



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.
Katherine A. Thomas
Executive Director of the Board

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of License Number 634759 § AGREED
issued to SARA SMITH § ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of SARA SMITH, License Number 634759, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(8), (9) & (10), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on August 27, 2002, by Katherine A. Thomas, MN, RN, Executive Director.

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 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 an Associate Degree in Nursing from San Antonio College, San Antonio, Texas on August 1, 1996. Respondent was licensed to practice professional nursing in the State of Texas on October 15, 1996.

5. Respondent's professional employment history includes:

10/96 - 1/00	Staff Nurse	Methodist Hospital San Antonio, Texas
1/00 - 11/00	Hospice Nurse	Vitas Hospice San Antonio, Texas
12/00 - 5/01	Traveling Nurse	Lone Star Nurses San Antonio, Texas
5/01 - 7/01	Not employed in nursing	
7/01 - present	Staff Nurse	Laurel Ridge Hospital San Antonio, Texas

6. At the time of the incident, Respondent was employed as a Traveling Nurse with Lone Star Nurses, San Antonio, Texas and was on assignment at St. Francis Hospital, Milwaukee, Wisconsin, utilizing her Texas nursing license under the multistate licensure privilege, and had been in this position for six (6) months.
7. On or about May 6, 2001, while employed with Lone Star Nurses, San Antonio, Texas, and on assignment at St. Francis Hospital, Milwaukee, Wisconsin, utilizing her Texas license to practice professional nursing under the multistate licensure privilege, Respondent misappropriated oxycodone, hydrocodone and propoxyphene from the hospital and the patients thereof. Respondent's conduct defrauded the hospital and the patients thereof of the cost of the medications.
8. Respondent, while employed with Lone Star Nurses, San Antonio, Texas and on assignment at St. Francis Hospital, Milwaukee, Wisconsin, utilizing her Texas license to practice professional nursing under the multistate licensure privilege, engaged in the intemperate use of oxycodone, hydrocodone, and propoxyphene. The use of oxycodone, hydrocodone 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, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
9. On or about March 1, 2002, Respondent's multistate licensure privilege was Suspended for an Indefinite period by the Wisconsin Department of Regulation and Licensing, Wisconsin Board of Nursing, Madison, Wisconsin, for the conduct described in Findings of Fact Numbers Seven (7) and Eight (8). A copy of the March 1, 2002, Final Decision and Order of the Wisconsin Department of Regulation and Licensing, Wisconsin Board of Nursing, Madison, Wisconsin, is attached and incorporated by reference as part of this Order.

10. Respondent's conduct described in the preceding Findings of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
11. 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.
12. Respondent's conduct described in Findings Numbers Seven (7) through Nine (9) was significantly influenced by Respondent's dependency on chemicals.
13. 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)(8), (9) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(19).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against License Number 634759, heretofore issued to SARA SMITH, including revocation of Respondent's professional 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):

(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.

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 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 revocation of Respondent's 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 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, 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 16 day of Sept, 2002

Sara Smith

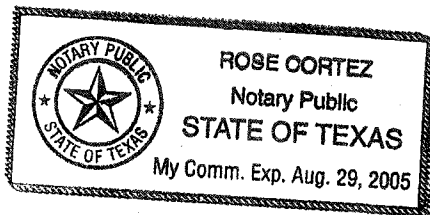
SARA SMITH, Respondent

Sworn to and subscribed before me this 16 day of Sept, 2002.

SEAL

Rose Cortez


Notary Public in and for the State of Texas



Approved as to form and substance.

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 16th day of September, 2002, by SARA SMITH, License Number 634759, and said Order is final.

Entered and effective this 30th day of September, 2002.


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

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

SARA SMITH, R.N.,
RESPONDENT.

FINAL DECISION AND ORDER

LS 02010 44 NUR

01 NUR 140

The parties to this action for the purposes of § 227.53, Wis. Stats., are:

Sara Smith
9807 Five Forks
San Antonio, TX 78245

Wisconsin Board of Nursing
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Sara Smith (dob: 05/01/59) is and was at all times relevant to the facts set forth herein a professional nurse licensed in the State of Texas (primary state of residence) pursuant to license # 634759. This license was first granted October 15, 1996. At all times relevant to this disciplinary action, Respondent was practicing as a professional nurse in the state of Wisconsin (remote party state) pursuant to privileges granted under Wis. Stats. sec. 441.50, Nurse Licensure Compact.

