placed the hospital in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code
8. On or about September 1, 2013, through September 19, 2013, while utilizing the multi-state Nurse Licensure Compact privilege associated with her license to practice as a Registered Nurse in the State of Texas, and while employed as a Registered Nurse with Areus Medical Group, Omaha, Nebraska, and assigned to Valley Regional Hospital, Claremont, New Hampshire, Respondent falsely documented that she had administered medications to patients, in the patients' Medication Administration Record; however, there were not any medication withdraws from the medication dispensing system associated with the documented times of administration. Respondent's conduct created an inaccurate medical record, defrauded the facility and the patients thereof of the cost of the medications, and is in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
9. On or about September 1, 2013, through September 19, 2013, while utilizing the multi-state Nurse Licensure Compact privilege associated with her license to practice as a Registered Nurse in the State of Texas, and while employed as a Registered Nurse with Areus Medical Group, Omaha, Nebraska, and assigned to Valley Regional Hospital, Claremont, New Hampshire, Respondent withdrew medications from the medication dispensing system for patients but failed to follow the facility's policy and procedures for 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 them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

10. On or about September 1, 2013, through September 19, 2013, while utilizing the multi-state Nurse Licensure Compact privilege associated with her license to practice as a Registered Nurse in the State of Texas, and while employed as a Registered Nurse with Areus Medical Group, Omaha, Nebraska, and assigned to Valley Regional Hospital, Claremont, New Hampshire, Respondent misappropriated medications from the facility or patients thereof or failed to take precautions to prevent such misappropriation. Additionally, Respondent admitted to taking Fentanyl, Toradal and Phenergan from the medication dispensing system for her own personal use. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
11. On or about September 15, 2013, while utilizing the multi-state Nurse Licensure Compact privilege associated with her license to practice as a Registered Nurse in the State of Texas, and while employed as a Registered Nurse with Valley Regional Hospital, Claremont, New Hampshire, Respondent engaged in the intemperate use of Opiates, Benzodiazepines, Tricyclic antidepressants, and Fentanyl, in that she submitted a specimen for a drug screen which resulted positive for Opiates, Benzodiazepines, Tricyclic antidepressants, and Fentanyl. Unlawful possession of Opiates, Benzodiazepines, Tricyclic antidepressants, and Fentanyl is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act). The use of Opiates, Benzodiazepines, Tricyclic antidepressants, and Fentanyl by a nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in patients' conditions, 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.
12. In response to Findings of Fact Numbers Six (6) through Eleven (11), Respondent states she has prescriptions for Opiates, Benzodiazepines, Tricyclic antidepressants, but not Fentanyl. Respondent states she took the Fentanyl that was not wasted from the facility; she also took Toradal and Phenergan from the Pyxis system and also consumed them. Respondent states she did not always document the required responses to the pain medication, and she had problems charting because she was told two different things by the nurse who trained her. Respondent states she tried to chart correctly, but time always got away from her due to patient care. Respondent request to be admitted to the TPAPN program.
13. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
14. 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.
15. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use disorder.



16. 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 301.451-301.555, 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)&(1)(T) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C),(1)(E),(4),(5),(6)(A),(6)(G),(6)(H),(8),(10)(A),(10)(B),(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 745269, and Vocational Nurse License Number 207396, heretofore issued to KIMBERLY D SUDDERTH, up to, and 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, subject to ratification by the Texas Board of Nursing, that Registered Nurse License Number 745269, and Vocational Nurse License Number 207396, previously issued to KIMBERLY D SUDDERTH, to practice nursing in Texas is/are hereby SUSPENDED and said suspension is ENFORCED until Respondent complies with Stipulation Numbers One (1) and Two (2):

(1) RESPONDENT SHALL apply to and be accepted into the TPAPN 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.

IT IS FURTHER AGREED, upon verification of compliance with Stipulation Numbers One (1) and Two (2), the SUSPENSION will be stayed, and RESPONDENT SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the TPAPN:

(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.

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.

RESPONDENT SHALL 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.

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, SHOULD RESPONDENT fail to comply with this 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.

IT IS FURTHER AGREED, that 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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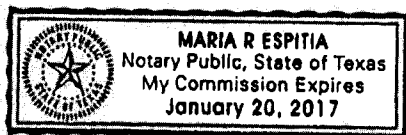
RESPONDENT'S CERTIFICATION

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. I 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 Stipulation Numbers 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 16 day of December, 2013.  
Kimberly D Suddeth  
KIMBERLY D. SUDDERTH, Respondent

Sworn to and subscribed before me this 16 day of December, 2013.

SEAL



[Signature]  
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 and enter the Agreed Order that was signed on the 16<sup>th</sup> day of December, 20 13, by KIMBERLY D. SUDDERTH, Registered Nurse License Number 745269, and Vocational Nurse License Number 207396, and said Order is final.

Effective this 20<sup>th</sup> day of December, 20 13.



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