



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.  
*Patricia Williams*  
Executive Director of the Board

## BEFORE THE TEXAS BOARD OF NURSING

\*\*\*\*\*

In the Matter of §  
Registered Nurse License Number 738288 §  
issued to BARBARA SMITH §

### ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 738288, issued to BARBARA SMITH, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c) Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

### FINDINGS OF FACT

1. Respondent's license to practice professional nursing in the State of Texas is currently in delinquent status.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing.
3. Respondent received an Associate Degree in Nursing from Jefferson Davis Community College, Brewton, Alabama, on August 14, 2001. Respondent was licensed to practice professional nursing in the State of Texas on February 12, 2007.
4. Respondent's professional nursing employment history includes:

7/91 - 5/04	Staff Nurse	North Baldwin Infirmary Bay Minette, Alabama
5/04 - 2/05	Staff Nurse	Los Alamos Medical Center Los Alamos, New Mexico
2/05 - 8/05	Staff Nurse	Franklin Regional Hospital

Respondent's professional nursing employment history continued:

10/05 - 12/05	Staff Nurse	Payson Regional Medical Center Payson, Arizona
12/05 - unknown	Agency Nurse	RN Demand Irving, Texas
2/07 - present	Unknown	

5. On September 8, 2009, Respondent was issued the sanction of a Warning with Stipulations by the Texas Board of Nursing. A copy of the September 8, 2009, Agreed Order, Finding of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this Order.
6. Formal Charges were filed on April 19, 2012. A copy of the Formal Charges is attached and incorporated, by reference, as part of this Order.
7. Formal Charges were mailed to Respondent on April 20, 2012.
8. On August 6, 2012, the Board received a notarized statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's notarized statement, dated July 28, 2012, is attached and incorporated, by reference, as part of this Order.

#### CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.12(11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(1) and (10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 738288, heretofore issued to BARBARA SMITH, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.

7. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

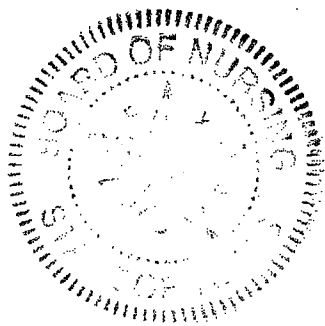
ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 738288, heretofore issued to BARBARA SMITH, to practice nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title of registered nurse or the abbreviation "RN" or wear any insignia identifying herself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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.

Effective this 14<sup>th</sup> day of August, 2012.



TEXAS BOARD OF NURSING

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

In the Matter of Permanent License	§	BEFORE THE TEXAS
Number 738288, Issued to	§	
BARBARA SMITH, Respondent	§	BOARD OF NURSING

### FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, BARBARA SMITH, is a Registered Nurse holding license number 738288, which is in delinquent 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 September 9, 2010, Respondent failed to comply with the Agreed Order issued to her on September 8, 2009, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Two (2) of the Agreed Order which states, in pertinent part:

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics....

A copy of the September 8, 2009, Agreed Order, Findings of Fact, and Conclusions of Law 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)(1) and (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

#### CHARGE II.

On or about September 9, 2010, Respondent failed to comply with the Agreed Order issued to her on September 8, 2009, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Three (3) of the Agreed Order which states, in pertinent part:

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in medication administration....

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) and (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

### **CHARGE III.**

On or about September 9, 2010, Respondent failed to comply with the Agreed Order issued to her on September 8, 2009, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Four (4) of the Agreed Order which states, in pertinent part:

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course "Sharpening Critical Thinking Skills,"...

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) and (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

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 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. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

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](http://www.bon.texas.gov).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at [www.bon.texas.gov/disciplinaryaction/discp-matrix.html](http://www.bon.texas.gov/disciplinaryaction/discp-matrix.html).

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NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Agreed Order dated September 8, 2009.



Filed this

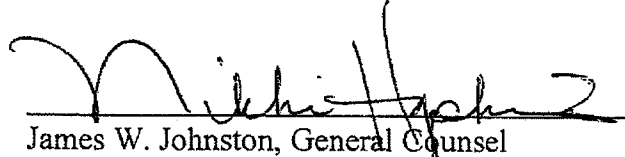
19<sup>th</sup>

day of

April

, 20 12.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel

Board Certified - Administrative Law

Texas Board of Legal Specialization

State Bar No. 10838300

Jena Abel, Assistant General Counsel

State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel

State Bar No. 24066924

John R. Griffith, Assistant General Counsel

State Bar No. 24079751

Robert Kyle Hensley, Assistant General Counsel

State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel

State Bar No. 24052269

John F. Legris, Assistant General Counsel

State Bar No. 00785533

TEXAS BOARD OF NURSING

333 Guadalupe, Tower III, Suite 460

Austin, Texas 78701

P: (512) 305-6824

F: (512) 305-8101 or (512) 305-7401

Attachments: Agreed Order dated September 8, 2009.

