BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse License Number 619313 issued to TERRY L. SPENCE	§ § §	AGREED ORDER

TEXAS BOARD OF NURSING
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.
Executive Director of the Board

On this day the Texas Board of Nursing, hereinafter referred to as the Bc considered the matter of TERRY L. SPENCE, Registered Nurse License Number 619..., hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(8)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on February 12, 2010, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.

2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

3. Respondent is currently licensed to practice professional nursing in the State of Texas.

4. Respondent received an Associate Degree in Nursing from Tyler Junior College, Tyler, Texas, on May 1, 1995. Respondent was licensed to practice professional nursing in the State of Texas on June 30, 1995.

5. Respondent's complete professional nursing employment history is unknown.

6. On or about April 14, 2008, Respondent entered a plea of "Guilty" and was convicted of OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE, under Citation No. 8K6125721-1, and OPERATING ON SUSPENDED/REVOKED LICENSE, under Citation No. 8K6125721-2, in Fayette County, Kentucky. As a result of the convictions, Respondent was ordered to pay a fine and his driver's license was suspended for forty-five (45) days.

7. On or about May 12, 2008, Respondent was convicted of ALCOHOL INTOXICATION IN A PUBLIC PLACE, under Citation No. 8K4843202-1, in the Fayette County Court System, Commonwealth of Kentucky, and was ordered to pay a fine.

8. On or about December 27, 2008, Respondent was arrested in the Commonwealth of Kentucky for FAILURE TO APPEAR, under Citation No. 08M05423; ALCOHOL INTOXICATION, under Case No. 08-083339; and NON-PAYMENT OF FINES, under Citation No. 08M05423. Respondent was subsequently convicted of ALCOHOL INTOXICATION and ordered to pay a fine.

9. On or about May 20, 2009, Respondent's license to practice professional nursing in the State of Kentucky was issued an ORDER OF IMMEDIATE TEMPORARY SUSPENSION, by the Kentucky Board of Nursing. A copy of the Order of Immediate Temporary Suspension issued by the Kentucky Board of Nursing is attached and incorporated by reference as part of this Order.

10. In response to Findings of Fact Number Six (6), Seven (7), and Eight (8), Respondent states: I was unaware that these offenses were reportable, but immediately wish to comply. On April 13, 2008, I received a DUI for driving under the influence of alcohol. On May 12, 2008, I received a charge of alcohol intoxication. On December 27, 2008, I received a charge of alcohol intoxication.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.

2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violations of Section 301.452(b)(8)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(13).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 619313, heretofore issued to TERRY L. SPENCE, including revocation of Respondent's license to practice professional nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a REPRIMAND WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

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

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars ($250.00). RESPONDENT SHALL pay this fine within forty-five (45) days of entry of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is <u>not</u> being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) hours in

length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html.*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(3) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(4) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(5) For the duration of the stipulation period, RESPONDENT SHALL be supervised by a Registered Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(6) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT's capability to practice nursing. These reports shall be completed by the Registered Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for two (2) years of employment as a nurse.

(7) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.**

(8) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the stipulation

period, random screens shall be performed at least once every three (3) months. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis is the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

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

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

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the stipulation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license and multistate licensure privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT's license to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 8th day of FEBRUARY, 2011.

TERRY L. SPENCE, Respondent

Sworn to and subscribed before me this 8th day of February, 2011.

Noemi Vezina

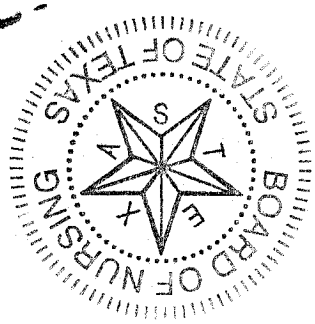
Notary Public in and for the State of Texas

SEAL
NOEMI VEZINA
NOTARY PUBLIC
NOTARY WITHOUT BOND
STATE OF TEXAS
EXPIRES
08-25-2014

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 8th day of February, 2011, by TERRY L. SPENCE, Registered Nurse License Number 619313, and said Order is final.

Effective this 8th day of March, 2011.

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



COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF NURSING
Case Number: 2009-792

In The Matter Of: **TERRY LYNN SPENCE**
Texas RN License No. 619313 (Compact)
9305 Dalrock Rd.
Rowlett, TX 75088

ORDER OF IMMEDIATE TEMPORARY SUSPENSION

Pursuant to KRS 314.085(1), KRS 314.089(1) and KRS 314.470, Article III, the Kentucky Board of Nursing hereby issues the following Order for the immediate temporary suspension of the privilege of Terry Lynn Spence ("the Respondent") to practice as a Registered Nurse in the Commonwealth of Kentucky. Pursuant to the above-cited statutes, the basis for this Order is as follows:

Findings of Fact

1. The Respondent is a Registered Nurse, licensed by the Texas Board of Nursing, license number 619313; as such, the Kentucky Board of Nursing has jurisdiction in this matter pursuant to KRS Chapter 314.470.

