



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

In the Matter of § AGREED ORDER
Advanced Practice Registered Nurse License §
Number AP111279 §
& Registered Nurse License Number 682157 §
issued to KENDALL CHRISTENSEN MILLER §

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of KENDALL CHRISTENSEN MILLER, Advanced Practice Registered Nurse License Number AP111279, and Registered Nurse License Number 682157, 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)(8),(9)&(10), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on June 19, 2019.

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 notice and hearing, and agreed to the entry of this Agreed Order.
3. Respondent's license to practice as a professional nurse in the State of Texas is in current status. Respondent's license to practice as an advanced practice registered nurse in the State of Texas with authorization as a Nurse Anesthetist without Prescription Authorization is in current status.
4. Respondent received a Baccalaureate Degree in Nursing from Brigham Young University, Provo, Utah, on December 1, 1993. Respondent completed a nurse anesthesia program through the United States Army Graduate Program in Anesthesia Nursing, San Antonio, Texas on November 13, 1998 in which a Master's degree was awarded by the affiliated institution of The University of Texas-Houston Health Science Center, Houston, Texas on

November 13, 1998. Respondent was licensed to practice professional nursing in the State of Texas on October 26, 2001. Respondent was licensed to practice advanced practice registered nursing in the State of Texas with authorization as a Nurse Anesthetist on October 1, 2001.

5. Respondent's nursing employment history includes:

6/1996 – 12/2002	CRNA	US Army – Active Duty
10/2001 – 12/2002	CRNA	CRNA Associates Denver, Colorado
12/2002 – 5/2004	CRNA	Lone Peak Anesthesia American Fork, Utah
5/2004 – 2/2017	CRNA	Minidoka Memorial Hospital Rupert, Idaho
2/2017 – 4/2017	Unknown	
4/2017 – 10/2018	CRNA	American Anesthesia of Texas Bryan, Texas
10/2018 - Present	Unknown	

6. At the time of the initial incident, Respondent was employed as an Advanced Practice Registered Nurse in the role of Nurse Anesthetist with American Anesthesiology, Bryan, Texas, and assigned to CHI St. Joseph Regional Hospital, Bryan, Texas, and had been in that position for one (1) year.

7. On or about April 1, 2018 through October 1, 2018, while employed as an Advanced Practice Registered Nurse in the role of Nurse Anesthetist with American Anesthesiology, Bryan, Texas, and assigned to CHI St. Joseph Regional Hospital, Bryan, Texas, Respondent misappropriated Fentanyl belonging to the facility and patients thereof in that he admitted to diverting Fentanyl for personal use. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications.

8. On or about October 1, 2018, while employed as an Advanced Practice Registered Nurse in the role of Nurse Anesthetist with American Anesthesiology, Bryan, Texas, and assigned to CHI St. Joseph Regional Hospital, Bryan, Texas, Respondent engaged in the intemperate and unlawful use of Fentanyl in that he produced a specimen for a reasonable suspicion drug screen that resulted positive for Fentanyl. Unlawful possession of Fentanyl is prohibited by Chapter 481 (Controlled Substances Act) of the Texas Health & Safety Code. The use of Fentanyl by a Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms, or changes in a patient's condition, and could

impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing a patient in potential danger.

9. On or about March 4, 2019, Respondent received a Stipulation and Order from the Division of Occupational and Professional Licensing of the Department of Commerce of the State of Utah, wherein his license to practice advanced practice registered nursing in the State of Utah was suspended until completion of a mental health and substance abuse disorder evaluation and a physical evaluation. A copy of the Stipulation and Order, dated March 4, 2019, is attached and incorporated by reference as part of this pleading.
10. In response to Finding of Fact Number Seven (7), Respondent admits to diverting and using Fentanyl for personal use.
11. Respondent by his signature expresses his desire to voluntarily surrender the licenses.

