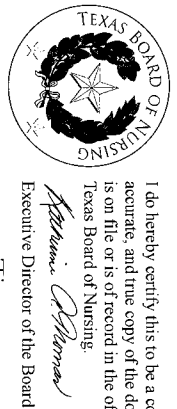


IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 613759  
ISSUED TO  
BRENDA SMITH O'KEEFE

§  
§  
§  
§  
§  
§  
§  
§

BEFORE THE ELIGIBILITY  
AND DISCIPLINARY  
COMMITTEE OF THE BOARD  
OF NURSE EXAMINERS OF THE  
STATE OF TEXAS



**ORDER OF THE BOARD**

TO: Brenda Smith O'Keefe  
291 Scarborough, #1011  
Conroe, Texas 77304

During open meeting held in Austin, Texas, on September 12, 2006, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case. This case was heard, and based on the failure of the Respondent to file a written response to the Formal Charges as required by 22 TEX. ADMIN. CODE, §213.16.

The Committee of the Board of Nurse Examiners 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 Texas Occupations Code, for retention of Respondent's license to practice professional 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 of the violations alleged in the Formal Charges were given to Respondent in this matter, Respondent has failed to file an answer in accordance with 22 TEX. ADMIN. CODE, §213.16.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code, §2001.056 and 22 Texas Administrative Code, §213.16.

The Eligibility and Disciplinary 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 to set aside the default order (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 Certificate Number 613759, previously issued to BRENDA SMITH O'KEEFE, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

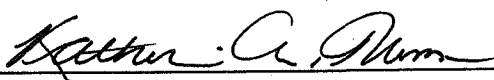
IT IS FURTHER ORDERED that Permanent Certificate Number 613759, previously issued to BRENDA SMITH O'KEEFE, upon receipt of this Order, be immediately delivered to the office of the Board of Nurse Examiners for the State of Texas.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privilege, if any, to practice professional nursing in the State of Texas.

Entered this 12th day of September, 2006.

BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

BY:

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

|   |          |                               |
|---|----------|-------------------------------|
| <b>In the Matter of Permanent License</b> | <b>§</b> | <b>BEFORE THE BOARD</b>       |
| <b>Number 613759, Issued to</b>           | <b>§</b> | <b>OF NURSE EXAMINERS</b>     |
| <b>BRENDA SMITH O'KEEFE, Respondent</b>   | <b>§</b> | <b>FOR THE STATE OF TEXAS</b> |

### **FORMAL CHARGES**

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, BRENDA SMITH O'KEEFE, is a Registered Nurse holding license number 613759, 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 September 6, 2005, while employed with Memorial Hermann, The Woodlands, Texas, Respondent engaged in the intemperate use of alcohol in that she produced a specimen for a drug screen which resulted positive for alcohol. The use of alcohol 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, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9) and (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(10)(A).

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**CONTINUED ON NEXT PAGE**

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of revocation of Respondent's license to practice nursing in the State of Texas pursuant to 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 § 301.461, TEX. OCC. CODE ANN. 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).

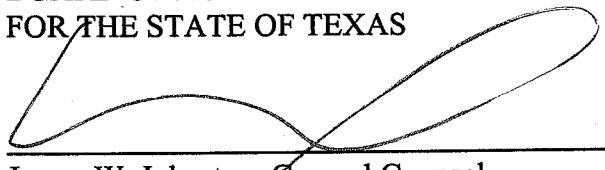
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bne.state.tx.us](http://www.bne.state.tx.us).

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Chemical Dependency which can be found at the Board's website, [www.bne.state.tx.us](http://www.bne.state.tx.us).

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 January 24, 2002.

Filed this 20 day of June, 2006

BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS



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

Victoria Cox, Assistant General Counsel  
State Bar No. 0079585

E. Joy Sparks, Assistant General Counsel  
State Bar No. 18874600

BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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 January 24, 2002.

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

\*\*\*\*\*

|   |          |               |
|---|----------|---------------|
| <b>In the Matter of License Number 613759</b> | <b>§</b> | <b>AGREED</b> |
| <b>issued to BRENDA SMITH O'KEEFE</b>         | <b>§</b> | <b>ORDER</b>  |

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of BRENDA SMITH O'KEEFE, License Number 613759, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9), Texas Occupations Code. Respondent is represented by Victoria Warner, Attorney at Law. Respondent waived a hearing, and agreed to the entry of this Order.

**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 informal conference, 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 a Bachelor of Science in Nursing from Texas Woman's University, Denton, Texas, on February 1, 1995. Respondent was licensed to practice professional nursing in the State of Texas in February 14, 1995.
5. Respondent's professional employment history is unknown.
6. On or about January 14, 2000, while employed at Plano Rehabilitation Hospital, Plano, Texas, Respondent engaged in the intemperate use of alcohol in that Respondent produced a specimen which tested positive for alcohol. The behavioral history of intemperate use of alcohol is conduct that demonstrates lack of fitness to practice and good professional character and that Respondent's continuing to practice professional nursing poses a risk of harm to the client or other person.

