BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED ORDER
Registered Nurse License Number 833205	§	FOR
& Vocational Nurse License Number 214186	§	KSTAR PROGRAM
issued to MARCIA MADELINE KERR	§	
	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MARCIA MADELINE KERR, Registered Nurse License Number 833205, and Vocational Nurse License Number 214186, 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)(10)&(13), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Agreed Order for KSTAR Program approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on March 17, 2020.

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 for KSTAR Program.

3. Respondent's license to practice as a vocational nurse in the State of Texas is in current status. Respondent's license to practice as a professional nurse in the State of Texas is in current status.

4. Respondent received a Certificate in Vocational Nursing from Lamar State College, Orange, Texas, on December 14, 2007. Respondent received an Associate Degree in Nursing from Lamar State College-Port Arthur, Port Arthur, Texas, on January 25, 2013. Respondent was licensed to practice vocational nursing in the State of Texas on January

24, 2008. Respondent was licensed to practice professional nursing in the State of Texas on February 26, 2013.

5. Respondent's nursing employment history includes:

1/2008 – 1/2013	Licensed Vocational Nurse	University of Texas Medical Branch Texas Department of Criminal Justice (UTMB-TDCJ) Galveston, Texas
2/2013 – 10/2019	Registered Nurse	UTMB-TDCJ Galveston, Texas
11/2019 – Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with UTMB-TDCJ, Galveston, Texas, and had been in that position for five (5) years and three (3) months.

7. On or about May 5, 2018, while employed as a Registered Nurse with UTMB-TDCJ, Galveston, Texas, Respondent failed to verify patient information prior to administering medications to Patient 36595942N. As a result, Respondent inappropriately administered 750mg of Vancomycin, which was ordered for another patient, to Patient 36595942N in error. Respondent's conduct exposed the patient to a risk of harm from adverse effects of Vancomycin administration including hypotension and anaphylaxis.

8. In response to finding of Fact Number Seven (7), Respondent states she unknowingly administered Vancomycin to the wrong patient. Respondent states it has always been her practice to use the 8 rights of medication, per policy. Respondent states in an ideal setting with no distractions and an appropriate workload, she checks the medication label for correct administration time in addition to patient identifiers. The rationale is that the bags are dispensed ahead of time and placed in the medication refrigerator in the unit.

9. Formal Charges were filed on December 20, 2019.

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) and 22 TEX. ADMIN. CODE §217.12 (1)(A),(1)(B)&(4).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 833205, and Vocational Nurse License Number 214186, heretofore issued to MARCIA MADELINE KERR.

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 that RESPONDENT SHALL receive the sanction of **WARNING WITH STIPULATIONS** in accordance with the terms of this Order.

   A. This Order SHALL apply to any and all future licenses issued to RESPONDENT to practice nursing in the State of Texas.

   B. This Order SHALL be applicable to RESPONDENT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

   C. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state.

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 Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Agreed Order for KSTAR Program.

III.   **KNOWLEDGE, SKILLS, TRAINING, ASSESSMENT AND RESEARCH (KSTAR) PROGRAM**

IT IS AGREED and ORDERED that RESPONDENT SHALL, **within one (1) year of the effective date of this Order**, successfully complete the Knowledge, Skills, Training, Assessment and Research (KSTAR) Program and RESPONDENT SHALL:

A. **Within forty-five (45) days** following the effective date of this Order, apply to and enroll in the KSTAR Program, including payment of any fees and costs, unless otherwise agreed in writing;

B. Submit to an individualized assessment designed to evaluate RESPONDENT'S nursing practice competency and to support a targeted remediation plan;

C. Follow all requirements within the remediation plan, if any;

D. Successfully complete a Board-approved course in Texas nursing jurisprudence and ethics as part of the KSTAR Program; and

E. Provide written documentation of successful completion of the KSTAR Program to the attention of Monitoring at the Board's office.

IV.   **FURTHER COMPETENCY ISSUES AND VIOLATIONS**

IT IS FURTHER AGREED, SHOULD RESPONDENT'S individualized KSTAR Program assessment identify further competency issues and violations of the Nursing Practice Act, including inability to practice nursing safely, further disciplinary action, up to and including revocation of RESPONDENT'S license(s) to practice nursing in the State of Texas, may be taken based on such results in the assessments.

V.   **RESTORATION OF UNENCUMBERED LICENSE(S)**

Upon full compliance with the terms of this Agreed Order for KSTAR Program, all encumbrances will be removed from RESPONDENT'S license(s) and/or privilege(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility

requirements in Texas Occupations Code Chapter 304, Article III, RESPONDENT may

be eligible for nurse licensure compact privileges, if any.
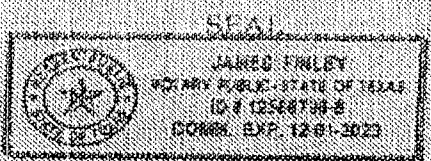
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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Order. 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 is subject to ratification by the Texas Board of Nursing and a copy of this Order will be mailed to me once the Order becomes effective. 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 4th day of May 20 20

Marcia Madeline Kerr
MARCIA MADELINE KERR, RESPONDENT

Sworn to and subscribed before me this 4th day of May 20 20

SEAL

JAMES FINLEY
NOTARY PUBLIC-STATE OF TEXAS
ID # 12566738-8
COMM. EXP. 12-01-2023

Notary Public in and for the State of Texas

Approved as to form and substance.

Yong J. An, Attorney for Respondent

Signed this _____ day of _____ 20 _____   05/04/2020

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WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order for KSTAR Program that was signed on the 4th day of May, 2020, by MARCIA MADELINE KERR, Registered Nurse License Number 833205, and Vocational Nurse License Number 214186, and said Agreed Order for KSTAR Program is final.

Effective this 9th day of June, 2020.

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