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 §217.12(1)(A),(1)(B),(4),(5),(6)(G),(8),(10)(A),(10)(D),(10)(E)&(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(8),(9)&(10), Texas Occupations Code, to take disciplinary action against Advanced Practice Registered Nurse License Number AP111279, and Registered Nurse License Number 682157, heretofore issued to KENDALL CHRISTENSEN MILLER.
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

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Advanced Practice Registered Nurse License Number AP111279, and Registered Nurse License Number 682157 is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice advanced practice registered nursing, use the title "advanced practice registered nurse" or the abbreviation "APRN" or wear any insignia identifying himself as an advanced practice registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is an advanced practice registered nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT practice professional/registered nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying himself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
3. RESPONDENT SHALL NOT petition for reinstatement of licensure until:
 - A. At least one (1) year has elapsed from the date of this Order; and,
 - B. RESPONDENT has objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
4. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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

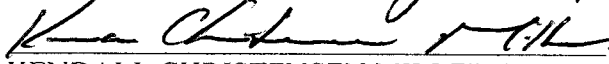
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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this 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 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 possible revocation of my license(s) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 27 day of July, 2019.

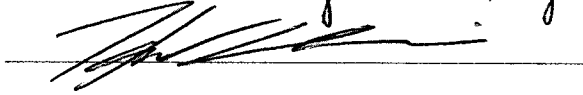


KENDALL CHRISTENSEN MILLER, Respondent

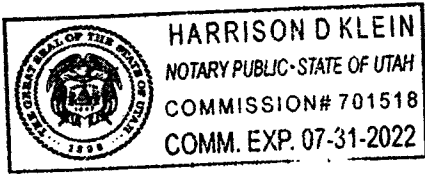
State of Utah, County of Utah.

Sworn to and subscribed before me this 27th day of July, 2019, by Kendall Christensen Miller.

SEAL




Notary Public in and for the State of Utah



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 27th day of July, 2019, by KENDALL CHRISTENSEN MILLER, Advanced Practice Registered Nurse License Number AP111279, and Registered Nurse License Number 682157, and said Agreed Order is final.

Effective this 1st day of August, 2019.

A handwritten signature in cursive script, appearing to read "Katherine A. Thomas", written over a horizontal line.

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

L. MITCHELL JONES (U.S.B. 5979)
Assistant Attorney General
SEAN D. REYES (U.S.B. 7969)
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Heber M. Wells Building
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BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE OF)
KENDALL CHRISTENSEN MILLER) **STIPULATION AND ORDER**
UTAH LICENSE #270897-4406)
TO PRACTICE AS AN ADVANCED)
PRACTICE REGISTERED NURSE-) **CASE NO. DOPL 2019- 36**
CERTIFIED REGISTERED NURSE)
ANESTHETIST WITHOUT)
PRESCRIPTIVE PRACTICE)
IN THE STATE OF UTAH)

KENDALL CHRISTENSEN MILLER ("Respondent") and the **DIVISION OF**
OCCUPATIONAL AND PROFESSIONAL LICENSING of the Department of Commerce of
the State of Utah ("Division") stipulate and agree as follows:

1. Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action.
2. Respondent acknowledges that Respondent enters into this Stipulation knowingly and voluntarily.

3. Respondent understands that Respondent has the right to be represented by counsel in this matter and Respondent's signature below signifies that Respondent has either consulted with an attorney or Respondent waives Respondent's right to counsel in this matter.

4. Respondent understands that the issuance of a license pursuant to this Stipulation and Order is a partial denial of licensure, and Respondent hereby waives the right to any administrative review of that partial denial of licensure. Respondent understands that by signing this document Respondent waives all rights to any administrative and judicial review as set forth in Utah Code Ann. §§ 63G-4-301 through 63G-4-405 and Utah Administrative Code R151-4-901 through R151-4-907.

5. Respondent and the Division hereby express their intent that this matter be resolved expeditiously through stipulation as contemplated in Utah Code Ann. § 63G-4-102(4).

6. Respondent understands that this Stipulation and Order, if adopted by the Director of the Division, will be classified as a public document. The Division may release this Stipulation and Order, and will release other information about this disciplinary action against Respondent's license, to other persons and entities.

7. Respondent admits the following facts are true:

- a. Respondent was first licensed to practice as an APRN-CRNA without prescriptive practice, and to administer controlled substances in the State of Utah on or about March 8, 2001. These licenses expired on January 31, 2012, when Respondent failed to renew them.
- b. On or about October 1, 2018, Respondent submitted a sample for drug and alcohol analysis, at the request of his Texas health facility employer, which subsequently tested positive for the presence of Fentanyl, a controlled substance for which Respondent did not possess a valid prescription, nor had Respondent been lawfully administered Fentanyl.
- c. In 2018, on multiple occasions, Respondent, while working as a nurse, diverted quantities of the controlled substance Fentanyl, from his Texas health facility employer's drug stock, for his own use, without authorization.
- d. Respondent has continuing substance abuse issues.