2. On April 13, 2008, a law enforcement officer found Respondent asleep behind the steering wheel of a motor vehicle. The vehicle was stopped at a traffic signal in Fayette County, Kentucky; the keys to the vehicle were in the ignition; and the motor to the vehicle was running. Respondent had to be wakened by the law enforcement officer, and Respondent staggered out of the vehicle. Respondent failed all field sobriety tests administered by the law enforcement officer. Consequently, Respondent was arrested and charged with Operating a Motor Vehicle While Under The Influence of Alcohol/Drugs, in violation of KRS 189A.010. Respondent was also charged with Operating a Motor Vehicle on a Revoked License (Texas), in violation of KRS

186.620(2). The following day, on April 14, 2008, Respondent entered a written guilty plea to both charges, and he represented that "I drove a motor vehicle under the influence."

3. Less than one (1) month later, on May 12, 2009, Respondent was arrested in Fayette County, Kentucky, and charged with Alcohol Intoxication in a Public Place, in violation of KRS 222.202(1), which provides:

> A person is guilty of alcohol intoxication when he appears in a public place manifestly under the influence of alcohol to the degree that he may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity.

At the time of this arrest, the Respondent was a passenger in a vehicle, he had slurred speech and blood shot eyes, and he had a strong odor of alcoholic beverages on his person. Once outside the vehicle, Respondent was observed by the arresting officer to be very unstable, manifestly under the influence, and a danger to himself and to others.

4. Less than eight (8) months later, on December 27, 2008, Respondent was again arrested in Fayette County, Kentucky, and again charged with Alcohol Intoxication in a Public Place, in violation of KRS 222.202(1). At the time of this arrest, the Respondent was found in a parking lot arguing loudly with another individual. The arresting officer observed the Respondent to have difficulty standing, slurred speech and the odor of an alcoholic beverage on his person. In the opinion of the arresting officer, Respondent was manifestly under the influence of an alcoholic beverage and was causing an annoyance and alarm to others in the vicinity.

5. Two (2) days later, on December 29, 2008, the Respondent entered a guilty plea to the charges referenced in paragraphs 3 and 4, immediately above.

6. On or about March 26, 2009, the Kentucky Board of Nursing, pursuant to KRS 314.085, issued an Order for a Chemical Dependency Evaluation, serving same upon the Respondent at his address of record by certified U.S. mail. The envelope containing the notice and charges was returned to the Board by postal services on April 6, 2009, marked "MOVED LEFT NO ADDRESS UNABLE TO FORWARD RETURN TO SENDER." The Order was re-mailed via regular mail on April 8, 2009. The evaluation was due in the Board office on or before April 27, 2009.

7. As of the date of this Order, the Respondent has failed to provide the Kentucky Board of Nursing with the required Chemical Dependency Evaluation.

Conclusions of Law

8. Based on the facts as set forth above, Respondent's conduct constitutes a violation of KRS 314.091(1):

> * * *
>
> (d) – has negligently or willfully acted in a manner inconsistent with the practice of nursing; and
>
> * * *
>
> (k) – has violated any lawful order or directive previously entered by the Board.

The Respondent is hereby **ORDERED** to **CEASE AND DESIST** from the practice of nursing in the Commonwealth of Kentucky effective immediately. Any such practice after the date of this Order shall constitute grounds for further disciplinary action.

The Respondent's privilege to practice nursing in the Commonwealth of Kentucky is immediately suspended on a temporary basis.

In the Matter of: **Terry Lynn Spence**
TX RN License No. 619313 (Compact)

Pursuant to KRS 13B.125(3), the Respondent may request a Hearing in regard to this Order. Any such request must be in writing and sent to the attention of the Hearing Officer, Kentucky Board of Nursing, Suite 300, 312 Whittington Parkway, Louisville, Kentucky 40222. A request for a Hearing does not stay the effect of this Order.

This 20th day of May 2009.

Charlotte F. Beason, Ed.D., RN, NEA
Executive Director
Kentucky Board of Nursing

Certificate of Service

This is to certify that a true and correct copy of the foregoing Order of Immediate Temporary Suspension was served upon Terry Lynn Spence at 9305 Dalrock Road, Rowlett, Texas 75088, via certified U.S. Mail, return receipt requested, postage pre-paid, and to the alternate address of 101 General Delivery, Lexington, Kentucky 40505, via regular U.S. mail, postage prepaid, all on this the 20th day of May 2009.

Scott D. Majors
Staff Attorney
Kentucky Board of Nursing
312 Whittington Parkway, Ste. 300
Louisville, Kentucky 40222
(502) 429-3300, ext. 243

I hereby certify that the Order of Immediate Temporary Suspension was served the 20th day of May, 2009, and became effective on that date pursuant to KRS 13B.125(2).

Consumer Protection Branch
Kentucky Board of Nursing

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

TERRY LYNN SPENCE
9305 DARLOCK RD
ROWLETT TX 75088

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery
5-26

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

RECEIVED
MAY 29 2009

3. Service Type
☑ Certified Mail ☐ Express Mail
☑ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article 7008 1830 0000 6950 4380
(Transfer from service label)

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1