



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.
William J. Palmer
Executive Director of the Board

**In the Matter of
Permanent Registered Nurse
License Number 765508
Issued to DALE JOHN KERSTEEN,
Respondent**

**§ BEFORE THE TEXAS
§ BOARD OF NURSING
§ ELIGIBILITY AND
§ DISCIPLINARY COMMITTEE**

ORDER OF THE BOARD

TO: Dale Kersteen
2205 Baronne St.
New Orleans, LA 70113

During open meeting held in Austin, Texas, on December 8, 2020, the Texas Board of Nursing Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's license(s) to practice nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by

reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing [22 TEX. ADMIN. CODE § 213.16(j)]. All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Registered Nurse License Number 765508, previously issued to DALE JOHN KERSTEEN to practice nursing in the State of Texas be, and the same is/are hereby, REVOKED.

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

Entered this 8th day of December, 2020

TEXAS BOARD OF NURSING

BY: 

KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Attachment: Formal Charges filed September 18, 2020

d17r(2020.11.18)

Re: Permanent Registered Nurse License Number 765508
Issued to DALE JOHN KERSTEEN
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of December, 2020 a true and correct copy of the foregoing DEFAULT ORDER was served and addressed to the following person(s), as follows:

Via USPS Certified Mail, Return Receipt Requested,
Copy Via USPS First Class Mail

Dale Kersteen
2205 Baronne St.
New Orleans, LA 70113

BY: _____



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of
Permanent Registered Nurse
License Number 765508
Issued to DALE JOHN KERSTEEN,
Respondent

§ BEFORE THE TEXAS
§
§
§ BOARD OF NURSING
§

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, DALE JOHN KERSTEEN, is a Registered Nurse holding license number 765508 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 January 18, 2019, Respondent's Pennsylvania Registered Nurse license was issued a Probated Suspension through a Consent Agreement and Order by the Pennsylvania State Board of Nursing, Harrisburg, Pennsylvania. A copy of the Pennsylvania State Board of Nursing's Consent Agreement and Order dated January 18, 2019, is attached and incorporated, by reference, as part of this pleading. On or about June 6, 2019, Respondent's Pennsylvania Registered Nurse license was Indefinitely Suspended through a Preliminary Order issued by Pennsylvania State Board of Nursing. A copy of the Pennsylvania State Board of Nursing's Preliminary Order dated June 6, 2019, is attached and incorporated, by reference, as part of this pleading. On or about December 6, 2019, Respondent's Pennsylvania Registered Nurse license was Suspended for a period of three (3) years through a Consent Agreement and Order issued by the Pennsylvania State Board of Nursing, Harrisburg, Pennsylvania. A copy of the Pennsylvania State Board of Nursing's Consent Agreement and Order effective December 6, 2019, is attached and incorporated, by reference, as part of this pleading. On or about May 11, 2020, Respondent's Pennsylvania Registered Nurse license was Reinstated and placed on Probation by the Pennsylvania State Board of Nursing, Harrisburg, Pennsylvania. A copy of the Pennsylvania State Board of Nursing's Order Reinstating License to Probationary Status dated May 11, 2020, is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8), Texas Occupations Code.

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) and/or privilege(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.

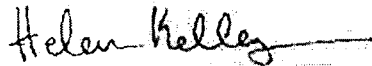
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, 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.

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.

Filed this 18th day of September, 2020.

TEXAS BOARD OF NURSING



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

Jena Abel, Deputy General Counsel
Board Certified - Administrative Law
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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

PROTHONOTARY

2019 JAN 23 AM 11:48

Department of State

Commonwealth of Pennsylvania,
Bureau of Professional and Occupational
Affairs

v.

Dale John Kersteen, R.N.,
Respondent.

Case No. 18-51-012438

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and Dale John Kersteen, R.N. ("Respondent") stipulate as follows in settlement of the above-captioned case.

APPLICABLE LAW

1. This matter is before the State Board of Nursing ("Board") pursuant to the Professional Nursing Law, Act of May 22, 1951, P.L. 317, ("Act"), *as amended*, 63 P.S. §§ 211-226; the Criminal History Record Information Act, Act of July 16, 1979, P.L. 116, No. 47, *as amended* ("CHRIA"), 18 Pa. C.S. §§ 9101 - 9183; The Controlled Substance, Drug, Device and Cosmetic Act (Drug Act), 35 P.S. § 780-101, *et seq.*; and/or the Act of July 2, 1993, P.L. 345, No. 48 ("ACT 48"), *as amended*, 63 P.S. §§ 2201-2207.

LICENSURE STATUS

2. At all relevant and material times, Respondent held a license to practice as a registered nurse in the Commonwealth of Pennsylvania, license no. RN596079, which was originally issued on July 21, 2008, and expired on October 31, 2017.

STIPULATED FACTS

3. Respondent admits that the following allegations are true:

a. Absent further Board action, Respondent's license may be continually renewed, reactivated, or reinstated upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's address on file with the Board is 189 River Street, Forty Fort, PA 18704.

c. The Commonwealth has reason to believe that Respondent currently resides at 8334 Green Street, New Orleans, LA 70118.

d. On or about June 21, 2018, at File Number 17-51-06930, the Board entered a Final Adjudication and Order, indefinitely suspending Respondent's license until such time as he demonstrates that he can resume the practice of professional nursing with reasonable skill and safety to patients and assessing \$1,200 in costs of investigation.

e. On or about November 5, 2018, Respondent sent a letter to the Commonwealth alleging that he had not received any documentation sent to him regarding file 17-51-06930 and requesting a reinstatement of his nursing license.

f. On or about October 31, 2018, Respondent entered a guilty plea to Intentional Possession of a Controlled Substance by Person Not Registered, in violation of Section 13(a)(16), 35 P.S. § 780-113(a)(16), of The Controlled Substance, Drug, Device and Cosmetic Act, a misdemeanor.

g. On or about November 1, 2017, Respondent received Probation Without Verdict in resolution of the criminal matter.

h. Section 123(c) of the Drug Act, 35 P.S. §780-123(c), provides in pertinent part:

The appropriate licensing boards in the Department of State shall automatically suspend, for a period of not to exceed one year, the registration or license of any practitioner when the person has pleaded guilty or nolo contendere or has been convicted of a misdemeanor under this act....However, the provisions of such automatic suspension may be stayed by the appropriate State licensing board in those cases where a practitioner has violated the provisions of this act only for personal use of controlled substances by the practitioner and the practitioner participates in the impaired professional program...

i. Respondent's violation of the Drug Act was for personal use of a controlled substance.

j. Respondent suffers from Opioid Use Disorder, severe, and is willing to enroll in the Professional Health Monitoring Program's Disciplinary Monitoring Unit.

k. Respondent's actions that resulted in the criminal matter set forth above were the result of his chemical dependency.

l. This Consent Agreement and Order supersedes any disciplinary action and or discipline imposed by the Board under file number 17-51-06930.

m. This Consent Agreement and Order imposes the costs of investigation of \$1,200.00 that was previously imposed under file number 17-51-06930.

ALLEGED VIOLATION OF ACT

4. The Commonwealth alleges that, based upon the factual allegations in paragraph 3 above, the Board shall automatically suspend Respondent's license under Section 123(c) of the Drug Act, 35 P.S. §780-123(c), in that Respondent has been convicted of a misdemeanor under the Drug Act and is authorized to suspend or revoke, or otherwise restrict Respondent's license, or impose a civil penalty under Section 13(b) of the Act, 63 P.S. § 223(b), Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b), and Section 14(a)(2) of the Act, 63 P.S. §224(a)(2), in that Respondent is unable to practice the profession with reasonable skill and safety to patients by reason of mental or physical illness or condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination.

PROPOSED ORDER

5. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of this matter:

a. The Board automatically suspends Respondent's license under Section 123(c) of the Drug Act, 35 P.S. §780-123(c), not to exceed one year, because Respondent has been convicted of a misdemeanor under the Drug Act, and the Board finds that it is authorized to suspend, revoke or otherwise restrict Respondent's authorizations to practice the profession under Section 14(a)(2) of the Act, 63 P.S. §224(a)(2) in that Respondent is unable to practice the profession with reasonable skill and safety to patients by reason of mental or physical illness or condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination (hereinafter "impairment").

b. For purposes of this Agreement and Order, the terms "*practice*", "*practice of the profession*," and "*practice the profession*" shall include any and all activities requiring a license, registration, certificate, approval, authorization, or permit from the Board to perform. It also includes attendance at any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice the profession.

COSTS OF INVESTIGATION

c. An assessment for the **COSTS OF INVESTIGATION** of one thousand two hundred dollars (\$1, 200.00) is levied upon Respondent. Respondent shall tender the full sum of one thousand two hundred dollars (\$1,200.00) with this executed Consent Agreement and shall be paid by certified check, cashier's check, attorney's check, or money order issued by a usual, customary, and reputable issuer (e.g. U.S. Postal Money Order, Western Union Money Order, etc.). Payment shall be valid for a period of at least 180 days and shall be made payable to the "Commonwealth of Pennsylvania." Respondent agrees that payment shall only be made by one of the methods indicated above and shall not be made by uncertified personal or corporate check.

SUSPENSION STAYED IN FAVOR OF PROBATION

d. Respondent's license, No. RN596079, along with any other authorizations to practice the profession held by Respondent at the time this Agreement is adopted by the Board, shall be **AUTOMATICALLY SUSPENDED** for **one (1) year** and **INDEFINITELY SUSPENDED** for no less than **three (3) years** to run concurrently, with such suspensions to be immediately **STAYED** in

favor of no less than three (3) years of PROBATION, subject to the following terms and conditions:

GENERAL

(1) Within ten (10) days of the approval of this Agreement by the Board, Respondent shall contact the Bureau of Professional and Occupational Affairs, Professional Health Monitoring Programs ("PHMP"), Disciplinary Monitoring Unit ("DMU") to begin monitoring. PHMP's DMU contact information is:

Professional Health Monitoring Programs Disciplinary Monitoring Unit P.O. Box 10569 Harrisburg, PA 17105-0569 Tele (717)783-4857 or in PA (800)554-3428

(2) Respondent shall fully and completely comply and cooperate with the PHMP and its agents and employees in their monitoring of Respondent's impairment under this Agreement.

(3) Respondent shall abide by and obey all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions and all rules and regulations and laws pertaining to the practice of the profession in this Commonwealth or any other state or jurisdiction in which Respondent holds an authorization to practice the profession. Summary traffic violations shall not constitute a violation of this Agreement; however, a violation of any conditions of a criminal probation and/or parole is a violation of this Agreement.

(4) Respondent shall at all times cooperate and comply with the PHMP and its agents and employees in the monitoring, supervision and investigation of Respondent's compliance with the terms and conditions of this Agreement. Respondent shall cooperate and comply with any requests for written reports, records or verifications of actions that may be required by the PHMP; the requested shall be obtained and submitted at Respondent's expense.

(5) Respondent's failure to fully cooperate and comply with the PHMP shall be deemed a violation of this Agreement.

(6) Upon request of the PHMP case manager, Respondent shall enroll in a peer assistance program, when available, including, but not limited to, Physician's Health Program ("PHP"), Secundum Artem Reaching Pharmacists with Help ("SARPH"), and Pennsylvania Nurse Peer Assistance Program ("PNAP"), and shall fully and completely comply with all of the terms and conditions of Respondent's agreement with the peer assistance program. Respondent's failure to fully and completely comply with Respondent's agreement with the peer assistance program shall constitute a violation of this Agreement.

(7) Respondent shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Agreement.

(8) Respondent may not be absent from the Commonwealth of Pennsylvania for any period exceeding twenty (20) days unless Respondent seeks and receives prior written permission from the PHMP subject to any additional terms and conditions required by the PHMP.

(9) Respondent may not engage in the practice of the profession in any other state or jurisdiction without first obtaining written permission from the PHMP. Once written permission is granted by the PHMP, Respondent shall notify the licensing Board of the other state or jurisdiction that Respondent suffers from an impairment and is enrolled in the DMU prior to engaging in the practice of the profession in the other state or jurisdiction.

(10) In the event Respondent relocates to another jurisdiction, within five (5) days of relocating, Respondent shall either enroll in the other jurisdiction's impaired professional program and have the reports required under this Agreement sent to the Pennsylvania PHMP, or if the other jurisdiction has no impaired professional program, notify the licensing board of the other jurisdiction that Respondent is impaired and enrolled in this Program. In the event Respondent fails to do so, in addition to being in violation of this Agreement, the periods of suspension and probation herein shall be tolled. It is a violation of this Agreement

if Respondent violates and/or fails to fully and completely comply with the impaired professional program in another jurisdiction.

(11) Respondent shall notify the PHMP by telephone within forty-eight (48) hours and in writing within five (5) days of the filing of any criminal charges against Respondent; the final disposition of any criminal charges against Respondent; the violation of any terms and conditions of a criminal probation or parole; the initiation of any legal action pertaining to Respondent's practice of the profession; the initiation of charges, action, restriction or limitation related to Respondent's practice of the profession by a professional licensing authority of any state or jurisdiction or the Drug Enforcement Agency of the United States Department of Justice; or any investigation, action, restriction or limitation related to Respondent's privileges to practice the profession at any health care facility.

(12) Respondent shall notify the PHMP by telephone within forty-eight (48) hours and in writing within five (5) days of any change of Respondent's home address, phone number, employment status, employer and/or change in practice at a health care facility. Failure to timely advise the PHMP under this subsection due to the PHMP office being closed is not an excuse for not leaving a voice mail message with this information.

(13) Respondent shall cease or limit Respondent's practice of the profession if the PHMP case manager directs that Respondent do so.

EVALUATION - TREATMENT

(14) As requested by the PHMP, Respondent shall have forwarded to the PHMP, a written mental and/or physical evaluation by a provider approved by the PHMP (hereinafter "treatment provider") assessing Respondent's fitness to actively practice the profession. Unless otherwise directed by PHMP, the evaluation shall be forwarded to:

Professional Health Monitoring Programs Disciplinary Monitoring Unit P.O. Box 10569 Harrisburg, PA 17105-0569 Tele (717)783-4857 or in PA (800)554-3428

If the treatment provider determines that Respondent is not fit to practice, Respondent shall immediately cease practicing the profession and not practice until the treatment provider and the PHMP case manager determine that Respondent is fit to resume practice with reasonable skill and safety to patients.

(15) The evaluation described in the previous paragraph is in addition to any other evaluation already provided.

(16) Respondent shall provide copies of any prior evaluations and counseling records and a copy of this agreement to the treatment provider.

(17) Respondent shall authorize, in writing, the PHMP to receive and maintain copies of the written evaluation reports of the treatment provider(s).

(18) If a treatment provider recommends that Respondent obtain treatment, Respondent must fully comply with those recommendations as part of these probationary requirements.

(19) Respondent shall arrange and ensure that written treatment reports from all treatment providers approved by the PHMP are submitted to the PHMP upon request or at least every ninety (90) days after the effective date of this Agreement. The reports shall contain at least the following information:

(i) Verification that the treatment provider has received a copy of this Agreement and understands the conditions of this probation;

(ii) A treatment plan, if developed;

(iii) Progress reports, including information regarding compliance with the treatment plan;

(iv) Physical evaluations, if applicable;

(v) The results of any testing including any testing for therapeutic levels of prescribed medications when deemed appropriate by the treatment provider;

(vi) Modifications in treatment plan, if applicable;

(vii) Administration or prescription of any drugs to Respondent; and

(viii) Discharge summary and continuing care plan at discharge.