- e. In November 2018, Respondent submitted an application for relicensure as an APRN-CRNA in the State of Utah.

8. Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a), (b), (e), (f) and (h); and unlawful conduct as defined in Utah Code Ann. § 58-37-8(2)(a)(i). Respondent agrees by engaging in such conduct the Division is justified in taking disciplinary action against Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a) and (b). Respondent agrees that an Order, which constitutes disciplinary action against Respondent's license by the Division pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401, may be issued in this matter providing for the following action against Respondent's license:

- (1) Respondent shall be granted a license to practice as an APRN-CRNA without prescriptive practice in the State of Utah. Respondent shall not be granted a license to administer controlled substances in the State of Utah. Respondent's APRN-CRNA license shall be revoked. That revocation shall be immediately stayed. Respondent's license shall be immediately suspended, and remain suspended, until Respondent successfully completes all the requirements set forth in paragraph 8(1)(b) below. Once the suspension is lifted, Respondent's license shall be subject to a term of probation for a period of five years. The period of probation shall commence when the Division Director signs an order lifting the suspension. During the period of probation Respondent's license shall be subject to all of the following terms and conditions. If the Board or Division later deems any of the conditions unnecessary such deletions may be made by an amended order issued unilaterally by the Division.
 - a. **Meeting with Board and Compliance Specialist.** Respondent shall meet with Division Compliance Specialist Sharon Bennett within two weeks of the signing of this Stipulation and Order and prior to Respondent's first meeting with the Board to review this agreement. Ms. Bennett may be reached at (801) 530-6295, or by email at sbennett@utah.gov. Respondent shall meet with the Board after Respondent has obtained all required evaluations. For the remainder of the duration of probation, Respondent shall meet with the Board or with the Division, as directed by the Division, quarterly or at such other greater or lesser frequency as the Division may direct.

- b. **Evaluations and Treatment.** Respondent shall submit to the following course of treatment as part of Respondent's rehabilitation and at Respondent's own expense:
- i. Respondent shall successfully complete: (1) a mental health and substance use disorder evaluation, and (2) a physical evaluation, provided by Division pre-approved licensed providers within ninety (90) days of the effective date of this Stipulation and Order. Respondent shall contact the Division-approved evaluators for initial appointments within 10 days of the effective date of this Stipulation and Order. Respondent shall schedule the initial appointment for each evaluation to be held within 45 days of the effective date of this Stipulation and Order. Respondent shall attend all appointments and follow-up appointments in a timely manner. Respondent shall provide a copy of this Stipulation and Order to each evaluator and cause the evaluator to acknowledge to the Board in writing that a copy of this Stipulation and Order has been provided to the evaluator. Respondent shall provide copies of all relevant police reports and proof of relevant criminal convictions to each evaluator before the evaluator conducts any evaluation. Respondent shall provide an official certified copy of a Bureau of Criminal Investigations (BCI) report obtained within the previous 30 days, to each evaluator before the evaluators conduct any evaluation. Respondent shall cooperate fully with the evaluators to ensure fair and complete evaluations. Respondent shall notify the Division immediately after successfully completing each evaluation and inform the Division that Respondent has successfully completed each evaluation. Respondent agrees to cause the evaluation reports to be sent to the Division within 90 days of the effective date of this Order. The Division may accept recently completed evaluation reports.
 - ii. Each evaluation described above shall contain a statement from each evaluator which clearly states whether or not Respondent is mentally or physically (as applicable) "fit to practice as a nurse," to the Division and Board. If the evaluation does not contain this clear statement it shall not be accepted by the Division and Board.
 - iii. The Division or Board may reject any evaluation that is not based upon a comprehensive and accurate history, including

criminal and biographical information.

