

BOARD OF NURSE EXAMINERS FOR THE STATE OF TEXAS
Regular/Annual Meeting
~~April 26-27, 2001~~

AMENDED AGENDA

CALL TO ORDER - 8:30 a.m.
Roll Call/Declaration of Quorum

REVIEW OF AGENDA
Deletions, Reordering

Adoption of Consent Agenda & Related Board Actions:

Consent Agenda Items:

- pull'd out consent* →
- 1. *Minutes of January 18-19, 2001 meeting*
 - 3.2.1. *CE Compliance Report*
 - 3.4.1. *Workshop Reports*
 - 3.4.2. *Faculty Petition, Lamar University*
 - 3.4.5. *Confirmation of Accreditation Status Based on 2000 NCLEX-RN® Examination Pass Rates and Annual Reports*
 - 4.2.3.b. *ACE New Members*
 - 8.2. *Agreed Orders*

1. **MINUTES** of January 18-19, 2001 meeting

2. OPERATIONS

*2.1. Financial Statements - MM

2.2. Legislative Appropriations Request (LAR)/Budget Hearings - MM/KT

2.3. Legislative Update - BH

3. REPORTS OF THE STAFF

*3.1. Executive Director's Report - KT

3.2. Licensing

C *3.2.1. CE Compliance Report - MM

3.3. Enforcement

3.4. Professional Nursing

C *3.4.1.a. Workshop Report - CM

C *3.4.1.b. Advanced Practice Nursing Workshop report - CM

~~4.1.3.~~ Development and Evaluation - SM

4.2. Advisory Committees/Task Forces

~~*4.2.1.~~ Advanced Practice Nurses - LR/JZ

~~4.2.2.~~ Nursing Practice - LB//CM/CD

~~4.2.3.~~ Advisory Committee on Education - LP/DC

C ~~*4.2.3.a.~~ NEAC Subcommittee - CM

~~*4.2.3.b.~~ ACE New Members

5. OPEN FORUM - 1:30 - 2:00 pm

6. OLD BUSINESS

~~*6.1.~~ Multistate Regulation - KT

~~6.2.~~ NURSYS Data System - MM

7. NEW BUSINESS

~~*7.1.~~ TPAPN Quarterly Report

~~*7.2.~~ Review of TPAPN Contract

~~*7.3.~~ Rule 219 - LR/JZ

~~*7.4.~~ NCSBN Mid-Year Meeting Report - KT/LR

~~*7.5.~~ APN Petition - Teresa Gilliland - JZ

~~*7.6.~~ Texas Higher Education Coordinating Board presentation on Field of Study Project

8. PROPOSED BOARD ORDERS

C ~~*8.1.~~ ALJ's Proposal for Decision - None

~~*8.2.~~ Agreed Orders

- | | |
|-------------------------------|-----------|
| Cook, Bettie L. | TX#534531 |
| Cornell, Dorothy K. | TX#509571 |
| Davison, Medra Faye | TX#554206 |
| Denton, Rae Marie | TX#562330 |
| Evans, Rhonda Gay | TX#609669 |
| Garcia, Hilda Dinorah | TX#610953 |
| House, Trudy E. | TX#619664 |
| Johns, Monica | TX#654400 |
| Lewis, Susan Diane Clark | TX#558522 |
| Milhoan, Lisa Hope <i>CNA</i> | TX#527142 |
| Papp, Mary Yvonne | TX#548186 |

revised →

put back → ~~Smart, Darla Renee~~ TX#625464
Smith, Morris TX#651322
Spencer, Larry Albert TX#597008
Sperl, Danny TX#647658
Sullivan, Kimberly L. TX#500743
Tully-Waters, Kristin Katherine TX#634100
Villarreal, Maricela TX#641383
Wingate, Mary A. TX#501451

9. MISCELLANEOUS

- 9.1. Board retreat - August 15-16, 2001 - MM
- 9.2. Board Items of Interest for Future Board Meetings
- 9.3. Board Development - Peer Review - CM/CD
- 9.4. Board and Executive Director Evaluation Process - SM

*Sent from Office **Sent from third party

Add an "*" for items that will have materials and also a "C" if the item can be placed on consent (no discussion of the material(s) required).