(ix) Any change in the treatment provider's assessment of the Respondent's fitness to actively practice the profession.

(20) Respondent shall identify a primary care physician who shall send written notification to the Respondent's PHMP case manager certifying Respondent's health status as requested.

SUPPORT GROUP ATTENDANCE

(21) Respondent shall attend and actively participate in any support group programs recommended by the treatment provider or the PHMP case manager at the frequency recommended by the treatment provider; however, Respondents with a chemical dependency or abuse diagnosis shall attend no less than twice a week.

(22) Respondent shall provide written verification of any and all support group attendance to the PHMP on at least a monthly basis or as otherwise directed by the PHMP.

ABSTENTION

(23) Respondent shall completely abstain from the use of controlled substances, caution legend (prescription) drugs, mood

altering drugs or drugs of abuse **including alcohol in any form**, except under the following conditions:

(i) Respondent is a bona fide patient of a licensed health care practitioner who is aware of Respondent's impairment and participation in the PHMP;

(ii) Such medications are lawfully prescribed by Respondent's treating practitioner and approved by the PHMP case manager;

(iii) **Upon receiving the medication**, Respondent must provide to the PHMP, **within forty-eight (48) hours by telephone and within five (5) days in writing**, the name of the practitioner prescribing the drug, the illness or medical condition diagnosed, the type, strength, amount and dosage of the medication and a signed statement consenting to the release of medical information from the prescribing practitioner to the PHMP or its designated representative for the purpose of verification; and

(iv) **Upon refilling a medication**, Respondent must provide to the PHMP, **within forty-eight (48) hours by telephone and within five (5) days in writing**, the name of the practitioner prescribing the drug, the illness or medical condition diagnosed, the type, strength, amount and dosage of the medication and a signed statement consenting to the

release of medical information from the prescribing practitioner to the PHMP or its designated representative for the purpose of verification.

DRUG TESTING

(24) Respondent shall submit to random unannounced and observed drug and alcohol tests (drug testing), inclusive of bodily fluid, breath analysis, hair analysis, or another procedure as selected by the PHMP, for the detection of substances prohibited under this Agreement as recommended by the treatment provider and as directed by the PHMP. A positive, adulterated or substituted result on a drug test shall constitute an irrefutable violation of this Agreement unless Respondent has complied with the provisions of this Agreement pertaining to the use of drugs. Failure to provide a specimen or a specimen of sufficient quantity for testing when requested will be considered a violation of this Agreement.

(25) Respondent shall avoid all foods that contain poppy seeds. Ingestion of poppy seeds will not be accepted as a valid explanation for a positive screen.

(26) Respondent shall avoid all substances containing alcohol, including alcohol in food or beverages, medications, chemical solutions, cleaning solutions, gasoline, hand sanitizers, or other skin preparations. Incidental use of alcohol will not be accepted as a valid explanation for a positive drug test unless

Respondent has complied with the provisions of this Agreement pertaining to the use of drugs as set forth in the Abstinence Section above.

MONITORED PRACTICE

(27) Respondent shall not practice the profession unless a provider approved by the PHMP approves the practice in writing and the PHMP Case Manager gives written permission to practice.

(28) When permitted to return to practice, Respondent shall not do any of the following unless Respondent first obtains specific written approval from the PHMP Case Manager:

- (i) practice in any capacity that involves the administration of controlled substances;
- (ii) function as a supervisor;
- (iii) practice in a private practice setting;
- (iv) practice in an emergency room, operating room, intensive care unit, cardiac catheterization laboratory, or coronary care unit; or
- (v) practice as an agency nurse.

(29) Respondent may not work in any practice setting, including attendance at any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice nursing without direct supervision.

(30) Direct supervision is the physical presence of the supervisor on the premises so that the supervisor is immediately available to the Respondent being supervised when needed.

(31) If Respondent is practicing or attending any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice nursing, Respondent shall give any employer, supervisor, preceptor, or instructor (hereinafter referred to collectively as "supervisor") a copy of this Agreement within five (5) days of the effective date of this Agreement.

(32) Respondent shall give any prospective employer and supervisor a copy of this Agreement when applying for employment in the practice of the profession and to any prospective school/program when applying for any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice nursing.

(33) Within five (5) days of the effective date of this Agreement, and by telephone within forty-eight (48) hours and in writing within five (5) days upon obtaining employment, or entering an educational program/course that includes a clinical practice component with patients and/or requires a current license to practice, Respondent shall provide the following to PHMP:

(i) Name and address of the supervisor responsible for Respondent's practice;

(ii) The name(s) and address(es) of the place(s) at which Respondent will practice the profession and a description of Respondent's duties and responsibilities at such places of practice; and

(iii) Any restrictions on Respondent's practice.

(34) Respondent shall ensure that Respondent's supervisor submits to the PHMP the following information in writing:

(i) Verification that the supervisor has received a copy of this Agreement and understand the conditions of this probation;

(ii) An evaluation of Respondent's work performance on a ninety (90) day or more frequent basis as requested by the PHMP; and

(iii) Immediate notification of any suspected violation of this probation by Respondent.

REPORTING/RELEASES

(35) Respondent, Respondent's treatment providers, supervisors, employers or other persons required to submit reports under this Agreement shall cause such reports, data or other information to be filed with the PHMP, unless otherwise directed, at:

Professional Health Monitoring Programs
Disciplinary Monitoring Unit
P.O. Box 10569
Harrisburg, PA 17105-0569
Tele (717)783-4857 or in PA (800)554-3428

(36) Respondent consents to the release by the PHMP of any information or data produced as a result of this probation, including written treatment provider evaluations, to any treatment provider, supervisor, Commonwealth's attorney, hearing examiner and Board members in the administration and enforcement of this Agreement.

(37) Respondent shall sign any required waivers or release forms requested by the PHMP for any and all records, including medical or other health related and psychological records, pertaining to treatment and monitoring rendered to Respondent during this probation and any corresponding criminal probation, and any employment, personnel, peer review or review records pertaining to Respondent's practice of the profession during this probation to be released to the PHMP, the Commonwealth's attorney, hearing examiner and Board members in the administration and enforcement of this Agreement.

COSTS

(38) Respondent shall be responsible for all costs incurred in complying with the terms of this Agreement, including but not limited to psychiatric or psychotherapy treatments, and reproduction

of treatment or other records. Respondent shall pay the costs for any drug testing and any subsequent reanalysis of specimens required by the PHMP. Failure of Respondent to pay any of these costs in a timely manner shall constitute a violation of this Agreement.

BUREAU/PHMP EVALUATIONS

(39) Upon request of the PHMP, Respondent shall submit to mental or physical evaluations, examinations or interviews by a treatment provider approved by the PHMP or the PHMP. Respondent's failure to submit to such an examination, evaluation or interview when directed shall constitute a violation of this Agreement.

VIOLATION OF THIS ORDER

e. Notification of a violation of the terms or conditions of this Agreement shall result in the **IMMEDIATE VACATING** of the stay order, **TERMINATION** of the period of probation, and **ACTIVATION** of the suspension in paragraph 5.c above of Respondent's authorizations to practice the profession in the Commonwealth of Pennsylvania as follows:

(1) The prosecuting attorney for the Commonwealth shall present to the Board's Probable Cause Screening Committee ("Committee") a Petition that indicates Respondent has violated any terms or conditions of this Agreement.

(2) Upon a probable cause determination by the Committee that Respondent has violated any of the terms or conditions of this

Agreement, the Committee shall, without holding a formal hearing, issue a preliminary order vacating the stay of the within suspension, terminating this probation and activating the suspension of Respondent's authorization(s) to practice the profession.

(3) Respondent shall be notified of the Committee's preliminary order within three (3) business days of its issuance by certified mail and first-class mail, postage prepaid, sent to the Respondent's last registered address on file with the Board, or by personal service if necessary.

(4) Within twenty (20) days of mailing of the preliminary order, Respondent may submit a written answer to the Commonwealth's Petition and request that a formal hearing be held concerning Respondent's violation of probation, in which Respondent may seek relief from the preliminary order activating the suspension. The answer shall be set forth in numbered paragraphs corresponding to the numbered paragraphs of the Petition. Respondent shall admit or deny each of the allegations set forth in the paragraphs in the Petition. Respondent shall mail the original answer and request for hearing, as well as all subsequent filings in the matter, to:

Prothonotary 2601 North Third Street P.O. Box 2649 Harrisburg, PA 17105-2649

Respondent shall also mail a copy of all filings to the prosecuting attorney for the Commonwealth.

(5) If the Respondent submits a timely answer and request for a formal hearing, the Board or a designated hearing examiner shall convene a formal hearing within forty-five (45) days from the date of the Prothonotary's receipt of Respondent's request for a formal hearing.

(6) Respondent's submission of a timely answer and request for a hearing shall not stay the suspension of Respondent's license under the preliminary order. The suspension shall remain in effect unless the Board or the hearing examiner issues an order after the formal hearing staying the suspension again and reactivating the probation.

(7) The facts and averments in this Agreement shall be deemed admitted and uncontested at this hearing.

(8) If the Board or hearing examiner after the formal hearing makes a determination against Respondent, a final order will be issued sustaining the suspension of Respondent's license and imposing any additional disciplinary measures deemed appropriate.

(9) If Respondent fails to timely file an answer and request for a hearing, the Board, upon motion of the prosecuting attorney, shall issue a final order affirming the suspension of Respondent's license.

(10) If Respondent does not make a timely answer and request for a formal hearing and a final order affirming the suspension is issued, or the Board or the hearing examiner makes a determination against Respondent sustaining the suspension of Respondent's license, after at least **three (3)** years of active suspension and any additional imposed discipline, Respondent may petition the Board for reinstatement based upon an affirmative showing that Respondent has at least **thirty-six (36)** months of sustained documented recovery, an evaluation by a treatment provider approved by the PHMP that Respondent is fit to safely practice the profession, and verification that Respondent has abided by and obeyed all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions, and all rules and regulations pertaining to the practice of the profession in this Commonwealth.

(11) If the Board issues a Preliminary Order terminating the stay of the suspension and actively suspending Respondent's license to practice the profession in accordance with the procedure set forth above, Respondent shall immediately cease the practice of the profession. Respondent shall continue to comply with all of the terms and conditions of probation in this Consent Agreement and Order during the active suspension until the Board issues a Final Order. Continued failure by Respondent to comply with the

unaffected terms and conditions of probation while awaiting the issuance of a Final Order by the Board may result in further disciplinary action against Respondent.

f. Respondent's failure to fully comply with any terms of this Agreement may also constitute grounds for additional disciplinary action.

g. Nothing in this Agreement shall preclude the prosecuting attorney for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Agreement.

COMPLETION OF PROBATION

h. After successful completion of the minimum period of probation, Respondent may petition the Board, upon a form provided by the PHMP, to reinstate Respondent's authorizations to practice the profession to unrestricted, non-probationary status upon an affirmative showing that Respondent has complied with all terms and conditions of this Agreement and that Respondent's resumption of unsupervised practice does not present a threat to the public health and safety. **Respondent is required to remain in compliance with all terms and conditions of this Agreement until the Board issues the order terminating Respondent's probationary status.**

i. This Order constitutes disciplinary action by the Board and shall be reported to other licensing authorities and any applicable national licensing databank as a disciplinary action by the Board.

j. This case shall be deemed settled and discontinued upon the Board issuing an Order adopting this Consent Agreement and, if applicable, Respondent's successful completion of any ordered Probation and/or Remedial Education terms.

ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS

6. Respondent agrees that if Respondent is charged with a violation of an Act enforced by the Board in the future, this Consent Agreement and Order shall be admitted into evidence without objection in that proceeding.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

7. Respondent waives the filing and receipt of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and knowingly and voluntarily waives the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS

8. Respondent expressly waives any constitutional rights and issues, such as commingling of prosecutorial and adjudicative functions by the Board or its counsel, which may arise or have arisen during the negotiation, preparation and/or presentation of this Consent Agreement. Respondent specifically agrees that if the Board rejects this agreement, it may assume that the facts and averments as alleged in this Consent Agreement are true and correct for the limited purpose of recommending a sanction, based on those assumed facts, that would be acceptable to the Board before hearing the case. In the event that the Board does assume the facts and averments as alleged

in this Consent Agreement are true for purposes of making a recommendation as to an acceptable sanction, such action shall not constitute commingling of prosecutorial and adjudicative functions by the Board or its counsel, and the Respondent expressly waives any constitutional rights and issues related to alleged commingling, bias, or violation of due process rights to have an unbiased and impartial adjudicator in any subsequent hearing. If a hearing is subsequently held, neither this Consent Agreement nor the proposed terms of settlement may be admitted into evidence and any facts, averments, and allegations contained in the Consent Agreement must be proven at hearing unless otherwise separately stipulated. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

NO MODIFICATION OF ORDER

9. Respondent agrees, as a condition of entering into this Agreement, not to seek modification of it at a later date without first obtaining the express written concurrence of the Prosecution Division of the Department of State.

AGREEMENT NOT BINDING ON OTHER PARTIES

10. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Board issues the stipulated Order.

EFFECT OF BOARD'S REJECTION OF CONSENT AGREEMENT

11. Should the Board not approve this Agreement, presentation to and consideration of it by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Agreement.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

12. Respondent acknowledges that he is aware that he has the right to consult with, and/or be represented by, private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement. Respondent has consulted with Attorney Robert J. Perkins, regarding this Consent Agreement.

ENTIRE AGREEMENT

13. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

AGREEMENT DOES NOT PRECLUDE DISCIPLINE FOR OTHER VIOLATIONS

14. Nothing in this Order shall preclude the Prosecution Division for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Consent Agreement;

EFFECTIVE UPON BOARD APPROVAL

15. This Agreement shall take effect immediately upon its approval and adoption by the Board.

VERIFICATION OF FACTS AND STATEMENTS

16. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent

understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Trese M. Evancho
Prosecuting Attorney

DATED:

Dale John Kersteen, R.N.
Respondent

DATED:

AGREEMENT DOES NOT PRECLUDE DISCIPLINE FOR OTHER VIOLATIONS

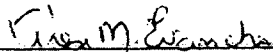
16. Nothing in this Order shall preclude the Prosecution Division for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Consent Agreement;

EFFECTIVE UPON BOARD APPROVAL

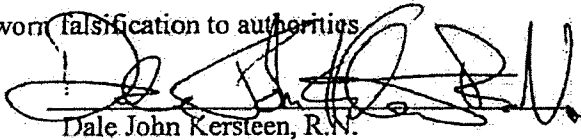
17. This Agreement shall take effect immediately upon its approval and adoption by the Board.

VERIFICATION OF FACTS AND STATEMENTS

18. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities


Trese M. Evancho
Prosecuting Attorney

DATED: 11/8/19


Dale John Kersteen, R.N.
Respondent

DATED:

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

Commonwealth of Pennsylvania,
Bureau of Professional and Occupational
Affairs

v.

Dale John Kersteen, R.N.,
Respondent.

Case No. 18-51-012438

ORDER

AND NOW, this 18th day of January, 2019, the State Board of Nursing approves and adopts the foregoing Consent Agreement and incorporates the terms of paragraph 5 above, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

BY ORDER:

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**

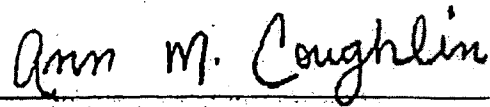

Ian J. Harlow
Commissioner

For the Commonwealth:

For Respondent:

Date of Mailing:

STATE BOARD OF NURSING


Ann M. Coughlin, MBA, MSN, RN
Chair

Trese M. Evancho
Prosecuting Attorney
Department of State
P. O. Box 69521
Harrisburg, PA 17106-9521

Dale John Kersteen
8334 Green Street
New Orleans, LA 70118

January 23, 2019

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs

Case No.