- iv. The Division or Board may reject any evaluation that does not satisfactorily support its findings and recommendations. Perfunctory and vague findings are not sufficient.
- v. The Division or Board may reject any recommendation in an evaluation that is not clear and justified.
- vi. The Division or Board may reject any recommendation for which the recommended treatment, counseling, or other recommendation is not reasonably available in the geographic area.
- vii. The Division and Board may reject any evaluation that does not contain any specific requirement set forth in subparagraphs ix, x, and xi below.
- viii. Respondent shall successfully complete all treatment recommended in the evaluations.
- ix. Any mental health and substance use disorder evaluation shall conform to the following requirements:
 - (a) The evaluation shall contain a thorough history of Respondent in several different areas of functioning—including substance use, mental health, medical, family of origin, marital and parenting, significant relationships, school performance and education, legal, ethnic and cultural issues, and employment. Respondent's legal history should not be based solely on Respondent's self report. The evaluator shall be provided with a certified copy of Respondent's current legal history from the Bureau of Criminal Identification.
 - (b) The evaluation shall contain a history of any prior treatment for mental health or substance use, and the success of any such treatment, including a history of psychotropic medications prescribed and any other forms of therapy.
 - (c) The evaluation shall contain a Presentation Section which includes, at minimum, the clinician's observations of mood, affect, intellectual functioning, reality testing,

insight, and orientation.

- (d) The evaluation shall utilize collateral information, including criminal history, police reports, stipulated agreements and consent decrees with licensing authorities, records of previous disciplinary action involving a professional license, etc. Such collateral information shall be incorporated into the evaluation to include whether the collateral information is consistent with Respondent's self-report and to include what conclusions are being made from the collateral information, and any inherent inconsistencies. Evaluations shall not rely solely on the self-report of Respondent.
- (e) The evaluation shall specifically identify a comprehensive list of all documents and any other information relied upon by the evaluator in making the evaluation, including, but not limited to criminal history, police reports, drug test results, and prior evaluations.
- (f) The evaluation shall contain the complete results of any screenings and testing administered or performed, an interpretation of the scores, and an explanation of how the scores and interpretation of the scores expand the clinical conceptualization of Respondent. There shall be justification as to why various screenings or tests were administered or performed.
- (g) The evaluation shall contain a section that incorporates all information into conclusions and recommendations. Such conclusions shall include a clear statement of whether Respondent is fit to practice as a nurse, and shall include diagnoses in accordance with the most recent version of the Diagnostic and Statistical Manual. Diagnoses shall be justified using DSM criteria. Indicating "No Diagnosis" is a diagnosis in and of itself that shall be clearly substantiated. Inconsistent information shall be clearly reconciled.
- (h) If a referral to any type of substance abuse treatment or intervention is being made, the evaluation shall include the relevant American Society of Addiction Medicine Placement Criteria. Ratings and recommendations shall be included in each dimension which substantiate the

treatment and selected level of care.

- (i) Any mental health and substance use disorder evaluation shall contain a clear statement by the evaluator as to whether Respondent can safely practice as a nurse. If the evaluation states that Respondent is not safe to practice as a nurse in any way, Respondent's license shall be immediately suspended, without further notice or opportunity to be heard, and shall remain suspended until the same evaluator states that Respondent can safely practice as a nurse. If the evaluator states that Respondent is safe to practice, but only under certain conditions, Respondent shall practice only under the conditions stated by the evaluator.
- x. Any physical evaluation shall conform to the following requirements:
 - (a) Any physical evaluation shall contain a summary of Respondent's vital signs, medical history, surgical history, and an evaluation of Respondent's circulatory, respiratory, nervous and other organ systems.
 - (b) Any physical evaluation shall contain a clear statement by the evaluator as to whether Respondent is physically fit to practice as a nurse.
- xi. If Respondent fails to submit the evaluation(s) to the Division within the time stated above, the Division may take any action necessary pursuant to the Utah Administrative Procedures Act, Utah Code Annotated § 63G-4.
- xii. In the interest of public safety, the Division may impose additional requirements above and beyond those recommended by the evaluator in the evaluations set forth above. Respondent agrees to comply with these additional requirements.
- c. **Abstention from Drugs and Alcohol.** Although the use and possession of alcohol is generally legal for persons age 21 and older, Respondent agrees to abstain from the personal use or possession of alcohol in any form. Respondent agrees to abstain from the personal use or possession of controlled substances and prescription drugs, unless such controlled substance or prescription drug is lawfully prescribed to Respondent for a current bona fide

illness or condition by a licensed practitioner and taken by Respondent in accordance with that practitioner's instructions. Respondent shall abstain from the use of any and all other mood altering substances or use of mood altering substances for any other purpose than the purpose for which the substance is intended.

