BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS
****

In the Matter of Registered Nurse License Number 650909	§	AGREED
issued to DENISE LEANN KIRBY	§	ORDER

An investigation by the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, produced evidence indicating that DENISE LEANN KIRBY, Registered Nurse License Number 650909, hereinafter referred to as Respondent, may have violated Section 301.452 (b)(10), Texas Occupations Code.

An informal conference was held on November 15, 2005, at the office of the Board of Nurse Examiners, in accordance with Section 301.464, Texas Occupations Code.

Respondent appeared in person. Respondent was notified of her right to be represented by legal counsel and elected to waive representation by counsel. In attendance were Katherine A. Thomas, MN, RN, Executive Director; E. Joy Sparks, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; Robert Cantu, Investigator; Tiana Clayton, Administrative Assistant; and Chris Schroeder, Lead Investigator.

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, notice and hearing, and consented to the entry of this Order.

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

4. Respondent received a Baccalaureate Degree in Nursing from Kansas Newman College, Wichita, Kansas, on May 1, 1997. Respondent was licensed to practice professional nursing in the State of Texas on June 9, 1998.

5. Respondent's professional nursing employment history includes:

1997 - 1998	Staff RN Columbia Wesley Medical Center Wichita, Kansas
1998 - 1999	Staff RN Medical Center of Plano Plano, Texas
1999 - 2001	Staff RN Texas Regional Heart Center Plano, Texas
January 2002 - November 4, 2003	Staff RN Medical Center of Plano Plano, Texas
November 5, 2003 - Unknown	Not employed in Nursing
2004 - 2005	Staff RN E-Care Emergent Centers Frisco, Texas
September 2005 - Present	Agency Nurse Emergistaff and Associates Frisco, Texas

6. At the time of the incidents, Respondent was employed as a Registered Nurse with Medical Center of Plano, Plano, Texas, and had been in this position for approximately one (1) year and ten (10) months.

7. On or about November 3, 2003, while employed at Medical Center of Plano, Plano, Texas, Respondent obtained Solu-Medrol for Patient Medical Record Number 637798 without a valid physician's order. Respondent states that she asked for and received a verbal order for Solu-Medrol; however, the physician denies giving the order. Respondent further states that she never administered the Solu-Medrol to the patient, and that she wasted the medication. Respondent's conduct was likely to defraud the patient of the cost of the medication.

8. On or about November 3, 2003, while employed at Medical Center of Plano, Plano, Texas, Respondent obtained Benadryl for Patient Medical Record Number 637798 without a valid physician's order. Respondent states that she asked for and received a verbal order for Benadryl; however, the physician denies giving the order.

9. On or about November 3, 2003, while employed at Medical Center of Plano, Plano, Texas, Respondent administered Benadryl to Patient Medical Record Number 637798, who was allergic to Benadryl. Respondent's conduct was likely to injure the patient in that the administration of Benadryl could have resulted in the patient suffering from an allergic reaction.

10. On or about November 3, 2003, while employed at Medical Center of Plano, Plano, Texas, Respondent failed to document the administration of Benadryl in the medical records of Patient Medical Record Number 637798. Respondent's conduct above was likely to injure the patients in that subsequent care givers would rely on her documentation to further medicate the patient which could result in an adverse reaction.

CONCLUSIONS OF LAW

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

2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violation of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(3)&(4).

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 650909, heretofore issued to DENISE LEANN KIRBY, including revocation of Respondent's professional license to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of REMEDIAL EDUCATION, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice professional nursing in compact states.

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 State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to DENISE LEANN KIRBY to the office of the Board of Nurse Examiners within ten (10) days of the date of ratification of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing jurisprudence. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience must include registered nurses. It must be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, and documentation of care. 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 is to be taken in addition to any continuing education requirements the Board may have for relicensure.

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in medication administration. 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. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour

clinical component which is to be provided by the same Registered Nurse who provides the didactic portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor 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 on the Board's website, www.bne.state.tx.us (under BNE events).*

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office 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 on the Board's website, www.bne.state.tx.us (under BNE events).*

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

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 when this Order becomes final and the terms of this Order become effective, 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 13th day of December, 2005.

Denise LeAnn Kirby

DENISE LEANN KIRBY, Respondent

Sworn to and subscribed before me this 13th day of December, 2005.

SEAL

KRISTIN L. CROOM
Notary Public
STATE OF TEXAS
My Comm. Exp. 08-03-2008

Kristin L. Croom

Notary Public in and for the State of TEXAS.

WHEREFORE, PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby ratify and adopt the Agreed Order that was signed on the 13th day of December, 2005, by DENISE LEANN KIRBY, Registered Nurse License Number 650909, and said Order is final.

Effective this 19th day of December, 2005.

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