7. On or about January 20, 2000, while employed at Plano Rehabilitation Hospital, Plano, Texas, Respondent engaged in the intemperate use of alcohol in that Respondent produced a specimen which tested positive for alcohol. The behavioral history of intemperate use of alcohol is conduct that demonstrates lack of fitness to practice and good professional character and that Respondent's continuing to practice professional nursing poses a risk of harm to the client or other person.
8. 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.
9. 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.
10. Respondent's conduct described in Finding Number Six (6) and Seven (7) resulted from and was significantly influenced by Respondent's impairment by chemical dependency.
11. Respondent has submitted substantial evidence that demonstrates her participation in COPAC, a substance abuse facility in Mississippi, and her compliance with its requisite testing and abstinence from chemical substances. This evidence supports her contention that she has abstained since entering the facility in February 2000.
12. Respondent's compliance with the terms of a Board approved peer assistance program or an approved alternative program offered by a Nurse Licensure Compact state 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 violation of Section 301.452(b)(9) & (12), Texas Occupations Code.
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against License Number 613759, heretofore issued to BRENDA SMITH O'KEEFE, including revocation of Respondent's professional license to practice nursing in the State of Texas.
5. The Board, in its discretion, may 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.

6. The Board, in its discretion, may in lieu of licensing action order Respondent to comply with an alternative nurse monitoring program of another jurisdiction which is a member of the Nurse Licensure Compact pursuant to § 220.3 and Article 5(f) of § 304.001, Texas Occupations Code (Nurse Licensure Compact).

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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) or the terms of monitoring agreed to pursuant to the authority of the Nurse Licensure Compact:

TPAPN Option

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to and be accepted into the TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Board of Nurse Examiners.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN contract during its term.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, Section §§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.



### Multistate Licensure

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privileges, if any, to practice professional 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 State of Texas and the Board of Nursing in the party state where Respondent wishes to work. IT IS FURTHER AGREED, SHOULD RESPONDENT choose to practice in another jurisdiction pursuant to a multistate licensure privilege or apply for licensure in another jurisdiction that is a member of the Nurse Licensure Compact, she may participate in an alternative program of monitoring for chemical dependency offered by the party state Board in lieu of licensing action. RESPONDENT SHALL receive prior written authorization from both the Texas Board of Nurse Examiners and the party state Board.

### Mississippi Alternative to TPAPN

IT IS FURTHER AGREED, and ORDERED that this order constitutes written permission for Respondent to participate in Mississippi's alternative program for chemical dependency in lieu of the TPAPN option provided Respondent applies and is accepted within forty-five (45) days following the date of entry of this final Order, and remains enrolled in Mississippi's alternative program for two (2) years. RESPONDENT SHALL NOT practice in any other party state during the term of the alternative program without prior written authorization from the Board of Nurse Examiners for the State of Texas.

Remedy for Further Violation

IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN or in the alternative, a program of monitoring for chemical dependency offered by a party State Board, such noncompliance will result in further disciplinary action including revocation of Respondent's license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

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.

RESPONDENT'S CERTIFICATION

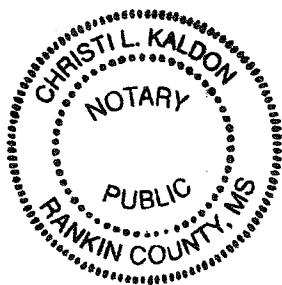
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violation alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this 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 Board of Nurse Examiners, 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 7 day of December, 2001.

  
BRENDA SMITH O'KEEFE, Respondent


Sworn to and subscribed before me this 7 day of December, 2001.

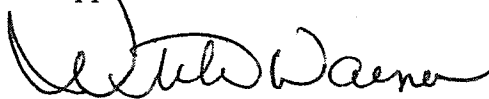
SEAL



Notary Public State of Mississippi At Large  
My Commission Expires: November 26, 2003  
Bonded thru Heiden, Brooks & Garland, Inc.

Notary Public in and for the State of \_\_\_\_\_

  
Approved as to form and substance.



VICTORIA WARNER, Attorney for Respondent

Signed this 11<sup>th</sup> day of December, 2001.

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Board of Nurse Examiners for the State of Texas, does hereby accept and enter the Agreed Order that was signed on the 7th day of December, 2001, by BRENDA SMITH O'KEEFE, License Number 613759, and said Order is final.

Entered and effective this 24th day of January, 2002.


A handwritten signature in cursive script, appearing to read "Katherine A. Thomas".

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

CERTIFICATE OF SERVICE

I hereby certify that on the 15 day of September, 20 06 a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via first class mail, and addressed to the following person(s):

Brenda Smith O'Keefe  
291 Scarborough, #1011  
Conroe, Texas 77304

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