- d. **Prohibition from Use of Certain Products that Cause Positive Drug or Alcohol Test Results.** Respondent agrees to abstain from the use or ingestion of products that may cause positive drug and alcohol test results, including hemp and all products containing hemp; any food or drink containing poppy seeds; and any hand sanitizer, mouthwash, or cosmetic that contains any form of alcohol. Respondent agrees that after consenting to not use or ingest the products described above, Respondent shall not use Respondent's use or ingestion of the products described above as a legal defense to any allegation of misconduct brought by the Division against Respondent.
- e. **Completion of Criminal Sanctions.** Respondent shall complete all terms and conditions of any criminal sanctions, incurred before or during the period of this agreement, including probation or parole. If Respondent has not successfully completed all the terms and conditions of Respondent's criminal probation at the time Respondent's administrative probationary period ends, the period of Respondent's administrative probation shall be extended until all the conditions of Respondent's criminal probation have been successfully completed.
- f. **Limitation on Number of Prescribers and Pharmacies Used.** Unless otherwise approved by the Division, Respondent shall, except as provided otherwise herein, receive prescriptions from only one prescribing practitioner, and Respondent shall fill prescriptions at only one pharmacy. Respondent may submit the name of a prescribing practitioner specialist to the Division who provides care that the regular prescribing practitioner cannot provide. The Division will review the request by Respondent and determine if Respondent may receive prescriptions from the prescribing specialist. Respondent shall not obtain the same or equivalent prescription drug or controlled substance from more than one practitioner. All prescribing practitioners shall be informed of any and all of Respondent's addiction/abuse problems. Respondent shall not undertake, under any circumstance, to obtain prescription drugs in quantities or types that are not legitimately required. Respondent shall submit the names of the prescribing practitioner and pharmacy to the Division and Board for approval.

Respondent shall provide the Division with a copy of all Respondent's prescription receipts for prescription drugs and controlled substances within forty-eight (48) hours after the prescription has been written.

- g. **48 Hours to Submit Prescriptions to Division.** Prescription receipts from an emergency practitioner or referral practitioner shall be submitted to the Division within forty-eight (48) hours of being issued. Respondent shall provide any emergency room or hospital discharge summary to the Division and Board.
- h. **Reporting Use of Prescription Medication to Division.** Respondent shall report to the Division within forty-eight (48) hours any and all prescription medication and controlled substances ingested by Respondent from any source.
- i. **Prescribing Practitioners Provided with Stipulation.** Respondent shall provide to the primary prescribing practitioner a copy of this Stipulation and Order and cause the practitioner to acknowledge to the Division in writing that a copy of this Stipulation and Order has been provided to the primary prescribing practitioner or referral prescribing practitioner.
- j. **Drug and Alcohol Testing Requirement.** Respondent shall provide samples (urine, blood, saliva, hair, or any other type of sample requested) for alcohol and drug analysis ("drug testing") upon the request of the Division, to be conducted by any company with which the Division has contracted to conduct drug testing. The designated company may also request such samples and Respondent shall comply with such requests. Respondent shall call in to a designated phone number or check-in via the internet every day to determine if Respondent is required to provide a sample for drug and alcohol analysis. The Division shall determine when and where Respondent is to submit for testing. Respondent shall pay for the cost of drug testing and shall accurately complete and sign any and all release forms requested by the Division or the drug testing company with respect to drug testing, including but not limited to, forms authorizing the company to send the drug test results to the Division. Any report from a drug testing company that indicates that Respondent failed to provide a sample for drug analysis as directed will be considered a positive drug test result for Respondent and may subject Respondent to additional sanctions, including fines. Any drug test result or pattern of results that indicates the sample provided by Respondent for drug and/or alcohol analysis has a creatinine level

below 20 mg/dL, will be considered a non-negative test result for Respondent, will be considered a violation of this Stipulation and Order, and will subject Respondent to additional sanctions.