19-51-006161

v.

Dale John Kersteen, R.N.
Respondent

PRELIMINARY ORDER

AND NOW, this 6th day of June 2019, the State Board of Nursing Probable Cause Screening Committee, makes a probable cause determination that Dale John Kersteen, R.N. ("Respondent"), license number RN596079, violated the terms and conditions of the January 18, 2019 Consent Agreement and Order ("Order") at Commonwealth of Pennsylvania, Bureau of Professional and Occupational Affairs v. Dale John Kersteen, R.N., File number 18-51-012438, as alleged in the attached Commonwealth's Petition for Appropriate Relief.

Accordingly, the stay of the suspension of Respondent's license is now VACATED, the period of probation is now TERMINATED, and Respondent's license to practice as a Registered Nurse, license number RN596079, along with any other licenses, registrations, certificates, approvals, authorizations, or permits issued to Respondent by the Board are now actively indefinitely SUSPENDED for no less than three (3) years.

Respondent shall immediately cease practicing the profession. Within ten (10) days, Respondent shall surrender Respondent's biennial renewal certificate(s) and wallet card(s) (or notarized affidavit of their loss or destruction) by mailing them to:

Trese M. Evancho
Prosecuting Attorney
Bureau of Professional and Occupational Affairs
P.O. Box 69521
Harrisburg, PA 17106-9521

or by delivering them in person at:

Bureau of Professional and Occupational Affairs
One Penn Center
2601 North 3rd St.
Harrisburg, Pennsylvania

Respondent shall be notified of this Preliminary Order within three (3) days of its issuance by certified mail and first-class mail postage prepaid, sent to the last registered address on file with the Board;

Within twenty (20) days of mailing of this Preliminary Order, Respondent shall answer the Commonwealth's Petition concerning Respondent's alleged violation of probation, in which Respondent may seek relief from this Preliminary Order activating the suspension. **The answer shall be in writing and shall set forth in numbered paragraphs corresponding to the numbered paragraphs of the Petition for Appropriate Relief. Respondent shall admit or deny each of the allegations set forth in the paragraphs in the Petition for Appropriate Relief.**

Respondent's answer shall be drawn as to fully and completely advise the parties and the agency as to the nature of the defense. Respondent shall serve the prosecuting attorney for the Commonwealth with a copy of the answer and all subsequent filings in this matter;

If Respondent files an answer within the twenty (20) day period, this Preliminary Order activating the suspension shall remain in effect unless and until the Board issues a determination favorable to Respondent after holding the formal hearing;

If an answer is received from Respondent, the Board or its duly authorized hearing examiner shall convene a formal hearing within forty-five (45) days from the date of the Board's receipt of Respondent's request for a formal hearing;

The facts and averments in the January 18, 2019 Consent Agreement and Order shall be deemed admitted and uncontested at this hearing;

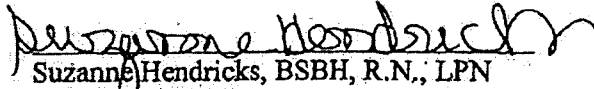
If the Board after such hearing makes a determination adverse to Respondent, the Board will issue a Final Order activating the suspension of Respondent's license and imposing any additional disciplinary measures it deems appropriate;

If Respondent fails to file an Answer within the twenty (20) day period, the Board may deem the facts and averments contained in the Commonwealth's Petition for Appropriate Relief to be admitted and will issue a Final Order activating the suspension of Respondent's license and imposing any additional disciplinary measures it deems appropriate without holding a formal hearing;

If the stay is terminated, Respondent shall still comply with all terms and conditions of probation in the January 18, 2019 Consent Agreement and Order during the active suspension, other than those terms and conditions pertaining to practicing the profession. Continued failure by Respondent to comply with the unaffected terms and conditions of probation shall result in further disciplinary action against Respondent;

This Order shall take effect immediately upon mailing.

**BY ORDER:
BEFORE THE STATE BOARD OF NURSING**


Suzanne Hendricks, BSBH, R.N., LPN
Committee Member

Linda A. Kerns, Esq.
Committee Member



Sherri Luchs, R.N.
Committee Member

For the Commonwealth:

Trese M. Evancho
Prosecuting Attorney
Commonwealth of Pennsylvania
Bureau of Professional and Occupational Affairs
P.O. Box 69521
Harrisburg, PA 17106-9521

For the Respondent:

Dale John Kersteen, R.N.
189 River St
Forty Fort, PA 18704

Dale John Kersteen, R.N.
8334 Green Street
New Orleans, LA 70118

Date of Mailing:

June 7, 2019

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

2019 DEC -5 PM 4:10

Commonwealth of Pennsylvania,
Bureau of Professional and Occupational
Affairs

v.

Dale John Kersteen, R.N.,
Respondent.

Case No. 19-51-006161

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and Dale John Kersteen, R.N. ("Respondent") stipulate as follows in settlement of the above-captioned case.

APPLICABLE LAW

1. This matter is before the State Board of Nursing ("Board") pursuant to the Professional Nursing Law, act of May 22, 1951, P.L. 317, ("Act"), *as amended*, 63 P.S. §§ 211-226; the Criminal History Record Information Act, Act of July 16, 1979, P.L. 116, No. 47, *as amended* ("CHRIA"), 18 Pa. C.S. §§ 9101 - 9183; and/or the Act of July 2, 1993, P.L. 345, No. 48 ("ACT 48"), *as amended*, 63 P.S. §§ 2201-2207.

LICENSURE STATUS

2. At all relevant and material times, Respondent held a license to practice as a registered nurse in the Commonwealth of Pennsylvania, license no. RN596079, which was originally issued on July 21, 2008; expired on October 31, 2017, and has been suspended since June 7, 2019.

STIPULATED FACTS

3. Respondent admits that the following allegations are true:

a. Absent further Board action, Respondent's license may be continually renewed, reactivated, or reinstated upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's address on file with the Board is 189 River St., Forty Fort, PA 18704.

c. Respondent's current address is 8334 Green Street, New Orleans, LA 70118.

d. On January 18, 2019, at Commonwealth of Pennsylvania, Bureau of Professional and Occupational Affairs v. Dale John Kersteen, R.N., Case number 18-51-012438, the Board adopted the terms of a Consent Agreement which, among other things, found Respondent to have violated Section 14(a)(2) of the Act, 63 P.S. § 224(a)(2), because the Board found that Respondent is unable to practice professional nursing with reasonable skill and safety by reason of mental or physical illness or condition or dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination.

e. The Consent Agreement and Order, at paragraph 5.d (beginning on page 5 of the Order) further provides that Respondent's license shall be suspended under the terms of the Agreement, but the enforcement of that suspension shall be stayed for the length of time Respondent remains in an approved treatment and monitoring program and makes satisfactory progress, complies with the other terms of the Order and adheres to all conditions as set forth in the Order.

f. Respondent violated the terms of the Consent Agreement and Order as follows:

- i. Respondent failed to submit to drug testing as required on March 7, 2019. (Consent Agreement and Order at paragraph(s) 5.d(24))
- ii. Respondent failed to completely abstain from the use of controlled substances, caution legend (prescription) drugs, mood altering drugs or drugs of abuse, including alcohol in any form, in that Respondent submitted to a scheduled drug screen and tested positive for Ethylglucuronide and Ethylsulfate on March 25, 2019. (Consent Agreement and Order at paragraph(s) 5.d(23) & (24))
- iii. Respondent failed to completely abstain from the use of controlled substances, caution legend (prescription) drugs, mood altering drugs or drugs of abuse, including alcohol in any form, in that Respondent submitted to a scheduled drug screen and tested positive for Phosphatidylethanol on April 2, 2019. (Consent Agreement and Order at paragraph(s) 5.d(23) & (24))
- iv. Respondent admitted to consuming alcohol prior to the drug testing of March 25, 2019 and April 2, 2019. (Consent Agreement and Order at paragraph(s) 5.d(23))
- v. Respondent has failed to fully and completely comply and cooperate with the PHMP in their monitoring of Respondent's impairment under the Agreement and Order by failing to submit to drug testing as required, failing to abstain from prohibited substances and failing to complete and return enrollment paperwork as requested by the PHMP. (Consent Agreement and Order at paragraph(s) 5.d(2) & (4))

g. On or about June 6, 2019, the Commonwealth presented to the Probable Cause Screening Committee of the State Board of Nursing a Petition for Appropriate Relief for violation of the January 18, 2019 Consent Agreement and Order.¹

h. On or about June 6, 2019, the Probable Cause Screening Committee issued a Preliminary Order indefinitely suspending Respondent's license to practice as a professional nurse for no less than three (3) years.

i. A true and correct copy of the Petition for Appropriate Relief and Preliminary Order, which include a copy of the January 18, 2019 Consent Agreement and Order are collectively attached and incorporated as **EXHIBIT A**.

j. In lieu of further discipline, Respondent has agreed to enter into this Consent Agreement.

ALLEGED VIOLATION OF ACT

4. The Commonwealth alleges that, based upon the factual allegations in paragraph 3 above, the Board is authorized to suspend, revoke, or otherwise restrict Respondent's license under section 14(a) of the Act, 63 P.S. § 224(a); and/or impose a civil penalty upon Respondent under section 13(b) of the Act, 63 P.S. § 223(b), and/or Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b)(4); and/or impose the costs of investigation upon Respondent under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Act at section 14(a)(2), 63 P.S. § 224(a)(2) because Respondent is unable to practice professional nursing with reasonable skill and safety by reason of mental or physical illness or condition or dependence upon alcohol, hallucinogenic or

¹ The Probable Cause Screening Committee members were Suzanne Hendricks, BSBH, RN, LPN and Sherri Luchs, RN.

narcotic drugs or other drugs which tend to impair judgment or coordination and Respondent violated Section 5(b)(1) of Act 48, 63 P.S. § 2205(b)(1), in that Respondent has violated a lawful disciplinary Order of the Board.

PROPOSED ORDER

5. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of this matter:

a. The Board finds that it is authorized to suspend, revoke, or otherwise restrict Respondent's license under section 14(a) of the Act, 63 P.S. § 224(a); and/or impose a civil penalty upon Respondent under section 13(b) of the Act, 63 P.S. § 223(b), and/or Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b)(4); and/or impose the costs of investigation upon Respondent under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Act at section 14(a)(2), 63 P.S. § 224(a)(2) because Respondent is unable to practice professional nursing with reasonable skill and safety by reason of mental or physical illness or condition or dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination and Respondent violated Section 5(b)(1) of Act 48, 63 P.S. § 2205(b)(1), in that Respondent has violated a lawful disciplinary Order of the Board.

b. For purposes of this Agreement and Order, the terms "*practice*", "*practice of the profession*," and "*practice the profession*" shall include any and all activities requiring a license, registration, certificate, approval, authorization, or permit from the Board to perform. It also includes attendance at any educational

program/course that includes a clinical practice component with patients and/or requires a current license to practice the profession.

SUSPENSION

c. Respondent's license to practice as a registered nurse in the Commonwealth of Pennsylvania, along with any other licenses, registrations, certificates, approvals, authorizations, or permits (hereinafter referred to collectively as "authorizations to practice the profession") issued by the Board to Respondent at the time this Consent Agreement is adopted by the Board are hereby **SUSPENDED** for a period of three (3) years and six (6) months, **retroactive to June 6, 2019.**

d. Respondent shall, within ten (10) days of the beginning of any period of active suspension, surrender her biennial renewal certificate and wallet card (or notarized affidavit of their loss or destruction) by mailing them to:

T'rese M. Evancho
Prosecuting Attorney
Bureau of Professional and Occupational Affairs
P.O. Box 69521
Harrisburg, PA 17106-9521

or by delivering them in person at:

Bureau of Professional and Occupational Affairs
One Penn Center
2601 North 3rd St.
Harrisburg, Pennsylvania

e. Upon the effective date of the Consent Agreement, and during any period of active suspension, Respondent shall cease and desist from practicing as a

registered nurse, and shall not represent himself as a Board licensee in any matter during any period of active suspension.

f. Respondent is advised that if the period of active suspension continues past the end of the current renewal period, prior to Respondent's license being reinstated, Respondent will be required to comply with the requirements for renewal of his license in effect at that time.

REINSTATEMENT AFTER ACTIVE SUSPENSION

g. After a period of six (6) months of active suspension, retroactive to June 6, 2019, Respondent may seek a **STAY of the ACTIVE SUSPENSION** of Respondent's nursing license:

(1) By submitting the following to

Board Counsel
State Board of Nursing
P.O. Box 2649
Harrisburg, PA 17105-2649:

(i) A written Petition seeking a stay of the active suspension in favor of probationary status;

(ii) An Affidavit of Non-Practice stating that Respondent has not practiced nursing in Pennsylvania while Respondent's license was actively suspended; and

(2) By meeting the continued competency requirements set forth at 49 Pa. Code §21.156a if the suspension lasts five years or longer or if the Respondent does not have an active license for five years or longer.

(3) Submitting documentation demonstrating completion of the required continuing education hours within the two year period

immediately preceding the petition for reinstatement in accordance with 49 Pa. Code §21.131.

h. If Respondent meets the requirements set forth in paragraph 5.g above and with the concurrence of the prosecuting attorney and Respondent's paying any fees required under 49 Pa. Code §21.5, Respondent's licenses may be reinstated by the Board subject to the terms and conditions set forth in paragraph 5.i below without a hearing.

i. If the prosecuting attorney opposes the reinstatement of Respondent's nursing licenses without a hearing, a hearing will be scheduled at which the Respondent may present evidence to show that Respondent has met the requirements for reinstatement as set forth above in paragraph 5.g; and the Board will make a final determination in the matter.

j. If a hearing is held, it will be conducted in accordance with 1 Pa. Code §31.1 et. seq.

k. Respondent understands that if the Board reinstates Respondent's license after considering the evidence, Respondent must pay any fees required under 49 Pa. Code §21.5 before Respondent's license will be reinstated.

l. After meeting the requirements for reinstatement set forth above in paragraph 5.g and with the concurrence of the prosecuting attorney and the final approval of the Board, the suspension of Respondent's authorizations to practice the profession shall be **STAYED** in favor of no less than three (3) years of **PROBATION**, unless that period of probation is extended or modified for cause by mutual agreement of the Respondent and the Professional Health Monitoring

Program ("PHMP"), Disciplinary Monitoring Unit ("DMU") case manager, said probation to be subject to the following terms and conditions:

GENERAL

(1) Within ten (10) days of the approval of this Agreement by the Board, Respondent shall contact the Bureau of Professional and Occupational Affairs, Professional Health Monitoring Programs ("PHMP"), Disciplinary Monitoring Unit ("DMU") to begin monitoring. PHMP's DMU contact information is:

Professional Health Monitoring Programs Disciplinary Monitoring Unit P.O. Box 10569 Harrisburg, PA 17105-0569 Tele (717)783-4857 or in PA (800)554-3428

(2) Respondent shall fully and completely comply and cooperate with the PHMP and its agents and employees in their monitoring of Respondent's impairment under this Agreement.