2. On May 6, 2001, while employed as a professional nurse with Lone Star Nurses, and on duty at St. Francis Hospital, Milwaukee, Wisconsin, Respondent diverted the controlled substances, oxycodone, hydrocodone and propoxyphene, from patient supplies for her personal use.

3. Following an evaluation conducted June 1, 2001, at the San Antonio Council on Alcohol and Drug Abuse, Respondent was diagnosed with substance abuse. Respondent has participated in treatment for her condition at the San Antonio Council and Texas Peer Assistance Program for Nurses.

4. Respondent is not currently engaged in nursing practice in the state of Wisconsin.

CONCLUSIONS OF LAW

5. The Wisconsin Board of Nursing has jurisdiction to act in this matter pursuant to § 441.50(3) and 441.07(1)(b)(c) and(d) Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

6. The conduct described in paragraphs 2 through 5, above, violated § N 7.03(2) and N 7.04(1), (2) and (15) Wis. Adm. Code. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED that effective on the date of this Order, the multi-state licensure privilege of Sara Smith to practice as a professional nurse in the state of Wisconsin is **SUSPENDED** for an INDEFINITE period .

Respondent may apply at any time to the Board for a stay of suspension for a period of three months, conditioned upon compliance with the conditions and limitations outlined below. In conjunction with the initial application for a stay of suspension Respondent must submit a current evaluation of her condition by a licensed physician which must contain specific treatment recommendations, and proof of satisfactory participation in a chemical dependence treatment program acceptable to the Board. The petition shall contain proof satisfactory to the Board that Respondent is able to safely and reliably practice as a nurse.

- a. Respondent may apply for consecutive three (3) month extensions of the stay of suspension, which shall be granted upon acceptable demonstration of compliance with the conditions and limitations imposed on the respondent for rehabilitation and practice during the prior three (3) month period.
- b. The Board may without hearing deny an application for extension of the stay, or commence other appropriate action, upon receipt of information that respondent has violated any of the terms or conditions of this Order. If the Board denies the petition by the respondent for an extension, the Board shall afford an opportunity for hearing in accordance with the procedures set forth in ch. RL 1, Wis. Adm. Code upon timely receipt of a request for hearing.
- c. Upon a showing by Respondent of continuous, successful compliance for a period of at least five years of active practice with the terms of this order and compliance with all other terms of this Order, the Board may grant a petition by the Respondent for return of full licensure. (See ¶14, below.)

IT IS FURTHER ORDERED, that the multi-state licensure privilege to practice of Respondent shall be LIMITED as follows:

REHABILITATION, MONITORING AND TREATMENT

Treatment Required

1. Respondent shall enroll and continue successful participation in all components of a drug and alcohol treatment program at a treatment facility acceptable to the Board as Respondent's Supervising Health Care Provider shall determine to be appropriate for respondent's rehabilitation. Respondent shall commence involvement in the drug and alcohol rehabilitation program within 5 days of the date of the Final Decision and Order of the Board.

Therapy. The rehabilitation program shall include and Respondent shall participate in individual and/or group therapy sessions for the first year of the stayed suspension upon a schedule as recommended by the supervising physician or therapist, but not less than once monthly. Such therapy shall be conducted by the supervising physician or therapist, or another qualified physician or therapist as designated by the supervising physician or therapist and acceptable to the Board. After the first year of stayed suspension, this requirement for therapy sessions may be modified only upon written petition, and a written recommendation by the supervising physician or therapist expressly supporting the modifications sought. A denial of such petition for modification shall not be deemed a denial of the license under §§ 227.01(3) or 227.42, Wis. Stats., or ch. RL 1, Wis. Adm. Code, and shall not be subject to any right to further hearing or appeal.