- k. **Payment of Costs.** Failure of Respondent to pay the costs associated with this Stipulation and Order constitutes a violation of the Stipulation and Order.
- l. **Failure to Comply Will Lead to Additional Sanctions.** The Division may take appropriate action to impose sanctions if: (i) Respondent tests positive for alcohol, a prescription drug, a controlled substance, or any mood altering substance which cannot be accounted for by administration or prescription by a lawful practitioner for a current medical condition; or (ii) Respondent violates any federal, state or local law relating to Respondent's practice, the Controlled Substance Act; or a term or condition of this Stipulation and Order. Sanctions may include revocation or suspension of Respondent's license, or other appropriate sanction, in the manner provided by law.
- m. **Frequency of Submitting of Reports.** All reports and documentation required in this Stipulation and Order shall be submitted to the Division on a monthly basis, on the first day of each month, for the first six months of probation. If Respondent is in compliance with all terms and conditions of the Order at the end of that time, all reports and documentation shall be submitted to the Division on the first day of the month on a quarterly basis for the remainder of probation. If Respondent is not in compliance with all terms and conditions of the Order by the end of the first six (6) months of probation, all reports and documentation shall be submitted to the Division on the first day of the month on a monthly basis until Respondent is in compliance with the Order, after which all reports shall be submitted on a quarterly basis.
- n. **Self-Assessment Requirement.** Respondent shall complete and submit to the Board a self-assessment report at the frequency described in subparagraph (m) above. The self-assessment report shall be completed on a form prescribed by the Division.
- o. **Therapy and Aftercare Requirement.** Respondent shall participate in all therapy and aftercare that the Division and the Board may require, and all recommendations made by any evaluator. Any therapists or treatment program utilized by Respondent must be pre-approved by the Division and Board. Respondent shall sign a document authorizing all pre-approved

treatment programs or therapists from whom Respondent has received or will receive treatment to discuss Respondent's diagnosis, treatment, and prognosis with the Division and the Board. The treatment program or therapist shall also be directed to submit evaluations to the Board that address Respondent's progress in treatment and Respondent's prognosis at the frequency described in subparagraph (m) above. Respondent may be subject to re-evaluation upon notice and opportunity to be heard.

- p. **Professional Support Group Requirement or 12-Step Program Requirement.** If it is determined by the evaluator that Respondent has a substance use disorder or a similar determination is made, Respondent shall participate in a professional support group to address Respondent's use of controlled substances or shall attend a 12-step program, work with a sponsor who has five or more years of abstinence, work the 12-step program. Respondent shall submit documentation that reflects Respondent's continuing and regular attendance at such support group meetings or 12-step meetings. Respondent shall submit such documentation to the Division at the frequency described in subparagraph (m) above. Regular attendance for the purpose of this paragraph shall be at least once a week.
- q. **Notification of Employer Requirement.** Respondent shall notify any employer of Respondent's restricted status and the terms of this agreement. Respondent shall further cause Respondent's employer to submit evaluations to the Board at the frequency described in subparagraph (m) above. The receipt of an untimely or an unfavorable report may be considered to be a violation of probation. If Respondent is not employed as a nurse, Respondent shall submit the employer report form on the date it is due, sign and date it, and indicate on that form that Respondent's current employment is not in nursing or that Respondent is not currently working.
- r. **Copy of Stipulation to Employer/School.** Respondent shall provide to Respondent's employer(s) and/or school of nursing a copy of this Stipulation and Order and cause each employer or school of nursing to acknowledge to the Division in writing, that a copy of this Stipulation and Order has been provided to the employer and/or school of nursing within 14 days of the effective date of this Stipulation and Order or any new employment date.
- s. **Workplace Restriction.** Respondent shall not work for a nursing registry, traveling nurse agency, nursing float pool, home health

agency, hospice, temporary employment agency, or any other practice setting in which nursing supervision is unavailable.

- t. **Hours Per Week Worked Restriction.** Within any 14-day period Respondent shall not work more than 84 hours. Respondent may work three 12-hour shifts in one seven day period and four 12-hour shifts in the other seven day period, but Respondent may not work more than three consecutive 12-hour shifts. Respondent shall not work two consecutive 8-hour shifts within a 24-hour period or be scheduled work 16 hours within a 24-hour period. Respondent shall not work during overnight hours. In the event Respondent does not practice as a nurse for a period of sixty (60) days or longer, Respondent shall notify the Division in writing of the date Respondent ceased practicing. The period of time in which Respondent does not practice shall not be counted toward the time period of this Stipulation and Order. Respondent shall work at least sixteen (16) hours per week to be considered "practicing" in Respondent's profession.