(3) Respondent shall abide by and obey all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions and all rules and regulations and laws pertaining to the practice of the profession in this Commonwealth or any other state or jurisdiction in which Respondent holds an authorization to practice the profession. Summary traffic violations shall not constitute a violation of this Agreement; however, a violation of any conditions of a criminal probation and/or parole is a violation of this Agreement.

(4) Respondent shall at all times cooperate and comply with the PHMP and its agents and employees in the monitoring, supervision and investigation of Respondent's compliance with the terms and conditions of this Agreement. Respondent shall cooperate and comply with any requests for written reports, records or verifications of actions that may be required by the PHMP; the requested shall be obtained and submitted at Respondent's expense.

(5) Respondent's failure to fully cooperate and comply with the PHMP shall be deemed a violation of this Agreement.

(6) Upon request of the PHMP case manager, Respondent shall enroll in a peer assistance program, when available, including, but not limited to, Physician's Health Program ("PHP"), Secundum Artem Reaching Pharmacists with Help ("SARPH"), and Pennsylvania Nurse Peer Assistance Program ("PNAP"), and shall fully and completely comply with all of the terms and conditions of Respondent's agreement with the peer assistance program. Respondent's failure to fully and completely comply with Respondent's agreement with the peer assistance program shall constitute a violation of this Agreement.

(7) Respondent shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Agreement.

(8) Respondent may not be absent from the Commonwealth of Pennsylvania for any period exceeding twenty (20) days unless Respondent seeks and receives prior written permission from the PHMP subject to any additional terms and conditions required by the PHMP.

(9) Respondent may not engage in the practice of the profession in any other state or jurisdiction without first obtaining written permission from the PHMP. Once written permission is granted by the PHMP, Respondent shall notify the licensing Board of the other state or jurisdiction that Respondent suffers from an impairment and is enrolled in the DMU prior to engaging in the practice of the profession in the other state or jurisdiction.

(10) In the event Respondent relocates to another jurisdiction, within five (5) days of relocating, Respondent shall either enroll in the other jurisdiction's impaired professional program and have the reports required under this Agreement sent to the Pennsylvania PHMP, or if the other jurisdiction has no impaired professional program, notify the licensing board of the other jurisdiction that Respondent is impaired and enrolled in this Program. In the event Respondent fails to do so, in addition to being in violation of this Agreement, the periods of suspension and probation herein shall be tolled. It is a violation of this Agreement

if Respondent violates and/or fails to fully and completely comply with the impaired professional program in another jurisdiction.

(11) Respondent shall notify the PHMP by telephone within forty-eight (48) hours and in writing within five (5) days of the filing of any criminal charges against Respondent; the final disposition of any criminal charges against Respondent; the violation of any terms and conditions of a criminal probation or parole; the initiation of any legal action pertaining to Respondent's practice of the profession; the initiation of charges, action, restriction or limitation related to Respondent's practice of the profession by a professional licensing authority of any state or jurisdiction or the Drug Enforcement Agency of the United States Department of Justice; or any investigation, action, restriction or limitation related to Respondent's privileges to practice the profession at any health care facility.

(12) Respondent shall notify the PHMP by telephone within forty-eight (48) hours and in writing within five (5) days of any change of Respondent's home address, phone number, employment status, employer and/or change in practice at a health care facility. Failure to timely advise the PHMP under this subsection due to the PHMP office being closed is not an excuse for not leaving a voice mail message with this information.

(13) Respondent shall cease or limit Respondent's practice of the profession if the PHMP case manager directs that Respondent do so.

EVALUATION - TREATMENT

(14) As requested by the PHMP, Respondent shall have forwarded to the PHMP, a written mental and/or physical evaluation by a provider approved by the PHMP (hereinafter "treatment provider") assessing Respondent's fitness to actively practice the profession. Unless otherwise directed by PHMP, the evaluation shall be forwarded to:

Professional Health Monitoring Programs Disciplinary Monitoring Unit P.O. Box 10569 Harrisburg, PA 17105-0569 Tele (717)783-4857 or in PA (800)554-3428

If the treatment provider determines that Respondent is not fit to practice, Respondent shall immediately cease practicing the profession and not practice until the treatment provider and the PHMP case manager determine that Respondent is fit to resume practice with reasonable skill and safety to patients.

(15) The evaluation described in the previous paragraph is in addition to any other evaluation already provided.

(16) Respondent shall provide copies of any prior evaluations and counseling records and a copy of this agreement to the treatment provider.

(17) Respondent shall authorize, in writing, the PHMP to receive and maintain copies of the written evaluation reports of the treatment provider(s).

(18) If a treatment provider recommends that Respondent obtain treatment, Respondent must fully comply with those recommendations as part of these probationary requirements.

(19) Respondent shall arrange and ensure that written treatment reports from all treatment providers approved by the PHMP are submitted to the PHMP upon request or at least every ninety (90) days after the effective date of this Agreement. The reports shall contain at least the following information:

(i) Verification that the treatment provider has received a copy of this Agreement and understands the conditions of this probation;

(ii) A treatment plan, if developed;

(iii) Progress reports, including information regarding compliance with the treatment plan;

(iv) Physical evaluations, if applicable;

(v) The results of any testing including any testing for therapeutic levels of prescribed medications when deemed appropriate by the treatment provider;

(vi) Modifications in treatment plan, if applicable;

(vii) Administration or prescription of any drugs to Respondent; and

(viii) Discharge summary and continuing care plan at discharge.

(ix) Any change in the treatment provider's assessment of the Respondent's fitness to actively practice the profession.

(20) Respondent shall identify a primary care physician who shall send written notification to the Respondent's PHMP case manager certifying Respondent's health status as requested.

SUPPORT GROUP ATTENDANCE

(21) Respondent shall attend and actively participate in any support group programs recommended by the treatment provider or the PHMP case manager at the frequency recommended by the treatment provider; however, Respondents with a chemical dependency or abuse diagnosis shall attend no less than twice a week.

(22) Respondent shall provide written verification of any and all support group attendance to the PHMP on at least a monthly basis or as otherwise directed by the PHMP.

ABSTENTION

(23) Respondent shall completely abstain from the use of controlled substances, caution legend (prescription) drugs, mood

altering drugs or drugs of abuse **including alcohol in any form**, except under the following conditions:

(i) Respondent is a bona fide patient of a licensed health care practitioner who is aware of Respondent's impairment and participation in the PHMP;

(ii) Such medications are lawfully prescribed by Respondent's treating practitioner and approved by the PHMP case manager;

(iii) **Upon receiving the medication**, Respondent must provide to the PHMP, **within forty-eight (48) hours by telephone and within five (5) days in writing**, the name of the practitioner prescribing the drug, the illness or medical condition diagnosed, the type, strength, amount and dosage of the medication and a signed statement consenting to the release of medical information from the prescribing practitioner to the PHMP or its designated representative for the purpose of verification; and

(iv) **Upon refilling a medication**, Respondent must provide to the PHMP, **within forty-eight (48) hours by telephone and within five (5) days in writing**, the name of the practitioner prescribing the drug, the illness or medical condition diagnosed, the type, strength, amount and dosage of the medication and a signed statement consenting to the

release of medical information from the prescribing practitioner to the PHMP or its designated representative for the purpose of verification.

DRUG TESTING

(24) Respondent shall submit to random unannounced and observed drug and alcohol tests (drug testing), inclusive of bodily fluid, breath analysis, hair analysis, or another procedure as selected by the PHMP, for the detection of substances prohibited under this Agreement as recommended by the treatment provider and as directed by the PHMP. A positive, adulterated or substituted result on a drug test shall constitute an irrefutable violation of this Agreement unless Respondent has complied with the provisions of this Agreement pertaining to the use of drugs. Failure to provide a specimen or a specimen of sufficient quantity for testing when requested will be considered a violation of this Agreement.

(25) Respondent shall avoid all foods that contain poppy seeds. Ingestion of poppy seeds will not be accepted as a valid explanation for a positive screen.

(26) Respondent shall avoid all substances containing alcohol, including alcohol in food or beverages, medications, chemical solutions, cleaning solutions, gasoline, hand sanitizers, or other skin preparations. Incidental use of alcohol will not be accepted as a valid explanation for a positive drug test unless

Respondent has complied with the provisions of this Agreement pertaining to the use of drugs as set forth in the Abstention Section above.

MONITORED PRACTICE

(27) Respondent shall not practice the profession unless a provider approved by the PHMP approves the practice in writing and the PHMP Case Manager gives written permission to practice.

(28) When permitted to return to practice, Respondent shall not do any of the following unless Respondent first obtains specific written approval from the PHMP Case Manager:

(i) practice in any capacity that involves the administration of controlled substances;

(ii) function as a supervisor;

(iii) practice in a private practice setting;

(iv) practice in an emergency room, operating room, intensive care unit, cardiac catheterization laboratory, or coronary care unit; or

(v) practice as an agency nurse.

(29) Respondent may not work in any practice setting, including attendance at any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice nursing without direct supervision.

(30) Direct supervision is the physical presence of the supervisor on the premises so that the supervisor is immediately available to the Respondent being supervised when needed.

(31) If Respondent is practicing or attending any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice nursing, Respondent shall give any employer, supervisor, preceptor, or instructor (hereinafter referred to collectively as "supervisor") a copy of this Agreement within five (5) days of the effective date of this Agreement.

(32) Respondent shall give any prospective employer and supervisor a copy of this Agreement when applying for employment in the practice of the profession and to any prospective school/program when applying for any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice nursing.

(33) Within five (5) days of the effective date of this Agreement, and by telephone within forty-eight (48) hours and in writing within five (5) days upon obtaining employment, or entering an educational program/course that includes a clinical practice component with patients and/or requires a current license to practice, Respondent shall provide the following to PHMP:

(i) Name and address of the supervisor responsible for Respondent's practice;

(ii) The name(s) and address(es) of the place(s) at which Respondent will practice the profession and a description of Respondent's duties and responsibilities at such places of practice; and

(iii) Any restrictions on Respondent's practice.

(34) Respondent shall ensure that Respondent's supervisor submits to the PHMP the following information in writing:

(i) Verification that the supervisor has received a copy of this Agreement and understand the conditions of this probation;

(ii) An evaluation of Respondent's work performance on a ninety (90) day or more frequent basis as requested by the PHMP; and

(iii) Immediate notification of any suspected violation of this probation by Respondent.

REPORTING/RELEASES

(35) Respondent, Respondent's treatment providers, supervisors, employers or other persons required to submit reports under this Agreement shall cause such reports, data or other information to be filed with the PHMP, unless otherwise directed, at:

Professional Health Monitoring Programs
Disciplinary Monitoring Unit
P.O. Box 10569
Harrisburg, PA 17105-0569
Tele (717)783-4857 or in PA (800)554-3428

(36) Respondent consents to the release by the PHMP of any information or data produced as a result of this probation, including written treatment provider evaluations, to any treatment provider, supervisor, Commonwealth's attorney, hearing examiner and Board members in the administration and enforcement of this Agreement.

(37) Respondent shall sign any required waivers or release forms requested by the PHMP for any and all records, including medical or other health related and psychological records, pertaining to treatment and monitoring rendered to Respondent during this probation and any corresponding criminal probation, and any employment, personnel, peer review or review records pertaining to Respondent's practice of the profession during this probation to be released to the PHMP, the Commonwealth's attorney, hearing examiner and Board members in the administration and enforcement of this Agreement.

COSTS

(38) Respondent shall be responsible for all costs incurred in complying with the terms of this Agreement, including but not limited to psychiatric or psychotherapy treatments, and reproduction

of treatment or other records. Respondent shall pay the costs for any drug testing and any subsequent reanalysis of specimens required by the PHMP. Failure of Respondent to pay any of these costs in a timely manner shall constitute a violation of this Agreement.

BUREAU/PHMP EVALUATIONS

(39) Upon request of the PHMP, Respondent shall submit to mental or physical evaluations, examinations or interviews by a treatment provider approved by the PHMP or the PHMP. Respondent's failure to submit to such an examination, evaluation or interview when directed shall constitute a violation of this Agreement.

VIOLATION OF THIS ORDER

m. Notification of a violation of the terms or conditions of this Agreement shall result in the **IMMEDIATE VACATING** of the stay order, **TERMINATION** of the period of probation, and **ACTIVATION** of the suspension in paragraph 5.c above of Respondent's authorizations to practice the profession in the Commonwealth of Pennsylvania as follows:

(1) The prosecuting attorney for the Commonwealth shall present to the Board's Probable Cause Screening Committee ("Committee") a Petition that indicates Respondent has violated any terms or conditions of this Agreement.

(2) Upon a probable cause determination by the Committee that Respondent has violated any of the terms or conditions of this

Agreement, the Committee shall, without holding a formal hearing, issue a preliminary order vacating the stay of the within suspension, terminating this probation and activating the suspension of Respondent's authorization(s) to practice the profession.

(3) Respondent shall be notified of the Committee's preliminary order within three (3) business days of its issuance by certified mail and first-class mail, postage prepaid, sent to the Respondent's last registered address on file with the Board, or by personal service if necessary.

(4) Within twenty (20) days of mailing of the preliminary order, Respondent may submit a written answer to the Commonwealth's Petition and request that a formal hearing be held concerning Respondent's violation of probation, in which Respondent may seek relief from the preliminary order activating the suspension. The answer shall be set forth in numbered paragraphs corresponding to the numbered paragraphs of the Petition. Respondent shall admit or deny each of the allegations set forth in the paragraphs in the Petition. Respondent shall mail the original answer and request for hearing, as well as all subsequent filings in the matter, to:

Prothonotary 2601 North Third Street P.O. Box 2649 Harrisburg, PA 17105-2649

Respondent shall also mail a copy of all filings to the prosecuting attorney for the Commonwealth.

(5) If the Respondent submits a timely answer and request for a formal hearing, the Board or a designated hearing examiner shall convene a formal hearing within forty-five (45) days from the date of the Prothonotary's receipt of Respondent's request for a formal hearing.

(6) Respondent's submission of a timely answer and request for a hearing shall not stay the suspension of Respondent's license under the preliminary order. The suspension shall remain in effect unless the Board or the hearing examiner issues an order after the formal hearing staying the suspension again and reactivating the probation.

(7) The facts and averments in this Agreement shall be deemed admitted and uncontested at this hearing.

(8) If the Board or hearing examiner after the formal hearing makes a determination against Respondent, a final order will be issued sustaining the suspension of Respondent's license and imposing any additional disciplinary measures deemed appropriate.

(9) If Respondent fails to timely file an answer and request for a hearing, the Board, upon motion of the prosecuting attorney, shall issue a final order affirming the suspension of Respondent's license.

(10) If Respondent does not make a timely answer and request for a formal hearing and a final order affirming the suspension is issued, or the Board or the hearing examiner makes a determination against Respondent sustaining the suspension of Respondent's license, after at least three (3) years of active suspension and any additional imposed discipline, Respondent may petition the Board for reinstatement based upon an affirmative showing that Respondent has at least thirty-six (36) months of sustained documented recovery, an evaluation by a treatment provider approved by the PHMP that Respondent is fit to safely practice the profession, and verification that Respondent has abided by and obeyed all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions, and all rules and regulations pertaining to the practice of the profession in this Commonwealth.

