



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.
Michelle Johnson
Executive Director of the Board

IN THE MATTER OF PERMANENT

§ BEFORE THE TEXAS

§ BOARD OF NURSING

§ ELIGIBILITY AND

§ DISCIPLINARY COMMITTEE

§
§
§

PERMANENT VOCATIONAL NURSE
LICENSE NUMBER 300151
ISSUED TO KRISTA MARIE SMITH,
RESPONDENT

ORDER OF THE BOARD

TO: KRISTA MARIE SMITH
715 SCARLET IBIS
SAN ANTONIO, TX 78245

During open meeting held in Austin, Texas, on **February 9, 2016**, the Texas Board of Nursing Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee 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 the Texas Occupations Code, for retention of Respondent's license(s) to practice 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 regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

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

The 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 for rehearing [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 Vocational Nurse License Number 300151, previously issued to KRISTA MARIE SMITH, to practice nursing in the State of Texas be, and the same is/are hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

Entered this 9th day of February, 2016.

TEXAS BOARD OF NURSING

BY:



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

Attachment: Formal Charge filed December 4, 2015.

d17r(2014.12.05)

Re: Permanent Vocational Nurse License Number 300151
Issued to KRISTA MARIE SMITH
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 12 day of February, 2010, a true and correct copy of the foregoing DEFAULT ORDER was served and addressed to the following person(s), as follows:

Via USPS Certified Mail, Return Receipt Requested

KRISTA MARIE SMITH
715 SCARLET IBIS
SAN ANTONIO, TX 78245

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, 20____, a true and correct copy of the foregoing DEFAULT ORDER was served and addressed to the following person(s), as follows:

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

KRISTA MARIE SMITH
715 SCARLET IBIS
SAN ANTONIO, TX 78245

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

In the Matter of § BEFORE THE TEXAS
Permanent Vocational Nurse §
License Number 300151 §
Issued to KRISTA MARIE SMITH, §
Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, KRISTA MARIE SMITH, is a Vocational Nurse holding License Number 300151, 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 October 5, 2015, Respondent became noncompliant with the Confidential Agreed Order for Peer Assistance Program issued to her by the Texas Board of Nursing on May 7, 2015. Respondent's noncompliance is the result of her failure to comply with Stipulation Number One (1), Section B, of the Order, dated May 7, 2015, which reads:

"(I)(B). Within ninety (90) days following the date of entry of this Order, RESPONDENT SHALL sign and execute the TPAPN participation agreement and complete the enrollment process, which SHALL include payment of a non-refundable participation fee payable to TPAPN in the amount of three hundred fifty dollars (\$350.00)"

On or about October 5, 2015, Respondent was dismissed from the Texas Peer Assistance Program for Nurses (TPAPN) for failing to complete the enrollment process.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(9)&(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.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on adopted policies related to Substance Use Disorders and Other Alcohol and Drug Related Conduct; which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, located at 22 TEX. ADMIN. CODE §213.33(b), which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, www.bon.texas.gov.

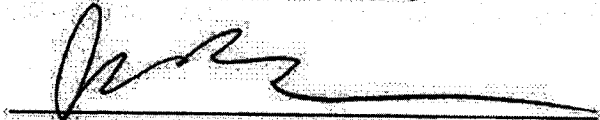
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NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Order dated May 7, 2015.

Filed this 4 day of December, 2015

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

John R. Griffith, Assistant General Counsel
State Bar No. 24079751

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

Jessica Lance, Assistant General Counsel
State Bar No. 24091434

John F. Legris, Assistant General Counsel
State Bar No. 00785533

Jacqueline A. Strashun
State Bar No. 19358600

John Vanderford, Assistant General Counsel
State Bar No. 24086670

333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701

P: (512) 305-8657

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

Attachments: Order of the Board dated May 7, 2015

D(2015.11.18)

Jessica Lance, Assistant General Counsel
State Bar No. 24091434

John F. Legris, Assistant General Counsel
State Bar No. 00785533

Jacqueline A. Strashun
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BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § CONFIDENTIAL
Vocational Nurse License Number 300151 § AGREED ORDER FOR
issued to KRISTA MARIE SMITH § PEER ASSISTANCE PROGRAM

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of KRISTA MARIE SMITH, Vocational Nurse License Number 300151, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived notice and hearing and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on March 19, 2015.