- u. **Supervisor Requirement.** Respondent shall practice only under the indirect supervision of a registered nurse or a licensed physician in good standing with the Division. The supervising nurse or supervising physician shall be primarily one (1) person who may periodically delegate her supervisory responsibilities over Respondent to other qualified personnel. The supervising nurse or supervising physician shall be approved by the Division and Board. Respondent shall cause Respondent's supervisor to read this Stipulation and Order in its entirety and cause the supervisor to provide input on Respondent's employer evaluations to the Division and Board. The employer reports shall be submitted to the Division and Board on pre-approved forms, at the frequency set forth in subparagraph (m) above. Employer reports submitted after the first day of the month shall be considered a violation of this Stipulation and Order. "Indirect supervision" as defined in Utah Administrative Code R156-1-102a(4)(b) means that the supervising licensee has given either written or verbal instructions to Respondent; is present within the facility in which Respondent is providing services; and is available to provide immediate face-to-face communication with Respondent as necessary.

- v. **No Work in Other Nurse Licensure Compact State.** Respondent agrees not to practice nursing in any other state that is a party to the Nurse Licensure Compact without prior authorization from such other party state.

- w. **Working Around Controlled Substances.** Respondent shall restrict Respondent's practice to duties and surroundings that do not allow the Respondent access to, or require the Respondent to account for controlled substances.
- x. **Contacting Pharmacies.** Respondent shall not contact by telephone or other manner, any pharmacy or drug supplier for the purposes of filling a prescription order. This applies both while Respondent is working in the capacity of Respondent's employment or not. Respondent may transmit prescription orders to an inpatient pharmacy within the facility where Respondent is employed.
- y. **Change of Employer or Employment Status.** Respondent shall notify the Division and Board in writing within one (1) week of any change of employer, employment status, or practice status. This notification is required regardless of whether Respondent is employed in Respondent's profession.
- z. **Notify Division if Leaving State of Utah.** If Respondent leaves the State of Utah for a period longer than sixty (60) days, Respondent shall notify the Division and Board in writing of the dates of Respondent's departure and return. The licensing authorities of the jurisdiction to which Respondent moves shall be notified by Respondent in writing of the provisions of this Stipulation and Order. Periods of residency or practice outside the State of Utah may apply to the reduction of the period this Stipulation and Order is in effect, if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Stipulation and Order.
- aa. **Notify Division if Further Criminal Arrest, Charge, Conviction or Mental or Substance Abuse Treatment.** If Respondent is arrested or charged with a criminal offense by any law enforcement agency, in any jurisdiction, inside or outside the State of Utah, for any reason, or should Respondent be admitted as a patient to any institution in this state or elsewhere for treatment regarding the abuse of or dependence on any chemical substance, or for treatment for any emotional or psychological disorder, Respondent agrees to cause the Division and Board to be notified immediately. If Respondent at any time during the period of this agreement is convicted of a criminal offense of any kind, or enters a plea in abeyance to a criminal offense of any kind, including a pending criminal charge, the Division may take appropriate action

against Respondent, including imposing appropriate sanctions, after notice and opportunity for hearing. Such sanctions may include revocation or suspension of Respondent's license, or other appropriate sanctions.

- bb. **Maintain Active License.** Respondent shall maintain an active license at all times during the period of this agreement.
- cc. **Change of Address.** Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address.
- dd. **Timely Submission of Reports.** Respondent shall submit reports on the date they are due and shall appear at scheduled meetings with the Division and Board promptly. Failure to do so shall be considered a violation of this Stipulation and Order.
- ee. **Essay.** Respondent shall submit an essay to the Division and Board, within 90 days of the effective date of this Stipulation and Order, that sets forth a description of the misconduct in Respondent's own words, along with the effect of the misconduct on Respondent, Respondent's family, and Respondent's patients and employer.
- ff. **Thinking Errors Class or Other Classes.** The Division and Board, may, when and if they deem necessary, direct Respondent to successfully complete a Cognitive Restructuring/Thinking Errors class, pre-approved by the Division or Board, or any other continuing education class, intervention, or training that the Division and Board deem appropriate. Respondent shall successfully complete the Cognitive Restructuring/Thinking Errors class within one year of the effective date that Respondent is directed to complete the course. Respondent shall successfully complete in a timely manner any continuing education class or training directed by the Division and Board. Upon completion, Respondent shall write a 500-word essay on what they learned from the Thinking Errors class and how they will react differently in the future because of the class. The essay will be submitted within two weeks of successfully completing the class.
- gg. **Suspension If Not Working for One Year.** If Respondent does not work in Respondent's licensed profession for a period of one year or longer, then Respondent's license shall be suspended. When Respondent intends to begin working in Respondent's licensed profession and provides the Division with written notice

of this fact, and Respondent is otherwise qualified to practice, the suspension shall be immediately lifted.