Amended 4/13/01

BOARD OF NURSE EXAMINERS

Regular Meeting

~~Thursday, April 26, 2001~~

8:30 a.m. - 5:30 p.m.

Friday, April 27, 2001

8:30 a.m. - 11:00 a.m.

333 Guadalupe, Tower II, Room 225

Austin, Texas

Present:

Linda Rounds, President

Thalia Munoz, Vice President

Kenneth Lowrance

Sue McGee

Letrice Brown

Nancy Boston

Marcelo Laijas

Absent:

Elizabeth Poster

John Fonteno

Staff present at various times:

Kathy Thomas, Executive Director

Mark Majek, Director of Operations

Anthony Diggs, Director of Enforcement

Dusty Johnston, General Counsel

Phong Phan, Assistant General Counsel

Sandra Owen, Director of Professional Nursing

Carol Dobrich, Nursing Consultant

Bruce Holter, Information Specialist

Cara Mueller, Nursing Consultant

Jolene Zych, Nursing Consultant

Virginia Holmes, Nursing Consultant

Georgia Lavin, Executive Assistant

Lyn Hammer, Ad Tech

Chris Schroeder, Investigator

Sunny McShan, Investigator

External Consultant to the Board

Mary Anne Hanley

AGENDA ITEM	DISCUSSION	ACTION
Nursing Practice Advisory Committee	Cara Mueller and Carol Dobrich reported that the committee is still meeting and requested new chair to replace Letrice Brown.	Dr. Rounds appointed Thalia Munoz as the new chair of the Nursing Practice Advisory Committee.
Advisory Committee on Education	Cara Mueller reported that the NEAC committee is reviewing competencies and will update the board at the July 2001 meeting.	
OLD BUSINESS		
Multistate Regulation	Kathy Thomas reviewed her written report. The Compact is now passed in fifteen states with Arizona as the latest to pass the Compact.	
NURSYS Data System	Mark Majek gave a verbal report stating that NURSYS is progressing with adding state data bases	
NEW BUSINESS		
Rule 219	Jolene Zych reviewed changes to Rule §219 requesting authorization to repeal the current rule and publish the new Rule §219 in the Texas Register with a 30 day comment period.	The board voted to authorize staff to publish repeal and new rule 219 in the Texas Register with a 30 day comment period. Staff will bring Rule §219 back to July 2001 board meeting for review of comments and to vote on implementation date.
NCSBN MID-Year Meeting Report	Kathy Thomas reviewed her written report on the National Council Mid-year Conference which took place March 5-8, 2001. Linda Rounds also attended	
ALJ's Proposal for Decision	No report.	
AGREED ORDERS		
	Proposed Agreed Orders were considered by the members of the board for the following:	The board voted to ratify the Agreed Orders under the Consent Agenda.
	Bettie L. Cook, TX#534531	Warning with Stipulations. The stipulations require successful completion of courses in nursing jurisprudence, nursing documentation, and physical assessment; Notification of Employment form and direct supervision as well as periodic reports.
	Dorothy K. Cornell, TX#509571	Reprimand with Stipulations. The stipulations require successful completion of courses in nursing jurisprudence, and nursing documentation and to read the