(11) If the Board issues a Preliminary Order terminating the stay of the suspension and actively suspending Respondent's license to practice the profession in accordance with the procedure set forth above, Respondent shall immediately cease the practice of the profession. Respondent shall continue to comply with all of the terms and conditions of probation in this Consent Agreement and Order during the active suspension until the Board issues a Final Order. Continued failure by Respondent to comply with the

unaffected terms and conditions of probation while awaiting the issuance of a Final Order by the Board may result in further disciplinary action against Respondent.

n. Respondent's failure to fully comply with any terms of this Agreement may also constitute grounds for additional disciplinary action.

o. Nothing in this Agreement shall preclude the prosecuting attorney for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Agreement.

COMPLETION OF PROBATION

p. After successful completion of the minimum period of probation, Respondent may petition the Board, upon a form provided by the PHMP, to reinstate Respondent's authorizations to practice the profession to unrestricted, non-probationary status upon an affirmative showing that Respondent has complied with all terms and conditions of this Agreement and that Respondent's resumption of unsupervised practice does not present a threat to the public health and safety. **Respondent is required to remain in compliance with all terms and conditions of this Agreement until the Board issues the order terminating Respondent's probationary status.**

q. This Order constitutes disciplinary action by the Board and shall be reported to other licensing authorities and any applicable national licensing databank as a disciplinary action by the Board.

r. This case shall be deemed settled and discontinued upon the Board issuing an Order adopting this Consent Agreement and, if applicable, Respondent's successful completion of any ordered Probation and/or Remedial Education terms.

ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS

6. Respondent agrees that if Respondent is charged with a violation of an Act enforced by the Board in the future, this Consent Agreement and Order shall be admitted into evidence without objection in that proceeding.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

7. Respondent waives the filing and receipt of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and knowingly and voluntarily waives the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS

8. Respondent expressly waives any constitutional rights and issues, such as commingling of prosecutorial and adjudicative functions by the Board or its counsel, which may arise or have arisen during the negotiation, preparation and/or presentation of this Consent Agreement. Respondent specifically agrees that if the Board rejects this agreement, it may assume that the facts and averments as alleged in this Consent Agreement are true and correct for the limited purpose of recommending a sanction, based on those assumed facts, that would be acceptable to the Board before hearing the case. In the event that the Board does assume the facts and averments as alleged

in this Consent Agreement are true for purposes of making a recommendation as to an acceptable sanction, such action shall not constitute commingling of prosecutorial and adjudicative functions by the Board or its counsel, and the Respondent expressly waives any constitutional rights and issues related to alleged commingling, bias, or violation of due process rights to have an unbiased and impartial adjudicator in any subsequent hearing. If a hearing is subsequently held, neither this Consent Agreement nor the proposed terms of settlement may be admitted into evidence and any facts, averments, and allegations contained in the Consent Agreement must be proven at hearing unless otherwise separately stipulated. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

NO MODIFICATION OF ORDER

9. Respondent agrees, as a condition of entering into this Agreement, not to seek modification of it at a later date without first obtaining the express written concurrence of the Prosecution Division of the Department of State.

AGREEMENT NOT BINDING ON OTHER PARTIES

10. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Board issues the stipulated Order.

EFFECT OF BOARD'S REJECTION OF CONSENT AGREEMENT

11. Should the Board not approve this Agreement, presentation to and consideration of it by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Agreement.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

12. Respondent acknowledges that he is aware that he has the right to consult with, and/or be represented by, private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement. Respondent has consulted with Attorney Kimberly D. Borland, regarding this Consent Agreement.

ENTIRE AGREEMENT

13. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

AGREEMENT DOES NOT PRECLUDE DISCIPLINE FOR OTHER VIOLATIONS

14. Nothing in this Order shall preclude the Prosecution Division for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Consent Agreement;

EFFECTIVE UPON BOARD APPROVAL

15. This Agreement shall take effect immediately upon its approval and adoption by the Board.

VERIFICATION OF FACTS AND STATEMENTS

16. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent

understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Trise M. Evanchio
Trise M. Evanchio
Prosecuting Attorney

DATED: 11/15/2019

Dale John Kersteen
Dale John Kersteen, R.N.
Respondent

DATED: 11/15/19

Kimberly D. Borland
Kimberly D. Borland
Attorney for Licensee

DATED: 11/15/19

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

PROTHONOTARY
2019 JUN -7 PM 12:10

Department of State

Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs

Case No. 19-51-006161

v.

Dale John Kersteen, R.N.
Respondent

EXHIBIT
A

NOTICE

Formal disciplinary action has been filed against you for violating the terms of probation imposed on you by a prior order of the State Board of Nursing (Board). The attached Preliminary Order has activated the suspension of your license under the terms of the prior Order and you may also be subject to additional action against your license which could result in the suspension, revocation or other limitation of your license, the imposition of civil penalties of up to \$10,000 for each violation of the Professional Nursing Law, act of May 22, 1951, P.L. 317, ("Act"), 63 P.S. §§ 211-226, and/or the Act of July 2, 1993, P.L. 345, No. 48 ("ACT 48"), 63 P.S. §§ 2201-2207, as amended. You may also be subject to the imposition of costs of investigation.

If you wish to defend against the charges in the attached Petition for Appropriate Relief or to present evidence to mitigate any penalty that may be imposed, the procedures for doing so are explained in the Preliminary Order attached to the Petition for Appropriate Relief.

You have the right to retain an attorney. Although you may represent yourself without an attorney, you are advised to seek the help of an attorney. You also have the right to have an interpreter provided should you request one.

All proceedings are conducted under the Administrative Agency Law and the General Rules of Administrative Practice and Procedures.

You are directed to file a written answer to the Petition for Appropriate Relief within TWENTY (20) days of the mailing date of the Preliminary Order. IF YOU DO NOT FILE A WRITTEN ANSWER, AN ORDER MAKING THE PRELIMINARY ORDER FINAL MAY BE ENTERED AGAINST YOU WITHOUT A HEARING. To file your written answer, you must bring or send an original and three (3) copies of your written answer and any pleadings or other documents related to this matter to the following address:

Prothonotary
Bureau of Professional and Occupational Affairs
2601 North Third Street
P.O. Box 2649
Harrisburg, PA 17105

You must also send a separate copy of your written answer and any other pleadings or documents related to this case to the prosecuting attorney named in the Petition for Appropriate Relief.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

PROCESSION
JUN -7 PM 12:10
RECEIVED

Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs

Case No. 19-51-006161

v.

Dale John Kersteen, R.N.
Respondent

PETITION FOR APPROPRIATE RELIEF

NOW COMES the Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth"), by and through its Prosecuting Attorney, Trese M. Evancho, and files the within Petition for Appropriate Relief and in support, avers as follows:

1. At all relevant and material times, Dale John Kersteen, R.N. ("Respondent") held a license to practice as a registered nurse in the Commonwealth of Pennsylvania, license no. RN596079.
2. Respondent's license was originally issued on July 21, 2008; expired on October 31, 2017, and absent further Board action, may be renewed, reactivated or reinstated thereafter upon the filing of the appropriate documentation and payment of the necessary fees.
3. Respondent's last known address on file with the Board is 189 River St, Forty Fort, PA 18704.
4. Respondent's current address is 8334 Green Street, New Orleans, LA 70118.
5. On January 18, 2019, at Commonwealth of Pennsylvania, Bureau of Professional and Occupational Affairs v. Dale John Kersteen, R.N., Case number 18-51-012438, the Board adopted

the terms of a Consent Agreement which, among other things, found Respondent to have violated Section 14(a)(2) of the Act, 63 P.S. § 224(a)(2), because the Board found that Respondent is unable to practice professional nursing with reasonable skill and safety by reason of mental or physical illness or condition or dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination. A true and correct copy of the Consent Agreement and Order is incorporated as **Exhibit A**.

6. The Consent Agreement and Order, at paragraph 5.d (beginning on page 5 of the Order) further provides that Respondent's license shall be suspended under the terms of the Agreement, but the enforcement of that suspension shall be stayed for the length of time Respondent remains in an approved treatment and monitoring program and makes satisfactory progress, complies with the other terms of the Order and adheres to all conditions as set forth in the Order.

7. Respondent violated the terms of the Consent Agreement and Order as follows:

a. Respondent failed to submit to drug testing as required on March 7, 2019. (Consent Agreement and Order at paragraph(s) 5.d(24))

b. Respondent failed to completely abstain from the use of controlled substances, caution legend (prescription) drugs, mood altering drugs or drugs of abuse, including alcohol in any form, in that Respondent submitted to a scheduled drug screen and tested positive for Ethylglucuronide and Ethylsulfate on March 25, 2019. (Consent Agreement and Order at paragraph(s) 5.d(23) & (24))

c. Respondent failed to completely abstain from the use of controlled substances, caution legend (prescription) drugs, mood altering drugs or drugs of abuse, including alcohol in any form, in that Respondent submitted to a scheduled

drug screen and tested positive for Phosphatidylethanol on April 2, 2019. (Consent Agreement and Order at paragraph(s) 5.d(23) & (24))

d. Respondent admitted to consuming alcohol prior to the drug testing of March 25, 2019 and April 2, 2019. (Consent Agreement and Order at paragraph(s) 5.d(23))

e. Respondent has failed to fully and completely comply and cooperate with the PHMP in their monitoring of Respondent's impairment under the Agreement and Order by failing to submit to drug testing as required, failing to abstain from prohibited substances and failing to complete and return enrollment paperwork as requested by the PHMP. (Consent Agreement and Order at paragraph(s) 5.d(2) & (4))

8. Paragraph 5.e of the Consent Agreement and Order states that notification of a violation of the terms or conditions of the Order shall result in the IMMEDIATE VACATING of the stay order, TERMINATION of the period of probation, and ACTIVATION of the entire period of suspension of Respondent's license to practice as a Registered Nurse in the Commonwealth of Pennsylvania, subject to the procedure set forth in that sub-paragraph.

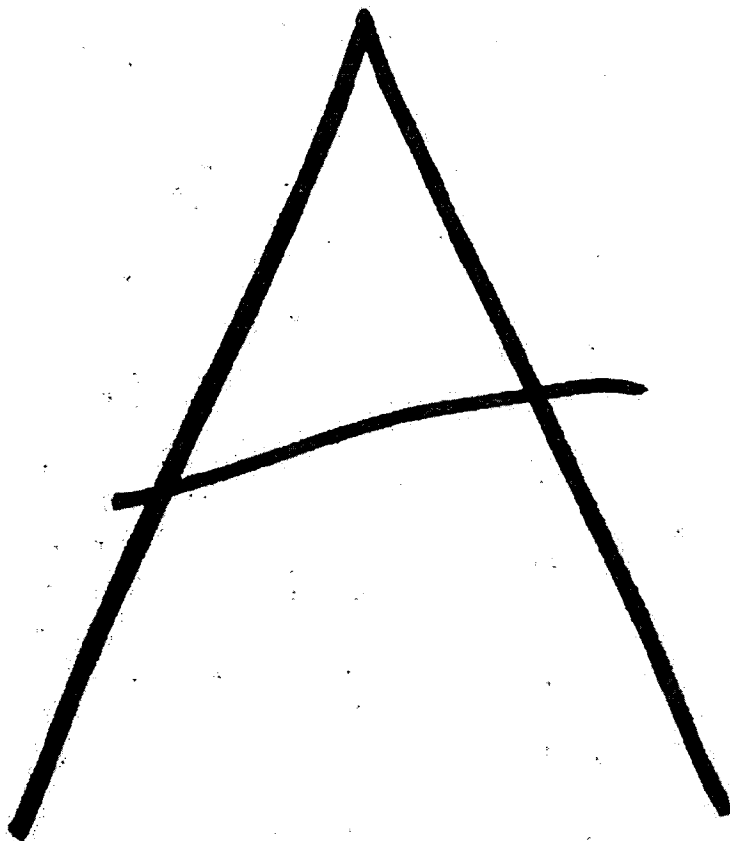
WHEREFORE, pursuant to the procedure set forth in PARAGRAPH 5.e of the Consent Agreement and Order, the Commonwealth respectfully requests that the Board: (1) make a probable cause determination that Respondent violated the terms and conditions of the Order; (2) issue a Preliminary Order VACATING its previous Order staying the suspension in this matter, TERMINATING the period of probation and ACTIVELY SUSPENDING Respondent's license to practice as a Registered Nurse, license number RN596079, along with any other licenses, registrations, certificates, approvals, authorizations, or permits issued to Respondent by the Board;

(3) notify Respondent of the Preliminary Order and suspension, and; (4) take such other action as the Board deems appropriate.

Respectfully submitted,

Trese M. Evancho
Trese M. Evancho
Prosecuting Attorney
Commonwealth of Pennsylvania
Department of State

DATE: May 30, 2019



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

PROTHONOTARY

2019 JAN 23 AM 11:48

Department of State

Commonwealth of Pennsylvania,
Bureau of Professional and Occupational
Affairs

Case No: 18-51-012438

v.

Dale John Kersteen, R.N.,
Respondent

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and Dale John Kersteen, R.N. ("Respondent") stipulate as follows in settlement of the above-captioned case.

APPLICABLE LAW

1. This matter is before the State Board of Nursing ("Board") pursuant to the Professional Nursing Law, Act of May 22, 1951, P.L. 317, ("Act"), as amended, 63 P.S. §§ 211-226; the Criminal History Record Information Act, Act of July 16, 1979, P.L. 116, No. 47, as amended ("CHRIA"), 18 Pa. C.S. §§ 9101 - 9183; The Controlled Substance, Drug, Device and Cosmetic Act (Drug Act), 35 P.S. § 780-101, *et seq.*; and/or the Act of July 2, 1993, P.L. 345, No. 48 ("ACT 48"), as amended, 63 P.S. §§ 2201-2207.

LICENSURE STATUS

2. At all relevant and material times, Respondent held a license to practice as a registered nurse in the Commonwealth of Pennsylvania, license no. RN596079, which was originally issued on July 21, 2008, and expired on October 31, 2017.

STIPULATED FACTS

3. Respondent admits that the following allegations are true:

a. Absent further Board action, Respondent's license may be continually renewed, reactivated, or reinstated upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's address on file with the Board is 189 River Street, Forty Fort, PA 18704.

c. The Commonwealth has reason to believe that Respondent currently resides at 8334 Green Street, New Orleans, LA 70118.

d. On or about June 21, 2018, at File Number 17-51-06930, the Board entered a Final Adjudication and Order, indefinitely suspending Respondent's license until such time as he demonstrates that he can resume the practice of professional nursing with reasonable skill and safety to patients and assessing \$1,200 in costs of investigation.

e. On or about November 5, 2018, Respondent sent a letter to the Commonwealth alleging that he had not received any documentation sent to him regarding file 17-51-06930 and requesting a reinstatement of his nursing license.

f. On or about October 31, 2018, Respondent entered a guilty plea to Intentional Possession of a Controlled Substance by Person Not Registered, in violation of Section 13(a)(16), 35 P.S. § 780-113(a)(16), of The Controlled Substance, Drug, Device and Cosmetic Act, a misdemeanor.

g. On or about November 1, 2017, Respondent received Probation Without Verdict in resolution of the criminal matter.

h. Section 123(c) of the Drug Act, 35 P.S. §780-123(c), provides in pertinent part:

The appropriate licensing boards in the Department of State shall automatically suspend, for a period of not to exceed one year, the registration or license of any practitioner when the person has pleaded guilty or nolo contendere or has been convicted of a misdemeanor under this act...However, the provisions of such automatic suspension may be stayed by the appropriate State licensing board in those cases where a practitioner has violated the provisions of this act only for personal use of controlled substances by the practitioner and the practitioner participates in the impaired professional program...

i. Respondent's violation of the Drug Act was for personal use of a controlled substance.

j. Respondent suffers from Opioid Use Disorder, severe, and is willing to enroll in the Professional Health Monitoring Program's Disciplinary Monitoring Unit.

k. Respondent's actions that resulted in the criminal matter set forth above were the result of his chemical dependency.

l. This Consent Agreement and Order supersedes any disciplinary action and or discipline imposed by the Board under file number 17-51-06930.

m. This Consent Agreement and Order imposes the costs of investigation of \$1,200.00 that was previously imposed under file number 17-51-06930.