AA/NA Meetings. Respondent shall attend Narcotics Anonymous and/or Alcoholic Anonymous meetings or an equivalent program for recovering professionals, upon a frequency as recommended by the supervising physician or therapist, but not less than one meeting per week. Attendance of Respondent at such meetings shall be verified and reported monthly to the supervising physician or therapist.

Sobriety

2. Respondent shall abstain from all personal use of controlled substances as defined in Sec. 161.01(4), Stats. except when necessitated by a legitimate medical condition and then only with the prior approval of the Supervising Health Care Provider.
3. Respondent shall abstain from all personal use of alcohol.
4. Respondent shall in addition refrain from the consumption of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, or which may create false positive screening results, or which may interfere with respondent's treatment and rehabilitation. Respondent shall report all medications and drugs, over-the-counter or prescription, taken by respondent to the Supervising Health Care Provider within 24 hours of ingestion or administration, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Within 24 hours of a request by the Supervising Health Care Provider or the Board or its designee, Respondent shall provide releases which comply with state and federal laws authorizing release of all health care records by the person who prescribed, dispensed, administered or ordered this

medication for respondent. These releases shall also authorize the Supervising Health Care Provider, the Board or its designee to discuss the Respondent's health care with the person who prescribed, dispensed, administered or ordered this medication. The terms of this paragraph shall not be deemed to modify or negate Respondent's obligations as set forth in this Order.

Department Monitor

5. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including receiving and coordinating all reports and petitions, and requesting additional monitoring and surveillance. The Department Monitor may be reached as follows:

Department Monitor
Department of Regulation Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935
FAX (608) 266-2264
TEL. (608) 267-3817

Releases

6. Respondent shall provide and keep on file with the Supervising Health Care Provider, all treatment facilities and personnel, laboratories and collections sites current releases which comply with state and federal laws authorizing release of all urine, blood and hair specimen screen results and medical and treatment records and reports to, and permitting the Supervising Health Care Provider and all treating physicians and therapists to disclose and discuss the progress of respondent's treatment and rehabilitation with the Board or any member thereof, or with any employee of the Department of Regulation and Licensing acting under the authority of the Board. Copies of these releases shall be filed simultaneously with the Department Monitor.

Drug and Alcohol Monitoring

7. Within thirty (30) days from the date of the signing of this Order the Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the department pursuant to Wis. Adm. Code § RL 7.11, ("Approved Program").

- a. The Department Monitor, Board or Board designee shall provide to the Respondent a list of Approved Programs, however, the Respondent is solely responsible for timely enrollment in any such Approved Program.
- b. Unless otherwise ordered by the Board, the Approved Program shall require the testing of urine specimens at a frequency of not less than 60 times each year.
- c. The Department Monitor, Board or Board designee shall determine the tests to be performed upon the urine specimens.

d. The Respondent shall comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program, including but not limited to;

(1) contact with the Approved Program as directed on a daily basis, including weekends and holidays, and;

(2) production of a urine specimen at a collection site designated by the Approved Program within five(5) hours of notification of a test.

e. The Board in its discretion without a hearing and without further notice to the Respondent may modify this Order to require the submission of hair or breath specimens or that any urine or hair specimen be furnished in a directly witnessed manner.

f. All expenses of enrollment and participation in the Approved Program shall be borne by the Respondent. The Respondent shall keep any account for such payments current in all respects.

g. For purposes of further Board action under this Order it is rebuttably presumed that all confirmed positive test results are valid. Respondent has the burden of proof to establish by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody which causes an invalid confirmed positive test result.

8. Respondent shall keep the Supervising Health Care Provider informed of Respondent's location and shall be available for contact by the Supervising Health Care Provider at all reasonable times.

Required Reporting by Supervising Health Care Provider, and laboratories

9. The Supervising Health Care Provider shall report immediately to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement by FAX or telephonic communication: any failure of Respondent to provide a urine, blood or hair specimen within five (5) hours from the time it was requested; or of any inability to locate Respondent to request a specimen. The laboratory shall immediately report all urine specimens suspected to have been tampered with and all urine, blood or hair specimens which are positive or suspected positive for controlled substances or alcohol to the Department Monitor, and to the Supervising Health Care Provider.