AGENDA ITEM	DISCUSSION	ACTION
		jurisprudence and physical assessment; Notification of Employment form and direct supervision as well as periodic reports.
	Susan Diane Clark Lewis, TX#558522	Warning with Stipulations. The stipulations require successful completion of a course in nursing jurisprudence and nursing documentation; Notification of Employment form and direct supervision as well as periodic reports.
	Lisa Hope Milhoan, TX#527142	Warning with Stipulations. The stipulations require successful completion of course in nursing jurisprudence and payment of a monetary fine.
	Mary Yvonne Papp, TX#548186	Petition to practice in Texas is granted subject to stipulations. All re-registrations fees and obtained license; successful completion of a course in nursing jurisprudence; Notification of Employment form and supervision; shall not accept night shifts, etc.; shall submit to random periodic screens for controlled substances and alcohol and shall participate in therapy with a professional counselor plus shall attend at least two support group meetings each week.
	Darla Renee Smart, TX#625464	Warning with Stipulations. The stipulations require successful completion of a courses in nursing jurisprudence and nursing ethics; Notification of Employment form and direct supervision as well as periodic reports.
	Morris Smith, TX#651322	Reprimand with Stipulations. The stipulations require successful completion of courses in nursing jurisprudence, and nursing documentation; Notification of Employment form and direct supervision as well as periodic reports.
	Larry Albert Spencer, TX#597008	Reprimand with Stipulations. The stipulations require successful completion of course in nursing

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of License Number 625464 § AGREED
issued to DARLA RENEE SMART § ORDER

An investigation by the Board produced evidence indicating that DARLA RENEE SMART, hereinafter referred to as Respondent, License Number 625464, may have violated Article 4525(b)(9) and (12), Revised Civil Statutes of Texas, as amended.

An informal conference was held on September 29, 1998, at the office of the Board of Nurse Examiners, in accordance with Article 4524c, Revised Civil Statutes of Texas, as amended.

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 Sally Glaze, RN, Executive Director's Designee; Kent Black, General Counsel; Anthony L. Diggs, MSCJ, Director, Enforcement Division; and Diane E. Burell, 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 Texas.
4. Respondent received an Associate Degree in Nursing from Gadsden State Community College, Gadsden, Alabama, in June 1992. Respondent was licensed to practice professional nursing in the State of Texas on February 1, 1996.

5. Respondent's professional employment history includes:

1979 - 1983	LVN Staff Nurse Nan Travis Memorial Hospital Jacksonville, Texas
1983 - 1985	LVN Staff Nurse Newborn Memorial Hospital Jacksonville, Texas
1985 - 1990	LPN Staff Nurse Piedmont Hospital Piedmont, Alabama
1990 - 1995	LPN/RN-ADON Wessex House of Jacksonville Jacksonville, Alabama
1995 - 1997	RN/Charge Nurse Henderson Memorial Hospital Henderson, Texas
1997 - 1998	RN/DON Jacksonville Health Care Center Jacksonville, Texas
June 1998 - present	Director of Nursing Bonner Place Nursing Home Jacksonville, Texas

6. At the time of the initial incident, Respondent was employed as a Staff Nurse/Charge Nurse with Henderson Memorial Hospital, Henderson, Texas, and had been in this position for approximately one and one-half (1½) years.
7. Charges were filed on April 14, 2000. A copy of the charges are attached and incorporated by reference as part of this order.
8. Charges were mailed to Respondent on April 17, 2000.
9. Respondent was evaluated by Grover C. Loughmiller, PhD, on November 19, 1998. Results of the evaluation indicate Respondent had no problems with controlled substances. Dr. Loughmiller believes Respondent can behave consistently in accordance with Board Rule requirements.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-.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 Article 4525(b)(9) and (12), TEX. REV. CIV. STAT. ANN., and 22 TEX. ADMIN. CODE §217.11(8). and 22 TEX. ADMIN. CODE §217.13(1) and (16).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against License Number 625464, heretofore issued to DARLA SMART, 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 a Warning with Stipulations, 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 that:

(1) RESPONDENT SHALL deliver the wallet-size license issued to DARLA RENEE SMART, to the office of the Board of Nurse Examiners within ten (10) days of the date 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 nursing ethics to include professional boundaries. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. The course must be a minimum of six (6) contact hours in length. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by 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.