ALLEGED VIOLATION OF ACT

4. The Commonwealth alleges that, based upon the factual allegations in paragraph 3 above, the Board shall automatically suspend Respondent's license under Section 123(c) of the Drug Act, 35 P.S. §780-123(c), in that Respondent has been convicted of a misdemeanor under the Drug Act and is authorized to suspend or revoke, or otherwise restrict Respondent's license, or impose a civil penalty under Section 13(b) of the Act, 63 P.S. § 223(b), Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b), and Section 14(a)(2) of the Act, 63 P.S. §224(a)(2), in that Respondent is unable to practice the profession with reasonable skill and safety to patients by reason of mental or physical illness or condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination.

PROPOSED ORDER

5. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of this matter:

a. The Board automatically suspends Respondent's license under Section 123(c) of the Drug Act, 35 P.S. §780-123(c), not to exceed one year, because Respondent has been convicted of a misdemeanor under the Drug Act, and the Board finds that it is authorized to suspend, revoke or otherwise restrict Respondent's authorizations to practice the profession under Section 14(a)(2) of the Act, 63 P.S. §224(a)(2) in that Respondent is unable to practice the profession with reasonable skill and safety to patients by reason of mental or physical illness or condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination (hereinafter "impairment").

b. For purposes of this Agreement and Order, the terms "*practice*", "*practice of the profession*," and "*practice the profession*" shall include any and all activities requiring a license, registration, certificate, approval, authorization, or permit from the Board to perform. It also includes attendance at any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice the profession.

COSTS OF INVESTIGATION

c. An assessment for the **COSTS OF INVESTIGATION** of one thousand two hundred dollars (\$1,200.00) is levied upon Respondent. Respondent shall tender the full sum of one thousand two hundred dollars (\$1,200.00) with this executed Consent Agreement and shall be paid by certified check, cashier's check, attorney's check, or money order issued by a usual, customary, and reputable issuer (e.g. U.S. Postal Money Order, Western Union Money Order, etc.). Payment shall be valid for a period of at least 180 days and shall be made payable to the "Commonwealth of Pennsylvania." Respondent agrees that payment shall only be made by one of the methods indicated above and shall not be made by uncertified personal or corporate check.

SUSPENSION STAYED IN FAVOR OF PROBATION

d. Respondent's license, No. RN596079, along with any other authorizations to practice the profession held by Respondent at the time this Agreement is adopted by the Board, shall be **AUTOMATICALLY SUSPENDED** for one (1) year and **INDEFINITELY SUSPENDED** for no less than three (3) years to run concurrently, with such suspensions to be immediately **STAYED** in

favor of no less than three (3) years of PROBATION, subject to the following terms and conditions:

GENERAL

(1) Within ten (10) days of the approval of this Agreement by the Board, Respondent shall contact the Bureau of Professional and Occupational Affairs, Professional Health Monitoring Programs ("PHMP"), Disciplinary Monitoring Unit ("DMU") to begin monitoring. PHMP's DMU contact information is:

Professional Health Monitoring Programs
Disciplinary Monitoring Unit
P.O. Box 10569
Harrisburg, PA 17105-0569
Tele (717)783-4857 or in PA (800)554-3428

(2) Respondent shall fully and completely comply and cooperate with the PHMP and its agents and employees in their monitoring of Respondent's impairment under this Agreement.

(3) Respondent shall abide by and obey all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions and all rules and regulations and laws pertaining to the practice of the profession in this Commonwealth or any other state or jurisdiction in which Respondent holds an authorization to practice the profession. Summary traffic violations shall not constitute a violation of this Agreement; however, a violation of any conditions of a criminal probation and/or parole is a violation of this Agreement.

(4) Respondent shall at all times cooperate and comply with the PHMP and its agents and employees in the monitoring, supervision and investigation of Respondent's compliance with the terms and conditions of this Agreement. Respondent shall cooperate and comply with any requests for written reports, records or verifications of actions that may be required by the PHMP; the requested shall be obtained and submitted at Respondent's expense.

(5) Respondent's failure to fully cooperate and comply with the PHMP shall be deemed a violation of this Agreement.

(6) Upon request of the PHMP case manager, Respondent shall enroll in a peer assistance program, when available, including, but not limited to, Physician's Health Program ("PHP"), Secundum Artem Reaching Pharmacists with Help ("SARPH"), and Pennsylvania Nurse Peer Assistance Program ("PNAP"), and shall fully and completely comply with all of the terms and conditions of Respondent's agreement with the peer assistance program. Respondent's failure to fully and completely comply with Respondent's agreement with the peer assistance program shall constitute a violation of this Agreement.

(7) Respondent shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Agreement.

(8) Respondent may not be absent from the Commonwealth of Pennsylvania for any period exceeding twenty (20) days unless Respondent seeks and receives prior written permission from the PHMP subject to any additional terms and conditions required by the PHMP.

(9) Respondent may not engage in the practice of the profession in any other state or jurisdiction without first obtaining written permission from the PHMP. Once written permission is granted by the PHMP, Respondent shall notify the licensing Board of the other state or jurisdiction that Respondent suffers from an impairment and is enrolled in the DMU prior to engaging in the practice of the profession in the other state or jurisdiction.

(10) In the event Respondent relocates to another jurisdiction, within five (5) days of relocating, Respondent shall either enroll in the other jurisdiction's impaired professional program and have the reports required under this Agreement sent to the Pennsylvania PHMP, or if the other jurisdiction has no impaired professional program, notify the licensing board of the other jurisdiction that Respondent is impaired and enrolled in this Program. In the event Respondent fails to do so, in addition to being in violation of this Agreement, the periods of suspension and probation herein shall be tolled. It is a violation of this Agreement

if Respondent violates and/or fails to fully and completely comply with the impaired professional program in another jurisdiction.

(11) Respondent shall notify the PHMP by telephone within forty-eight (48) hours and in writing within five (5) days of the filing of any criminal charges against Respondent; the final disposition of any criminal charges against Respondent; the violation of any terms and conditions of a criminal probation or parole; the initiation of any legal action pertaining to Respondent's practice of the profession; the initiation of charges, action, restriction or limitation related to Respondent's practice of the profession by a professional licensing authority of any state or jurisdiction or the Drug Enforcement Agency of the United States Department of Justice; or any investigation, action, restriction or limitation related to Respondent's privileges to practice the profession at any health care facility.

(12) Respondent shall notify the PHMP by telephone within forty-eight (48) hours and in writing within five (5) days of any change of Respondent's home address, phone number, employment status, employer and/or change in practice at a health care facility. Failure to timely advise the PHMP under this subsection due to the PHMP office being closed is not an excuse for not leaving a voice mail message with this information.

(13) Respondent shall cease or limit Respondent's practice of the profession if the PHMP case manager directs that Respondent do so.

EVALUATION - TREATMENT

(14) As requested by the PHMP, Respondent shall have forwarded to the PHMP, a written mental and/or physical evaluation by a provider approved by the PHMP (hereinafter "treatment provider") assessing Respondent's fitness to actively practice the profession. Unless otherwise directed by PHMP, the evaluation shall be forwarded to:

Professional Health Monitoring Programs
Disciplinary Monitoring Unit
P.O. Box 10569
Harrisburg, PA 17105-0569
Tele (717)783-4857 or in PA (800)554-3428

If the treatment provider determines that Respondent is not fit to practice, Respondent shall immediately cease practicing the profession and not practice until the treatment provider and the PHMP case manager determine that Respondent is fit to resume practice with reasonable skill and safety to patients.

(15) The evaluation described in the previous paragraph is in addition to any other evaluation already provided.

(16) Respondent shall provide copies of any prior evaluations and counseling records and a copy of this agreement to the treatment provider.

(17) Respondent shall authorize, in writing, the PHMP to receive and maintain copies of the written evaluation reports of the treatment provider(s).

(18) If a treatment provider recommends that Respondent obtain treatment, Respondent must fully comply with those recommendations as part of these probationary requirements.

(19) Respondent shall arrange and ensure that written treatment reports from all treatment providers approved by the PHMP are submitted to the PHMP upon request or at least every ninety (90) days after the effective date of this Agreement. The reports shall contain at least the following information:

(i) Verification that the treatment provider has received a copy of this Agreement and understands the conditions of this probation;

(ii) A treatment plan, if developed;

(iii) Progress reports, including information regarding compliance with the treatment plan;

(iv) Physical evaluations, if applicable;

(v) The results of any testing including any testing for therapeutic levels of prescribed medications when deemed appropriate by the treatment provider;

(vi) Modifications in treatment plan, if applicable;

(vii) Administration or prescription of any drugs to Respondent; and

(viii) Discharge summary and continuing care plan at discharge.

(ix) Any change in the treatment provider's assessment of the Respondent's fitness to actively practice the profession.

(20) Respondent shall identify a primary care physician who shall send written notification to the Respondent's PHMP case manager certifying Respondent's health status as requested.

SUPPORT GROUP ATTENDANCE

(21) Respondent shall attend and actively participate in any support group programs recommended by the treatment provider or the PHMP case manager at the frequency recommended by the treatment provider; however, Respondents with a chemical dependency or abuse diagnosis shall attend no less than twice a week.

(22) Respondent shall provide written verification of any and all support group attendance to the PHMP on at least a monthly basis or as otherwise directed by the PHMP.

ABSTENTION

(23) Respondent shall completely abstain from the use of controlled substances, caution legend (prescription) drugs, mood

altering drugs or drugs of abuse including alcohol in any form, except under the following conditions:

(i) Respondent is a bona fide patient of a licensed health care practitioner who is aware of Respondent's impairment and participation in the PHMP;

(ii) Such medications are lawfully prescribed by Respondent's treating practitioner and approved by the PHMP case manager;

(iii) Upon receiving the medication, Respondent must provide to the PHMP, within forty-eight (48) hours by telephone and within five (5) days in writing, the name of the practitioner prescribing the drug, the illness or medical condition diagnosed, the type, strength, amount and dosage of the medication and a signed statement consenting to the release of medical information from the prescribing practitioner to the PHMP or its designated representative for the purpose of verification; and

(iv) Upon refilling a medication, Respondent must provide to the PHMP, within forty-eight (48) hours by telephone and within five (5) days in writing, the name of the practitioner prescribing the drug, the illness or medical condition diagnosed, the type, strength, amount and dosage of the medication and a signed statement consenting to the

release of medical information from the prescribing practitioner to the PHMP or its designated representative for the purpose of verification.

DRUG TESTING

(24) Respondent shall submit to random unannounced and observed drug and alcohol tests (drug testing), inclusive of bodily fluid, breath analysis, hair analysis, or another procedure as selected by the PHMP, for the detection of substances prohibited under this Agreement as recommended by the treatment provider and as directed by the PHMP. A positive, adulterated or substituted result on a drug test shall constitute an irrefutable violation of this Agreement unless Respondent has complied with the provisions of this Agreement pertaining to the use of drugs. Failure to provide a specimen or a specimen of sufficient quantity for testing when requested will be considered a violation of this Agreement.

(25) Respondent shall avoid all foods that contain poppy seeds. Ingestion of poppy seeds will not be accepted as a valid explanation for a positive screen.

(26) Respondent shall avoid all substances containing alcohol, including alcohol in food or beverages, medications, chemical solutions, cleaning solutions, gasoline, hand sanitizers, or other skin preparations. Incidental use of alcohol will not be accepted as a valid explanation for a positive drug test unless

Respondent has complied with the provisions of this Agreement pertaining to the use of drugs as set forth in the Abstinence Section above.

MONITORED PRACTICE

(27) Respondent shall not practice the profession unless a provider approved by the PHMP approves the practice in writing and the PHMP Case Manager gives written permission to practice.

(28) When permitted to return to practice, Respondent shall not do any of the following unless Respondent first obtains specific written approval from the PHMP Case Manager:

(i) practice in any capacity that involves the administration of controlled substances;

(ii) function as a supervisor;

(iii) practice in a private practice setting;

(iv) practice in an emergency room, operating room, intensive care unit, cardiac catheterization laboratory, or coronary care unit; or

(v) practice as an agency nurse.

(29) Respondent may not work in any practice setting, including attendance at any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice nursing without direct supervision.

(30) Direct supervision is the physical presence of the supervisor on the premises so that the supervisor is immediately available to the Respondent being supervised when needed.

(31) If Respondent is practicing or attending any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice nursing, Respondent shall give any employer, supervisor, preceptor, or instructor (hereinafter referred to collectively as "supervisor") a copy of this Agreement within five (5) days of the effective date of this Agreement.

(32) Respondent shall give any prospective employer and supervisor a copy of this Agreement when applying for employment in the practice of the profession and to any prospective school/program when applying for any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice nursing.

(33) Within five (5) days of the effective date of this Agreement, and by telephone within forty-eight (48) hours and in writing within five (5) days upon obtaining employment, or entering an educational program/course that includes a clinical practice component with patients and/or requires a current license to practice, Respondent shall provide the following to PHMP:

(i) Name and address of the supervisor responsible for Respondent's practice;

(ii) The name(s) and address(es) of the place(s) at which Respondent will practice the profession and a description of Respondent's duties and responsibilities at such places of practice; and

(iii) Any restrictions on Respondent's practice.

(34) Respondent shall ensure that Respondent's supervisor submits to the PHMP the following information in writing:

(i) Verification that the supervisor has received a copy of this Agreement and understand the conditions of this probation;

(ii) An evaluation of Respondent's work performance on a ninety (90) day or more frequent basis as requested by the PHMP; and

(iii) Immediate notification of any suspected violation of this probation by Respondent.

REPORTING/RELEASES

(35) Respondent, Respondent's treatment providers, supervisors, employers or other persons required to submit reports under this Agreement shall cause such reports, data or other information to be filed with the PHMP, unless otherwise directed, at:

Professional Health Monitoring Programs
Disciplinary Monitoring Unit
P.O. Box 10569
Harrisburg, PA 17105-0569
Tele (717)783-4857 or in PA (800)554-3428

(36) Respondent consents to the release by the PHMP of any information or data produced as a result of this probation, including written treatment provider evaluations, to any treatment provider, supervisor, Commonwealth's attorney, hearing examiner and Board members in the administration and enforcement of this Agreement.

(37) Respondent shall sign any required waivers or release forms requested by the PHMP for any and all records, including medical or other health related and psychological records, pertaining to treatment and monitoring rendered to Respondent during this probation and any corresponding criminal probation, and any employment, personnel, peer review or review records pertaining to Respondent's practice of the profession during this probation to be released to the PHMP, the Commonwealth's attorney, hearing examiner and Board members in the administration and enforcement of this Agreement.

COSTS

(38) Respondent shall be responsible for all costs incurred in complying with the terms of this Agreement, including but not limited to psychiatric or psychotherapy treatments, and reproduction

of treatment or other records. Respondent shall pay the costs for any drug testing and any subsequent reanalysis of specimens required by the PHMP. Failure of Respondent to pay any of these costs in a timely manner shall constitute a violation of this Agreement.