- hh. **Additional Classes.** Respondent shall successfully complete the following courses within six months of the effective date of this Stipulation and Order: "Ethics of Nursing Practice," "Professional Accountability & Legal Liability for Nurses," and a course on patient safety education/patient centered care, pre-approved by the Division.

9. Upon approval by the Director of the Division, this Stipulation and Order shall be the final compromise and settlement of this non-criminal administrative matter, and any hearings or prehearing conferences currently scheduled are hereby vacated. Respondent acknowledges that the Director is not required to accept the terms of this Stipulation and Order and that if the Director does not do so, this Stipulation and the representations contained therein shall be null and void, except that the Division and the Respondent waive any claim of bias or prejudice they might otherwise have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification.

10. Respondent shall abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Respondent's licensed practice. If the Division files a Petition alleging that Respondent has engaged in new misconduct or files an Order to Show Cause Petition alleging that Respondent has violated any of the terms and conditions contained in this Stipulation and Order, the period of Respondent's probation shall be tolled during the period that the Petition or Order to Show Cause Petition has been filed and is unresolved.

11. This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation and Order. There are no verbal agreements that modify, interpret, construe or affect this Stipulation. Respondent agrees not to

take any action or make any public statement, that creates, or tends to create, the impression that any of the matters set forth in this Stipulation and Order are without factual basis. A public statement includes statements to one or more Board members during a meeting of the Board. Any such action or statement shall be considered a violation of this Stipulation and Order.

12. The accompanying Order becomes effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director. Respondent shall comply with all the terms and conditions of this Stipulation immediately following the Division Director's signing of the Order page of this Stipulation and Order. Respondent shall comply with and timely complete all the terms and conditions of probation. If a time period for completion of a term or condition is not specifically set forth in the Stipulation and Order, Respondent agrees that the time period for completion of that term or condition shall be set by the Division or Board. Failure to comply with and timely complete a term or condition shall constitute a violation of the Stipulation and Order and may subject Respondent to revocation or other sanctions.

13. If Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent, including imposing appropriate sanction, in the manner provided by law. Such sanction may include revocation or suspension of Respondent's license, or other appropriate sanction.

14. Respondent understands that the disciplinary action taken by the Division in this Stipulation and Order may adversely affect any license that Respondent may possess in another state or any application for licensure Respondent may submit in another state.

15. Respondent shall practice only under Respondent's name as set forth in the caption of this Stipulation and Order. If Respondent intends to practice under any other name, then, prior to practicing under any other name, Respondent shall inform the Division in writing, and

Respondent and the Division shall enter into an Amended Stipulation and Order, which consists of the new name Respondent intends to practice under, along with all the same terms and conditions in the original Stipulation and Order.

16. Respondent has read each and every paragraph contained in this Stipulation and Order. Respondent understands each and every paragraph contained in this Stipulation and Order. Respondent has no questions about any paragraph or provision contained in this Stipulation and Order.

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

RESPONDENT

BY: _____
JEFFREY BUSJAHN
Bureau Manager

BY: _____
KENDALL CHRISTENSEN MILLER

DATE: _____

DATE: _____

SEAN D. REYES
UTAH ATTORNEY GENERAL


BY: _____
L. MITCHELL JONES
Counsel for the Division

*Signatures on
next page.*

DATE: _____

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

RESPONDENT

BY: 
JEFFREY BUSJAHN
Bureau Manager

BY: 
KENDALL CHRISTENSEN MILLER

DATE: 2-27-19

DATE: 2/25/19

SEAN D. REYES
UTAH ATTORNEY GENERAL

BY: 
L. MITCHELL JONES
Counsel for the Division

DATE: 27 Feb. 19

ORDER

THE ABOVE STIPULATION, in the matter of **KENDALL CHRISTENSEN MILLER**, is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in this matter. The issuance of this Order is disciplinary action pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2). The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 4th day of March, 2019.

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING



MARK B. STEINAGEL

Director

Investigator Jeffrey Busjahn