IT IS FURTHER AGREED, SHOULD RESPONDENT CHOOSE TO PRACTICE AS A REGISTERED NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING, UNDER THE FOLLOWING STIPULATIONS

FOR ONE (1) YEAR OF EMPLOYMENT:

(4) RESPONDENT SHALL notify each present employer in professional nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a copy of this Order to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in professional nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a copy of this Order to each future employer prior to accepting an offer of employment.

(5) RESPONDENT SHALL CAUSE each present employer in professional nursing to submit the Notification of Employment form, which is provided 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 to the Board's office within five (5) days of employment as a professional nurse.

(6) RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency or home health agency.

(7) RESPONDENT SHALL CAUSE each employer to submit, on forms provided by the Board, periodic reports as to RESPONDENT's capability to practice professional nursing. These reports shall be completed by the Registered Nurse who supervises the RESPONDENT. These reports shall be submitted to the office of the Board at the end of each three (3) months for one (1) year of employment as a professional nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license 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, 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 ____ day of _____, 20____.

DARLA RENEE SMART, Respondent

Sworn to and subscribed before me this ____ day of _____, 20____.

SEAL

Notary Public in and for the State of _____

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the _____ day of _____, 20____, by DARLA RENEE SMART, License Number 625464, and said Order is final.

Effective this _____ day of _____, 20____.

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

In the Matter of Permanent License § BEFORE THE BOARD
Number 625464, Issued to § OF NURSE EXAMINERS
DARLA RENEE SMART, Respondent § FOR THE STATE OF TEXAS

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, DARLA RENEE SMART, is a Registered Nurse holding license number 625464, 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.

Respondent, on or about July 9, 1996, while employed with Henderson Memorial Hospital, Henderson, Texas, failed to secure a patient's medication (Darvocet) which was brought from the patient's home. Respondent did not lock up the narcotic, she placed it in a bedside drawer. Respondent exposed the patient unnecessarily at risk of harm.

The above action constitutes a violation of Article 4525(b)(12), TEX. REV. CIV. STAT. ANN., and 22 TEXAS ADMIN. CODE §217.11(8).

CHARGE II.

Respondent, on or about March 25, 1997, attempted to pass a fraudulent telephonic prescription for Vicodin at Winn Dixie Pharmacy, Jacksonville, Texas. Respondent's conduct deceived the pharmacy and constitutes a violation of Chapter 481 (Controlled Substance Act) of the Texas Health and Safety Code.

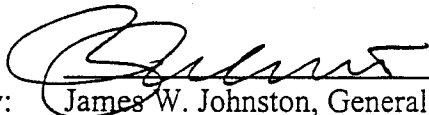
The above action constitutes a violation of Article 4525(b)(9), TEX. REV. CIV. STAT. ANN., and 22 TEXAS ADMIN. CODE §217.13(1) and (16).

NOTICE IS GIVEN that staff will present evidence in support of any recommended disposition of this matter pursuant to the factors stated in the Board's rule regarding penalty/sanction factors, 22 Texas Administrative Code, Section 213.33.

NOTICE IS GIVEN that all statutes and rules cited in these Charges are attached and incorporated as a part of this pleading.

Filed this 14th day of April, 20 00.

BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

By: 
James W. Johnston, General Counsel
Board Certified Administrative Law
Texas Board of Legal Specialization
SBN: 10838300
333 Guadalupe, Tower 3, Suite 460
Austin, Texas 78701
(512) 305-6824
(512) 305-7401 (Fax)

Attachments: Sections 301.452(b)
Articles 4525(a) and (b), Texas Revised Civil Statutes Annotated, as amended
Section 213.33, 22 Texas Administrative Code (repeal and new chapter adopted 06/98,
change effective 09/01/98. Amended 06/99, effective 07/20/99)
Section 217.11, 22 Texas Administrative Code
Section 217.13, 22 Texas Administrative Code