BUREAU/PHMP EVALUATIONS

(39) Upon request of the PHMP, Respondent shall submit to mental or physical evaluations, examinations or interviews by a treatment provider approved by the PHMP or the PHMP. Respondent's failure to submit to such an examination, evaluation or interview when directed shall constitute a violation of this Agreement.

VIOLATION OF THIS ORDER

e. Notification of a violation of the terms or conditions of this Agreement shall result in the **IMMEDIATE VACATING** of the stay order, **TERMINATION** of the period of probation, and **ACTIVATION** of the suspension in paragraph 5.c above of Respondent's authorizations to practice the profession in the Commonwealth of Pennsylvania as follows:

(1) The prosecuting attorney for the Commonwealth shall present to the Board's Probable Cause Screening Committee ("Committee") a Petition that indicates Respondent has violated any terms or conditions of this Agreement.

(2) Upon a probable cause determination by the Committee that Respondent has violated any of the terms or conditions of this

Agreement, the Committee shall, without holding a formal hearing, issue a preliminary order vacating the stay of the within suspension, terminating this probation and activating the suspension of Respondent's authorization(s) to practice the profession.

(3) Respondent shall be notified of the Committee's preliminary order within three (3) business days of its issuance by certified mail and first-class mail, postage prepaid, sent to the Respondent's last registered address on file with the Board, or by personal service if necessary.

(4) Within twenty (20) days of mailing of the preliminary order, Respondent may submit a written answer to the Commonwealth's Petition and request that a formal hearing be held concerning Respondent's violation of probation, in which Respondent may seek relief from the preliminary order activating the suspension. The answer shall be set forth in numbered paragraphs corresponding to the numbered paragraphs of the Petition. Respondent shall admit or deny each of the allegations set forth in the paragraphs in the Petition. Respondent shall mail the original answer and request for hearing, as well as all subsequent filings in the matter, to:

Prothonotary 2601 North Third Street P.O. Box 2649 Harrisburg, PA 17105-2649

Respondent shall also mail a copy of all filings to the prosecuting attorney for the Commonwealth.

(5) If the Respondent submits a timely answer and request for a formal hearing, the Board or a designated hearing examiner shall convene a formal hearing within forty-five (45) days from the date of the Prothonotary's receipt of Respondent's request for a formal hearing.

(6) Respondent's submission of a timely answer and request for a hearing shall not stay the suspension of Respondent's license under the preliminary order. The suspension shall remain in effect unless the Board or the hearing examiner issues an order after the formal hearing staying the suspension again and reactivating the probation.

(7) The facts and averments in this Agreement shall be deemed admitted and uncontested at this hearing.

(8) If the Board or hearing examiner after the formal hearing makes a determination against Respondent, a final order will be issued sustaining the suspension of Respondent's license and imposing any additional disciplinary measures deemed appropriate.

(9) If Respondent fails to timely file an answer and request for a hearing, the Board, upon motion of the prosecuting attorney, shall issue a final order affirming the suspension of Respondent's license.

(10) If Respondent does not make a timely answer and request for a formal hearing and a final order affirming the suspension is issued, or the Board or the hearing examiner makes a determination against Respondent sustaining the suspension of Respondent's license, after at least three (3) years of active suspension and any additional imposed discipline, Respondent may petition the Board for reinstatement based upon an affirmative showing that Respondent has at least thirty-six (36) months of sustained documented recovery, an evaluation by a treatment provider approved by the PHMP that Respondent is fit to safely practice the profession, and verification that Respondent has abided by and obeyed all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions, and all rules and regulations pertaining to the practice of the profession in this Commonwealth.

(11) If the Board issues a Preliminary Order terminating the stay of the suspension and actively suspending Respondent's license to practice the profession in accordance with the procedure set forth above, Respondent shall immediately cease the practice of the profession. Respondent shall continue to comply with all of the terms and conditions of probation in this Consent Agreement and Order during the active suspension until the Board issues a Final Order. Continued failure by Respondent to comply with the

unaffected terms and conditions of probation while awaiting the issuance of a Final Order by the Board may result in further disciplinary action against Respondent.

f. Respondent's failure to fully comply with any terms of this Agreement may also constitute grounds for additional disciplinary action.

g. Nothing in this Agreement shall preclude the prosecuting attorney for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Agreement.

COMPLETION OF PROBATION

h. After successful completion of the minimum period of probation, Respondent may petition the Board, upon a form provided by the PHMP, to reinstate Respondent's authorizations to practice the profession to unrestricted, non-probationary status upon an affirmative showing that Respondent has complied with all terms and conditions of this Agreement and that Respondent's resumption of unsupervised practice does not present a threat to the public health and safety. Respondent is required to remain in compliance with all terms and conditions of this Agreement until the Board issues the order terminating Respondent's probationary status.

i. This Order constitutes disciplinary action by the Board and shall be reported to other licensing authorities and any applicable national licensing databank as a disciplinary action by the Board.

j. This case shall be deemed settled and discontinued upon the Board issuing an Order adopting this Consent Agreement and, if applicable, Respondent's successful completion of any ordered Probation and/or Remedial Education terms.

ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS

6. Respondent agrees that if Respondent is charged with a violation of an Act enforced by the Board in the future, this Consent Agreement and Order shall be admitted into evidence without objection in that proceeding.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

7. Respondent waives the filing and receipt of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and knowingly and voluntarily waives the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS

8. Respondent expressly waives any constitutional rights and issues, such as commingling of prosecutorial and adjudicative functions by the Board or its counsel, which may arise or have arisen during the negotiation, preparation and/or presentation of this Consent Agreement. Respondent specifically agrees that if the Board rejects this agreement, it may assume that the facts and averments as alleged in this Consent Agreement are true and correct for the limited purpose of recommending a sanction, based on those assumed facts, that would be acceptable to the Board before hearing the case. In the event that the Board does assume the facts and averments as alleged

in this Consent Agreement are true for purposes of making a recommendation as to an acceptable sanction, such action shall not constitute commingling of prosecutorial and adjudicative functions by the Board or its counsel, and the Respondent expressly waives any constitutional rights and issues related to alleged commingling, bias, or violation of due process rights to have an unbiased and impartial adjudicator in any subsequent hearing. If a hearing is subsequently held, neither this Consent Agreement nor the proposed terms of settlement may be admitted into evidence and any facts, averments, and allegations contained in the Consent Agreement must be proven at hearing unless otherwise separately stipulated. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

NO MODIFICATION OF ORDER

9. Respondent agrees, as a condition of entering into this Agreement, not to seek modification of it at a later date without first obtaining the express written concurrence of the Prosecution Division of the Department of State.

AGREEMENT NOT BINDING ON OTHER PARTIES

10. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Board issues the stipulated Order.

EFFECT OF BOARD'S REJECTION OF CONSENT AGREEMENT

11. Should the Board not approve this Agreement, presentation to and consideration of it by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Agreement.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

12. Respondent acknowledges that he is aware that he has the right to consult with, and/or be represented by, private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement. Respondent has consulted with Attorney Robert J. Perkins, regarding this Consent Agreement.

ENTIRE AGREEMENT

13. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

AGREEMENT DOES NOT PRECLUDE DISCIPLINE FOR OTHER VIOLATIONS

14. Nothing in this Order shall preclude the Prosecution Division for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Consent Agreement;

EFFECTIVE UPON BOARD APPROVAL

15. This Agreement shall take effect immediately upon its approval and adoption by the Board.

VERIFICATION OF FACTS AND STATEMENTS

16. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent

understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Trese M. Evancho
Prosecuting Attorney

DATED:

Dale John Kersteen, R.N.
Respondent

DATED:

AGREEMENT DOES NOT PRECLUDE DISCIPLINE FOR OTHER VIOLATIONS

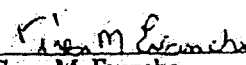
16. Nothing in this Order shall preclude the Prosecution Division for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Consent Agreement;

EFFECTIVE UPON BOARD APPROVAL

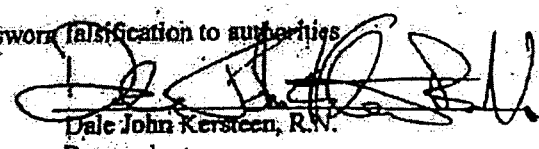
17. This Agreement shall take effect immediately upon its approval and adoption by the Board.

VERIFICATION OF FACTS AND STATEMENTS

18. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.


Trese M. Evancho
Prosecuting Attorney

DATED: 1/8/19


Dale John Kerscen, R.N.
Respondent

DATED:

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

Commonwealth of Pennsylvania,
Bureau of Professional and Occupational
Affairs

v.

Dale John Kersteen, R.N.,
Respondent.

Case No. 18-51-012438

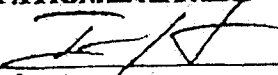
ORDER

AND NOW, this 18th day of January, 2019, the State Board of Nursing
approves and adopts the foregoing Consent Agreement and incorporates the terms of paragraph 5
above, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

BY ORDER:

BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS


Ian J. Harlow
Commissioner

For the Commonwealth:

For Respondent:

Date of Mailing:

STATE BOARD OF NURSING


Ann M. Coughlin, MBA, MSN, RN
Chair

Trace M. Evancho
Prosecuting Attorney
Department of State
P. O. Box 69521
Harrisburg, PA 17106-9521

Dale John Kersteen
8334 Green Street
New Orleans, LA 70118

January 23, 2019

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs

Case No. 19-51-006161

v.

Dale John Kersteen, R.N.
Respondent

CERTIFICATE OF SERVICE

I, Trese M. Evancho, hereby certify that I have this 7th day of June, 2019 caused a true and correct copy of the foregoing Preliminary Order and Petition for Appropriate Relief to be served upon all parties of record in this proceeding in accordance with the requirements of Section 33.31 of the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 33.31 (relating to service by the agency).

CERTIFIED MAIL AND FIRST-CLASS MAIL, POSTAGE PREPAID:

Dale John Kersteen, R.N.
189 River St.
Forty Fort, PA 18704

9171 9690 0935 0196 1787 71

Dale John Kersteen, R.N.
8334 Green Street
New Orleans, LA 70118

9171 9690 0935 0196 1787 40

Trese M. Evancho
Trese M. Evancho
Prosecuting Attorney
Commonwealth of Pennsylvania
Department of State

P. O. Box 69521
Harrisburg, PA 17106-9521
(717) 783-7200

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

Commonwealth of Pennsylvania,
Bureau of Professional and Occupational
Affairs

v.

Dale John Kersteen, R.N.,
Respondent.

Case No. 19-51-006161

ORDER

AND NOW, this 5th day of December, 2019, the State Board of Nursing approves and adopts the foregoing Consent Agreement and incorporates the terms of paragraph 5 above, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

BY ORDER:

BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS

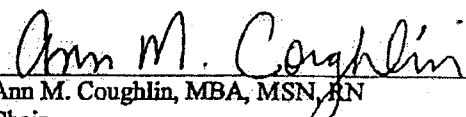

K. Kalonji Johnson
Acting Commissioner

For the Commonwealth:

For Respondent:

Date of Mailing:

STATE BOARD OF NURSING


Ann M. Coughlin, MBA, MSN, RN
Chair

T'rese M. Evancho
Prosecuting Attorney
Department of State
P. O. Box 69521
Harrisburg, PA 17106-9521

Kimberly D. Borland, Esquire
Borland & Borland, LLP
11th Floor
69 Public Square
Wilkes-Barre, PA 18701-2597

12/9/19

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

In the Matter of the Petition for
Reinstatement of the License of
Dale Kersteen, RN,
Petitioner

:
:
:
:
:

Case No. 20-51-006024

ORDER REINSTATING LICENSE TO PROBATIONARY STATUS

AND NOW, this 11th day of May, 2020, the State Board of Nursing (Board) upon consideration of Petitioner's Petition for Reinstatement, verification of compliance with the December 6, 2019, Consent Agreement and Order suspending Petitioner's license for three years, with the first six to be served as active suspension, retroactive to June 6, 2019, whereby after six months of active suspension, Petitioner having the ability to request a stay of the suspension in favor of three (3) years' probation subject to supervision of the Professional Health Monitoring Program (PHMP), and with the concurrence of the prosecuting attorney, hereby **GRANTS** a **STAY** of the suspension of Petitioner's license and **REINSTATES** Petitioner's authorization to practice as a registered nurse, License No. RN596079, and immediately places it on **PROBATION** in the Disciplinary Monitoring Unit (DMU) for a period of no less than **THREE (3) YEARS**, unless that period of probation is extended or modified for cause by mutual agreement, upon enrolling with PHMP, pursuant to the following terms and conditions:

GENERAL

1. **Within 10 days of the issuance of this Order**, Petitioner shall contact the Bureau of Professional and Occupational Affairs, PHMP DMU in writing at P.O. Box 10569, Harrisburg, PA 17105-0569 and by telephone at (717) 783-4857 or (800) 554-3428 to begin monitoring.
2. Petitioner shall fully and completely comply and cooperate with the PHMP and its agents and employees in their monitoring of Petitioner's impairment under this Order.

3. Petitioner shall abide by and obey all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions and all rules and regulations and laws pertaining to the practice of the profession in this Commonwealth or any other state or jurisdiction in which Petitioner holds an authorization to practice the profession as a health care professional. Summary traffic violations shall not constitute a violation of this Order; however, a violation of any conditions of a criminal probation and/or parole is a violation of this Order.

4. Petitioner shall at all times cooperate and comply with the PHMP and its agents and employees in the monitoring, supervision and investigation of Petitioner's compliance with the terms and conditions of this Order. Petitioner shall cooperate and comply with any requests for written reports, records or verifications of actions that may be required by the PHMP; the requested information shall be obtained and submitted at Petitioner's expense.

5. Petitioner's failure to fully cooperate and comply with the PHMP shall be deemed a violation of this Order.

6. Upon request of the PHMP case manager, Petitioner shall enroll in a peer assistance program, when available, including, but not limited to, Physician's Health Program ("PHP"), Secundum Artem Reaching Pharmacists with Help ("SARPH"), and Pennsylvania Nurse Peer Assistance Program ("PNAP"), and shall fully and completely comply with all of the terms and conditions of Petitioner's Order with the peer assistance program. Petitioner's

failure to fully and completely comply with Petitioner's Order with the peer assistance program shall constitute a violation of this Order.

7. Petitioner shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Order.

8. Petitioner may not be absent from the Commonwealth of Pennsylvania for any period exceeding twenty (20) days unless Petitioner seeks and receives prior written permission from the PHMP subject to any additional terms and conditions required by the PHMP.

9. Petitioner may not engage in the practice of the profession in any other state or jurisdiction without first obtaining written permission from the PHMP. Once written permission is granted by the PHMP, Petitioner shall notify the licensing board of the other state or jurisdiction that Petitioner suffers from an impairment and is enrolled in the DMU prior to engaging in the practice of the profession in the other state or jurisdiction.

10. In the event Petitioner relocates to another jurisdiction, within five (5) days of relocating, Petitioner shall either enroll in the other jurisdiction's impaired professional program and have the reports required under this Order sent to the Pennsylvania PHMP, or if the other jurisdiction has no impaired professional program notify the licensing board of the other jurisdiction that Petitioner is impaired and enrolled in this Program. In the event Petitioner fails to do so, in addition to being in violation of this Order, the periods of suspension and probation herein shall be tolled. It is a violation of this Order if Petitioner

violates and/or fails to fully and completely comply with the impaired professional program in another jurisdiction.

