



09/05 - 10/08	RN	Harris Methodist Southlake Southlake, Texas
11/08 - 01/09	unknown employment	
02/09 - 05/09	RN	Bellmire Health Care Facility Bowie, Texas
06/09 - present	unknown employment	

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as a Registered Nurse with Harris Methodist Southlake, Southlake, Texas, and had been in this position for two (2) years and four (4) months.
7. On or about January 5, 2008, while employed as a Registered Nurse with Harris Methodist Southlake, Southlake, Texas, Respondent improperly managed patient records in that she took the nurse's notes for Patient Medical Record Number 018908 home with her and returned them the following night. Respondent's conduct failed to protect patient confidentiality and was a violation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy regulations.
8. On or about January 5, 2008, while employed as a Registered Nurse with Harris Methodist Southlake, Southlake, Texas, Respondent administered Morphine 2mg intramuscularly (IM) to Patient Medical Record Number 018908, instead of Morphine 2mg intravenously (IV), as ordered by the physician. Further, Respondent documented that she administered Morphine 2mg intravenously (IV), instead of Morphine 2mg intramuscularly (IM), even though the intravenous (IV) line had previously been removed from the patient. Respondent's conduct could have exposed the patient to non-efficacious care and resulted in an incomplete medical record, which was likely to injure the resident in that subsequent care givers did not have accurate information on which to base their decisions for further care.
9. On or about May 17, 2008, while employed as a Registered Nurse with Harris Methodist Southlake, Southlake, Texas, Respondent misappropriated Norco from the facility and the patients thereof or failed to take precautions to prevent such misappropriation, in that she withdrew two (2) Norco tablets for Patient Medical Record Number 021527 three times during her shift, but only administered one (1) tablet of Norco to the patient each time. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
10. On or about September 26, 2008, while employed as a Registered Nurse with Harris Methodist Southlake, Southlake, Texas, Respondent engaged in the intemperate use of Tramadol and Propoxyphene in that she submitted a specimen for a for-cause drug screen which resulted positive for Tramadol and Propoxyphene. Possession of Tramadol and Propoxyphene is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substance Act). The use of Tramadol and Propoxyphene by a Registered Nurse, while

subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.

11. On or about May 13, 2009, while employed as a Registered Nurse with Bellmire Healthcare Facility, Bowie, Texas, Respondent engaged in the intemperate use of Opiates in that she submitted a specimen for a for-cause drug screen which resulted positive for Opiates. Possession of Opiates is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substance Act). The use of Opiates by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.
12. On or about May 13, 2009, while employed as a Registered Nurse with Bellmire Healthcare Facility, Bowie, Texas, Respondent lacked fitness to practice professional nursing in that she exhibited the following behavior, including, but not limited to: her eyes were glazed, her pupils were dilated, she had rings around her eyes, and facial twitches. Respondent's conduct could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patients in potential danger.
13. The Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
14. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.
15. Charges were filed on August 27, 2009, and the First Amended Formal Charges were filed on March 26, 2010.
16. Charges were mailed to Respondent on August 28, 2009, and the First Amended Formal Charges were mailed to Respondent on March 30, 2010.
17. Respondent's conduct described in Findings of Fact Number Seven (7) through Twelve (12) resulted from Respondent's dependency on chemicals.
18. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

#### CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, 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)(9),(10),(12)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(A)(B)(C)(D)(E)(N)&(P), and 22 TEX. ADMIN. CODE §217.12(1)(A)(B)(E),(4),(5),(6)(G),(8),(10)(A)&(D).
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 716957, heretofore issued to KRISTY KAY TOTTY, including revocation of Respondent's license to practice nursing in the State of Texas.
5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

#### ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

RESPONDENT SHALL deliver the wallet-sized license issued to KRISTY KAY TOTTY, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order.

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

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

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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 multistate licensure 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, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

**RESPONDENT'S CERTIFICATION**

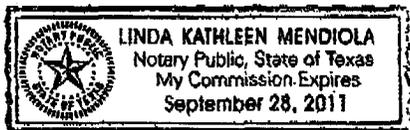
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 21 day of April, 2010.

Kristy Kay Totty  
 KRISTY KAY TOTTY, Respondent

Sworn to and subscribed before me this 21 day of April, 2010.

SEAL



Linda K Mendiola  
 Notary Public in and for the State of Texas

Approved as to form and substance:

[Signature]  
 Elizabeth Higginbotham, Attorney for Respondent

Signed this 27th day of April, 2010.

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Agreed Order that was signed on the 21<sup>st</sup> day of April, 2010, by KRISTY KAY TOTTY, Registered Nurse License Number 716957, and said Order is final.

Entered and effective this 28<sup>th</sup> day of April, 2010.

*Katherine A. Thomas*

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