D/2012.03.07

BEFORE THE TEXAS BOARD OF NURSING

\*\*\*\*\*

In the Matter of REGISTERED Nurse	§	AGREED
License Number 738288	§	
issued to BARBARA SMITH	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BARBARA SMITH, Registered Nurse License Number 738288, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on March 16, 2009, 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 Jefferson Davis Community College, Brewton, Alabama, on August 14, 2001. Respondent was licensed to practice professional nursing in the State of Texas on February 12, 2007.

5. Respondent's professional nursing employment history includes:

7/1991 - 5/2004	Staff Nurse Labor and Delivery	North Baldwin Infirmary Bay Minette, Alabama
5/2004 - 2/2005	Staff Nurse Labor and Delivery	Los Alamos Medical Center Los Alamos, New Mexico
2/2005 - 8/2005	Staff Nurse Labor and Delivery	Franklin Regional Hospital Franklin, New Hampshire
10/2005 - 12/2005	Staff Nurse Labor and Delivery	Payson Regional Medical Center Payson, Arizona
12/2005-unknown	Staff Nurse Agency Nurse	RN Demand Irving, Texas
2/2007 - Present	Unknown	

6. At the time of the initial incident, Respondent was employed as an Agency Staff Nurse with RN Demand and assigned to East Texas Medical Center-Jacksonville, Jacksonville, Texas, and had been in this position for twenty-eight (28) days.
7. On or about January 28, 2007, while employed as a contract nurse with RN Demand, Irving, Texas, and assigned to the Labor and Delivery Unit at East Texas Medical Center-Jacksonville, Jacksonville, Texas, Respondent incorrectly set an infusion pump rate at 950 cc/hr for Patient MR# 13609656, resulting in the administration of an an overdose of Pitocin, which caused a hyperstimulated contraction lasting approximately two (2) minutes, and a corresponding fetal heart rate deceleration that did resolve after the contraction ceased. Respondent's conduct may have contributed to the patient suffering unnecessary pain and fetal distress, including but not limited to, decreased oxygen delivery to the fetus.
8. In response to the incident in Finding of Fact Number Seven (7), Respondent states, the incident occurred within the first few days of her working there and she was not given any orientation to the facility's procedures or equipment. Respondent admits she did program the pump with a rate of 950ml/hr. but she also set the pump volume at 12ml which, due to the fluid concentration, was only 2 mili units of Pitocin. Respondent states that the mistake was immediately identified and rectified. Furthermore, Respondent indicates she did not try to hide her error and wrote the incident report herself. Although the patient did have one hyper-stimulated contraction, which lasted approximately 2 minutes and the Fetal Heart Rate had a prolonged deceleration, both conditions completely recovered. Respondent asserts that the Fetal Heart Rate continued to have variable and early decelerations throughout the labor, however, at delivery, a mucal cord was discovered to be the reason for the continued



deceleration and not the result of her error.

9. Charges were filed on January 8, 2009.
10. Charges were mailed to Respondent on January 12, 2009.

#### 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)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(A),(1)(B)&(1)(C) and 217.12(1)(B)&(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 738288, heretofore issued to BARBARA SMITH, 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 WARNING 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 multistate licensure privilege, if any, to practice 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 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 deliver the wallet-sized license issued to BARBARA SMITH to the office of the Texas Board of Nursing within ten (10) days of the date of ratification of this Order.

(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 not 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) contact 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>

(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 not 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 at the following Board website address:*  
<http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>

(4) RESPONDENT SHALL, within one (1) year of entry of this Order successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program

provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop*

*may be found at the following web address:*

<http://www.learningext.com/products/generalce/critical/ctabout.asp>.

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 ONE YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) 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:

(5) 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.

(6) 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.

(7) 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.

(8) 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 one (1) year of employment as a nurse.

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

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RESPONDENT'S CERTIFICATION

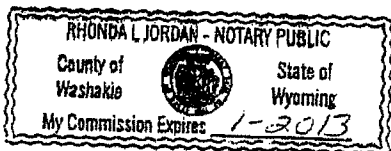
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and 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 17 day of July, 2009.

Barbara Smith  
BARBARA SMITH, Respondent

Sworn to and subscribed before me this 17 day of July, 2009.


SEAL



Rhonda L. Jordan  
Notary Public in and for the State of Wyoming

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 17<sup>th</sup> day of July, 2009, by BARBARA SMITH, Registered Nurse License Number 738288, and said Order is final.

Effective this 8th day of September, 2009.

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