11. Petitioner shall notify the PHMP by telephone within forty-eight (48) hours and in writing within five (5) days of the filing of any criminal charges against Petitioner; the final disposition of any criminal charges against Petitioner; the violation of any terms and conditions of a criminal probation or parole; the initiation of any legal action pertaining to Petitioner's practice of the profession; the initiation of charges, action, restriction or limitation related to Petitioner's practice of the profession by a professional licensing authority of any state or jurisdiction or the Drug Enforcement Agency of the United States Department of Justice; or any investigation, action, restriction or limitation related to Petitioner's privileges to practice the profession at any health care facility.

12. Petitioner shall notify the PHMP by telephone within 48 hours and in writing within five (5) days of any change of Petitioner's home address, phone number, employment status, employer and/or change in practice at a health care facility. Failure to timely advise the PHMP under this subsection due to the PHMP office being closed is not an excuse for not leaving a voice mail message with this information.

13. Petitioner shall cease or limit Petitioner's practice of the profession if the PHMP case manager directs that Petitioner do so.

EVALUATION - TREATMENT

14. As requested by the PHMP, Petitioner shall have forwarded to the PHMP, a written mental and/or physical evaluation by a provider approved by the PHMP (hereinafter "treatment provider") assessing Petitioner's fitness to actively practice the profession. Unless otherwise directed by PHMP, the evaluation shall be forwarded to:

PHMP –DMU P.O. Box 10569 Harrisburg, PA 17105-0569, Tele: 717-783-4857 In PA: 800-554-3428
--

15. If the treatment provider determines that Petitioner is not fit to practice, Petitioner shall immediately cease practicing the profession and not practice until the treatment provider and the PHMP case manager determine that Petitioner is fit to resume practice with reasonable skill and safety to patients.

16. The evaluation described in the previous paragraph is in addition to any other evaluation already provided.

17. Petitioner shall provide copies of any prior evaluations and counseling records and a copy of this Order to the treatment provider.

18. Petitioner shall authorize, in writing, the PHMP to receive and maintain copies of the written evaluation reports of the treatment provider(s).

19. If a treatment provider recommends that Petitioner obtain treatment, Petitioner must fully comply with those recommendations as part of these probationary requirements.

20. Petitioner shall arrange and ensure that written treatment reports from all treatment providers approved by the PHMP are submitted to the PHMP upon request or at least every ninety (90) days after the effective date of this Order. The reports shall contain at least the following information:

- (a) Verification that the treatment provider has received a copy of this Order and understands the conditions of this probation;
- (b) A treatment plan, if developed;
- (c) Progress reports, including information regarding compliance with the treatment plan;
- (d) Physical evaluations, if applicable;
- (e) The results of any testing including any testing for therapeutic levels of prescribed medications when deemed appropriate by the treatment provider;
- (f) Modifications in treatment plan, if applicable;
- (g) Administration or prescription of any drugs to Petitioner; and
- (h) Discharge summary and continuing care plan at discharge.
- (i) Any change in the treatment provider's assessment of the Petitioner's fitness to actively practice the profession.

21. Petitioner shall identify a primary care physician who shall send written notification to the Petitioner's PHMP case manager certifying Petitioner's health status as requested.

SUPPORT GROUP ATTENDANCE

22. Petitioner shall attend and actively participate in any support group programs recommended by the treatment provider or the PHMP case manager at the frequency recommended by the treatment provider; however, Petitioners with a chemical dependency or abuse diagnosis shall attend no less than twice a week.

23. Petitioner shall provide written verification of any and all support group attendance to the PHMP on at least a monthly basis or as otherwise directed by the PHMP.

ABSTENTION

24. Petitioner shall completely abstain from the use of controlled substances, caution legend (prescription) drugs, mood altering drugs or drugs of abuse **including alcohol in any form**, except under the following conditions:

(a) Petitioner is a bona fide patient of a licensed health care practitioner who is aware of Petitioner's impairment and participation in the PHMP;

(b) Such medications are lawfully prescribed by Petitioner's treating practitioner and approved by the PHMP case manager;

(c) Upon receiving the medication, Petitioner must provide to the PHMP, **within forty-eight (48) hours by telephone and within**

five (5) days in writing, the name of the practitioner prescribing the drug, the illness or medical condition diagnosed, the type, strength, amount and dosage of the medication and a signed statement consenting to the release of medical information from the prescribing practitioner to the PHMP or its designated representative for the purpose of verification; and

(d) Upon refilling a medication, Petitioner must provide to the PHMP, **within forty-eight (48) hours by telephone and within five (5) days in writing**, the name of the practitioner prescribing the drug, the illness or medical condition diagnosed, the type, strength, amount and dosage of the medication and a signed statement consenting to the release of medical information from the prescribing practitioner to the PHMP or its designated representative for the purpose of verification.

DRUG TESTING

25. Petitioner shall submit to random unannounced and observed drug and alcohol tests (drug testing), inclusive of bodily fluid, breath analysis, hair analysis or another procedure as may be directed by the PHMP for the detection of substances prohibited under this Order as directed by the PHMP. A positive, adulterated or substituted result on a drug test shall constitute an irrefutable violation of this Order unless Petitioner has complied with the provisions of this Order pertaining to the use of drugs. Failure to provide a specimen or a

specimen of sufficient quantity for testing when requested will be considered a violation of this Order.

26. Petitioner shall avoid all foods that contain poppy seeds. Ingestion of poppy seeds will not be accepted as a valid explanation for a positive screen.

27. Petitioner shall avoid all substances containing alcohol including alcohol in food or beverages, medications, chemical solutions, cleaning solutions, gasoline, hand sanitizers, or other skin preparations. Incidental use of alcohol will not be accepted as a valid explanation for a positive drug test unless Petitioner has complied with the provisions of this Order pertaining to the use of drugs as set forth in the Abstinence Section above.

MONITORED PRACTICE

28. The terms "*practice*", "*practice of the profession*," and "*practice the profession*" shall include any and all activities requiring a license, registration, certificate, approval, authorization, or permit from the Board to perform. It also includes attendance at any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice the profession.

29. Petitioner shall not practice nursing unless a provider approved by PHMP approves the practice in writing and the PHMP Case Manager gives written permission to practice.

30. When permitted to return to practice, Petitioner shall not do any of the following unless Petitioner first obtains specific written approval from the PHMP Case Manager:

(a) practice in any capacity that involves the administration of controlled substances;

(b) function as a supervisor;

(c) practice in a private practice setting;

(d) practice in an emergency room, operating room, intensive care unit, cardiac catheterization laboratory, or coronary care unit; or

(e) practice as an agency nurse.

31. Petitioner may not work in any practice setting, including attendance at any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice nursing without direct supervision.

32. Direct supervision is the physical presence of the supervisor on the premises so that the supervisor is immediately available to the Petitioner being supervised when needed.

33. If Petitioner is practicing or attending any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice nursing, Petitioner shall give any employer, supervisor, preceptor, or instructor (hereinafter referred to collectively as "supervisor") a copy of this Order within five (5) days of the effective date of this Order.

34. Petitioner shall give any prospective employer and supervisor a copy of this Order when applying for employment in the practice of the

profession and to any prospective school/program when applying for any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice nursing.

35. Petitioner shall provide the PHMP by telephone within forty-eight (48) hours, and in writing within five (5) days of the effective date of this Order, obtaining employment, or entering an educational program/course that includes a clinical practice component with patients and/or requires a current license to practice nursing, notification of the following:

- (a) Name and address of the supervisor responsible for Petitioner's practice;
- (b) The name(s) and address(es) of the place(s) at which Petitioner will practice the profession and a description of Petitioner's duties and responsibilities at such places of practice; and
- (c) Any restrictions on Petitioner's practice.

36. Petitioner shall ensure that Petitioner's supervisor submits to the PHMP the following information in writing:

- (a) Verification that the supervisor has received a copy of this Order and understand the conditions of this probation;
- (b) An evaluation of Petitioner's work performance on a 90-day or more frequent basis as requested by the PHMP; and
- (c) Immediate notification of any suspected violation of this probation by Petitioner.

REPORTING/RELEASES

37. Petitioner, Petitioner's treatment providers, supervisors, employers or other persons required to submit reports under this Order shall cause such reports, data or other information to be filed with the PHMP, unless otherwise directed, at:

PHMP-DMU Box 10569 Harrisburg, PA 17105-0569
--

38. Petitioner consents to the release by the PHMP of any information or data produced as a result of this probation, including written treatment provider evaluations, to any treatment provider, supervisor, Commonwealth's attorney, hearing examiner and Board members in the administration and enforcement of this Order.

39. Petitioner shall sign any required waivers or release forms requested by the PHMP for any and all records, including medical or other health related and psychological records, pertaining to treatment and monitoring rendered to Petitioner during this probation and any corresponding criminal probation, and any employment, personnel, peer review or review records pertaining to Petitioner's practice of the profession during this probation to be released to the PHMP, the Commonwealth's attorney, hearing examiner and Board members in the administration and enforcement of this Order.

COSTS

40. Petitioner shall be responsible for all costs incurred in complying with the terms of this Order, including but not limited to psychiatric or psychotherapy treatments, and reproduction of treatment or other records. Petitioner shall pay the costs for any drug testing and any subsequent reanalysis of specimens required by the PHMP. Failure of

Petitioner to pay any of these costs in a timely manner shall constitute a violation of this Order.

BUREAU/PHMP EVALUATIONS

41. Upon request of the PHMP, Petitioner shall submit to mental or physical evaluations, examinations or interviews by a treatment provider approved by the PHMP or the PHMP. Petitioner's failure to submit to such an examination, evaluation or interview when directed shall constitute a violation of this Order.

VIOLATION OF THIS ORDER

42. Notification of a violation of the terms or conditions of this Order shall result in the **IMMEDIATE VACATING** of the stay order, **TERMINATION** of the period of probation, and **ACTIVATION** of the suspension of Petitioner's authorizations to practice the profession in the Commonwealth of Pennsylvania as follows:

a. The prosecuting attorney for the Commonwealth shall present to the Board's Probable Cause Screening Committee ("Committee") a Petition that indicates Petitioner has violated any terms or conditions of this Order.

b. Upon a probable cause determination by the Committee that Petitioner has violated any of the terms or conditions of this Order, the Committee shall, without holding a formal hearing, issue a preliminary order vacating the stay of the within suspension, terminating this probation and activating the suspension of Petitioner's authorization(s) to practice the profession.

c. Petitioner shall be notified of the Committee's preliminary order within three (3) business days of its issuance by certified mail and first class

mail, postage prepaid, sent to the Petitioner's last registered address on file with the Board, or by personal service if necessary.

d. Within twenty (20) days of mailing of the preliminary order, Petitioner may submit a written answer to the Commonwealth's Petition and request that a formal hearing be held concerning Petitioner's violation of probation, in which Petitioner may seek relief from the preliminary order activating the suspension. The answer shall be set forth in numbered paragraphs corresponding to the numbered paragraphs of the Petition. Petitioner shall admit or deny each of the allegations set forth in the paragraphs in the Petition. Petitioner shall mail the original answer and request for hearing, as well as all subsequent filings in the matter, to:

Prothonotary 2601 North Third Street P.O. Box 2649 Harrisburg, PA 17105-2649

e. Petitioner shall also mail a copy of all filings to the prosecuting attorney for the Commonwealth.

f. If the Petitioner submits a timely answer and request for a formal hearing, the Board or a designated hearing examiner shall convene a formal hearing within forty-five (45) days from the date of the Prothonotary's receipt of Petitioner's request for a formal hearing.

g. Petitioner's submission of a timely answer and request for a hearing shall not stay the suspension of Petitioner's license under the preliminary order. The suspension shall remain in effect unless the Board

or the hearing examiner issues an order after the formal hearing staying the suspension again and reactivating the probation.

h. The facts and averments in this Order shall be deemed admitted and uncontested at this hearing.

i. If the Board or hearing examiner after the formal hearing makes a determination against Petitioner, a final order will be issued sustaining the suspension of Petitioner's license and imposing any additional disciplinary measures deemed appropriate.

j. If Petitioner fails to timely file an answer and request for a hearing, the Board, upon motion of the prosecuting attorney, shall issue a final order affirming the suspension of Petitioner's license.

k. If Petitioner does not make a timely answer and request for a formal hearing and a final order affirming the suspension is issued, or the Board or the hearing examiner makes a determination against Petitioner sustaining the suspension of Petitioner's license, after at least **three (3)** years of active suspension and any additional imposed discipline, Petitioner may petition the Board for reinstatement based upon an affirmative showing that Petitioner has at least **thirty-six (36)** months of sustained documented recovery, an evaluation by a treatment provider approved by the PHMP that Petitioner is fit to safely practice the profession, and verification that Petitioner has abided by and obeyed all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions, and all rules

and regulations pertaining to the practice of the profession in this Commonwealth.

1. If the Board issues a Preliminary Order terminating the stay of the suspension and actively suspending Petitioner's license to practice the profession in accordance with the procedure set forth above, Petitioner shall immediately cease the practice of the profession. Petitioner shall continue to comply with all of the terms and conditions of probation in this Order and Order during the active suspension until the Board issues a Final Order. Continued failure by Petitioner to comply with the unaffected terms and conditions of probation while awaiting the issuance of a Final Order by the Board may result in further disciplinary action against Petitioner.

43. Petitioner's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action.

44. Nothing in this Order shall preclude the prosecuting attorney for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Order.

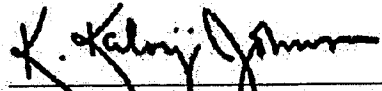
COMPLETION OF PROBATION

45. After successful completion of the minimum period of probation, Petitioner may petition the Board, upon a form provided by the PHMP, to reinstate Petitioner's authorizations to practice the profession to unrestricted, non-probationary status upon an affirmative showing that Petitioner has complied with all terms and conditions of this Order and that Petitioner's resumption of unsupervised practice does not present a threat to the public health and safety. **Petitioner is required to remain in compliance with all terms and conditions of this Order until the Board**

issues the order terminating Petitioner's probationary status.

This order shall take effect immediately.

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**



**K. KALONJI JOHNSON
ACTING COMMISSIONER**

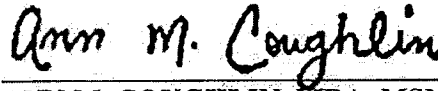
Petitioner:

Prosecuting Attorney:

Board Counsel:

Date of Mailing:

**BY ORDER:
STATE BOARD OF NURSING**



**ANN M. COUGHLIN, MBA, MSN, RN
CHAIR**

Dale Kersteen, RN
189 River St.
Forty Fort, PA 18704
wetmocasim@gmail.com

T'rese M. Evancho, Esquire

Ariel E. O'Malley, Esquire

May 11, 2020

NOTICE

The attached Final Order represents the final agency decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a Petition for Review with that Court within thirty (30) days after the entry of the order in accordance with the Pennsylvania Rules of Appellate Procedure. See Chapter 15 of the Pennsylvania Rules of Appellate Procedure entitled "Judicial Review of Governmental Determinations," Pa. R. A. P 1501 – 1561. Please note: An order is entered on the date it is mailed. If you take an appeal to the Commonwealth Court, you must serve the Board with a copy of your Petition for Review. The agency to contact for receiving service of such an appeal is:

Board Counsel
P.O. Box 69523
Harrisburg, PA 17106-9523

The name of the individual Board Counsel is identified on the Final Order.