10. The laboratory shall within 48 hours of completion of each drug or alcohol analysis mail the report from all specimens requested of Respondent under this Order to the Department Monitor (regardless of whether the laboratory analysis of the specimen was positive or negative for controlled substances, their metabolites or alcohol). Each report shall state the date and time the specimen was requested; the date and time the specimen was collected; the results of the tests performed to detect tampering; and the results of the laboratory analysis for the presence of controlled substances and alcohol.

11. The Supervising Health Care Provider shall submit formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in the drug and alcohol treatment program and summarize the results of the urine, blood or hair specimen analyses. The Supervising Health Care Provider shall report immediately to the Department Monitor [Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935, FAX (608)266-2264, telephone no. (608)267-3817] any violation or suspected violation of the Board's Final Decision and Order.

Required reporting by Respondent

12. Respondent is responsible for compliance with all of the terms and conditions of this Final Decision and Order. It is the responsibility of Respondent to promptly notify the Department Monitor, of any suspected violations of any of the terms and conditions of this Order, including any failures of the Supervising Health Care Provider, treatment facility, laboratory or collection sites to conform to the terms and conditions of this Order.

Facility approval

13. If the Board determines that the Supervising Health Care Provider, treatment facility, laboratory or collection sites have failed to satisfy the terms and conditions of this Final Decision and Order, the Board may, at its sole discretion, direct that Respondent continue treatment and rehabilitation under the direction of another Supervising Health Care Provider, treatment facility, laboratory or collection site which will conform to the terms and conditions of this Final Decision and Order.

PETITIONS FOR MODIFICATION OF TERMS

14. Respondent may petition the Board for modification of the terms of this limited license. Any such petition shall be accompanied by a written recommendation from Respondent's Supervising Health Care Provider expressly supporting the specific modifications sought. Denial of the petition in whole or in part shall not be considered a denial of a license within the meaning of Sec. 227.01(3)(a), Stats. and Respondent shall not have a right to any further hearings or proceedings on any denial in whole or in part of the petition for modification of the limited license.

After five years of continuous active professional practice under this Order and without relapse, and upon recommendation of the Supervising Health Care Provide, Respondent may petition the Board for a termination of all limitations on the license, and restoration of an unlimited license. Such restoration shall be in the sole discretion of the Board, and denial of the petition in whole or in part shall not be considered a denial of a license within the meaning of Sec. 227.01(3)(a), Stats. and Respondent shall not have a right to any further hearings or proceedings on any denial in whole or in part of the petition for termination of the limitations and restoration of unlimited licensure.

EXPENSES OF TREATMENT AND MONITORING

15. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order.

PRACTICE LIMITATIONS

Controlled Substance Access

16. Respondent shall refrain from access to or the administration of controlled substances in her work setting until such time as access or administration is approved by the Board.
17. Respondent shall practice only under the general supervision of a licensed professional nurse or other licensed health care professional approved by the Board or in a work setting pre-approved by the Board or its designated agent.

Reporting Required

13. Respondent shall arrange for her employer to provide formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance.

Change in Address or Work Status

19. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.
20. Respondent shall furnish a copy of this Order to all present employers immediately upon issuance of this Order, and to any prospective employer when Respondent applies for employment as a health care provider.

Violation of any of the terms of this Order shall be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's multi-state licensure privileges; the Board in its discretion may in the alternative deny a stay of suspension of the license or impose additional conditions and limitations or other discipline.

This Order shall become effective upon the date of its signing. A copy of this Order shall be forwarded to the Board of Nurse Examiners for the State of Texas.

WISCONSIN BOARD OF NURSING

by: Andrea M. Sonner
Board Chair

3-1-02
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

SARA SMITH, R.N.,
RESPONDENT.

STIPULATION
01 NUR 140

It is hereby stipulated between the above Respondent and the undersigned prosecuting attorney for the Division of Enforcement of the Department of Regulation and Licensing, as follows:

1. This Stipulation is entered into as a result of a pending investigation of licensure of Respondent by the Division of Enforcement. Respondent consents to the resolution of this investigation by agreement and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation, respondent waives the following rights with respect to disciplinary proceedings: the right to a statement of the allegations against respondent; a right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against respondent; the right to call witnesses on respondent's behalf and to compel attendance of witnesses by subpoena; the right to testify personally; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent is aware of respondent's right to seek legal representation and has been provided the opportunity to seek legal advice before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties agree that an attorney for the Division of Enforcement may appear before the Board, in open or closed session, without the presence of Respondent or Respondent's attorney, for the purposes of speaking in support of this agreement and answering questions that the members of the Board and its staff may have in connection with their deliberations on the case.

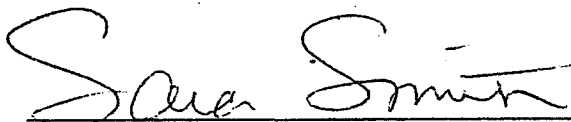
7. The Board Advisor in this matter may participate freely in any deliberations of the Board regarding acceptance of this Stipulation and the proposed Final Order, and may relate to the Board any knowledge and view of the case acquired during the investigation.

8. This stipulation is subject to approval by the Division of Enforcement's attorney-supervisor. If approved by the supervisor, the Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

9. Respondent is informed that should the Board adopt this stipulation, the Board's final decision and order is a public record and will be published in the monthly *Report of Decisions* issued by the department. A summary of the order will be published in the *Wisconsin Regulatory Digest* issued semiannually by the Board. This is standard department procedure and in no way specially directed at Respondent.

10. Attached to this Stipulation is Respondent's licensure card. Upon issuance of an Order Respondent's license may be reissued pursuant to the terms of the Order.

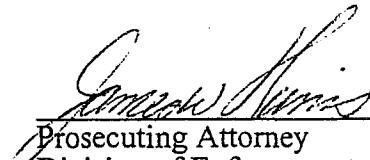
11. Also attached to this Stipulation are copies of Respondent's current health care records for consideration by the Board.



Sara Smith, Respondent

1-22-02

Date


Prosecuting Attorney
Division of Enforcement

January 28, 2002

Date

NOTICE OF RIGHTS OF APPEAL

TO: *Sara Smith*

You have been issued an Order. For purposes of service the date of mailing of this Order is *March 25, 2002*. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Order is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

Board of Nursing

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935

WISCONSIN DEPARTMENT OF
REGULATION & LICENSING

Scott McCallum
Governor
Oscar Herrera
Secretary



1400 East Washington Avenue
PO Box 8935
Madison WI 53708-8935
Email: dorl@drl.state.wi.us
Voice: 608-266-2112
FAX: 608-267-0644
TTY: 608-267-2416

March 6, 2002

B. HASBROUCK SLEIGHT, D.C.
150 ELEVENTH AVE S
WISCONSIN RAPIDS WI 54495

RE: Dr. LaBlanc

Dear Dr. Sleight:

You will recall that Dr. LaBlanc is the Milwaukee chiropractor who undertook treatment of a 12 year old girl for scoliosis as the mother's chosen alternative to the orthopedic surgeon's suggestion for a brace. Dr. LaBlanc treated the girl for two years without intervening radiographs, claiming success until the mother noticed that the girl's clavicle stuck out, and returned to the orthopedic surgeon who said the condition was beyond a simple brace.

Dr. LaBlanc has hired a lawyer, and is not willing to accept the 30 day suspension plus targeted continuing education. Instead, he offers a voluntary limitation of no scoliosis treatment until after he has had targeted scoliosis continuing education, and then some form of monitoring thereafter. I told the lawyer that I didn't think that would address the basic problem of failing to do minimally adequate assessment of continuing treatment of a diagnosed condition, but I'd check with my advisor.

Given that Dr. LaBlanc has been ignoring his clear deficiencies in favor of CE courses in nutrition, not that he recalls any of the salient details about those courses, I'd suggest that you decline Dr. LaBlanc's counter-offer. I believe that Dr. LaBlanc intends to contest any significant discipline because of the financial impact inherent in significant discipline, so there is no apparent benefit to negotiations in the absence of recognition on his part of his professional deficits.

Please call with any questions or comments you may have, and your instructions. Thank you for your help with this case.

Sincerely,

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