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(s).
2. Respondent waived notice and hearing, and agreed to the entry of this Order.
3. Respondent's license to practice as a vocational nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Pensacola Junior College-Vocational Tech Division, Pensacola, Florida, on June 21, 2004. Respondent was licensed to practice vocational nursing in the State of Texas on April 5, 2011.
5. Respondent's vocational nursing employment history includes:

08/2004-04/2005	LVN	Specialty Center of Pensacola Pensacola, Florida
05/2005-03/2006	Unkown	
04/2006-09/2006	LVN	Tripler Army Medical Center Gastrointestinal Clinic Honolulu, Hawaii

Respondent's vocational nursing employment history continued:

10/2006-12/2006	Unknown	
01/2007-01/2008	LVN	Armor Correctional Healthcare Providers Miami, Florida (HQ)
01/2008-10/2008	LVN	Maxim Staffing Solutions Austin, Texas (HQ)
11/2008-12/2008	Unknown	
01/2009-01/2010	LVN	Wilford Hall Medical Center San Antonio, Texas
02/2010-04/2014	Unknown	
05/2014-11/2014	LVN	Bandera Rehabilitation and Healthcare Bandera, Texas
12/2014-present	Unknown	

6. At the time of the incident, Respondent was employed as a Licensed Vocational Nurse with Bandera Rehabilitation and Healthcare, Bandera, Texas, and had been in that position for approximately six (6) months.
7. On or about November 13, 2014, while employed as a Licensed Vocational Nurse with Bandera Rehabilitation and Healthcare, Bandera, Texas, Respondent misappropriated Norco 10/325mg, or failed to take precautions to prevent the misappropriation of Norco 10/325mg from the facility and patients, thereof, in that a plastic bag containing thirty (30) pills of Norco 10/325mg was pulled from Respondent's purse. Respondent's conduct was likely to defraud the facility and patients, thereof, of the cost of the medications, and is a violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.
8. On or about November 13, 2014, while employed as a Licensed Vocational Nurse with Bandera Rehabilitation and Healthcare, Bandera, Texas, Respondent placed a prescription sign out sheet that contained confidential health information in her purse and transported it to her residence. Respondent's conduct exposed patients unnecessarily to a risk of harm from use, accessing or disclosure of confidential medical information without written authorization and constitutes a violation of HIPAA (The Health Insurance Portability and Accountability Act).
9. In response to Findings of Fact Numbers Seven (7) and Eight (8), Respondent admits that she took the thirty (30) pills of Hydrocodone and intended to take them. After taking the medication on Thursday, November 13, 2014, she realized she had made a mistake. The following day, Respondent returned all the pills, and underwent a drug screen which resulted negative.

10. Respondent's conduct as described in the preceding Finding(s) of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
11. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use disorder.
12. 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 substance use disorder.
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 301.451-301.555, 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 § 217.11(1)(A) & (1)(E) and 22 TEX. ADMIN. CODE § 217.12(1)(A), (1)(B), (1)(C), (4), (6)(G), (8), (10)(E) & (11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10) & (13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 300151, heretofore issued to KRISTA MARIE SMITH, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.
6. 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.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT 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):

- A. Within forty-five (45) days following the date of entry of this Order, RESPONDENT SHALL apply to TPAPN;
- B. Within ninety (90) days following the date of entry of this Order, RESPONDENT SHALL sign and execute the TPAPN participation agreement and complete the enrollment process, which SHALL include payment of a non-refundable participation fee payable to TPAPN in the amount of three hundred fifty dollars (\$350.00);
- C. Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing;
- D. RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep all applicable license(s) to practice nursing in the State of Texas current; and
- E. RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to 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.

III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) within one (1) year of entry of this Order:

A Board approved course in Texas nursing jurisprudence and ethics that shall be a minimum of six (6) 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. Home study courses and video programs will not be approved.

In order to receive credit for completion of this/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at www.bon.texas.gov/compliance.*

IV. CONFIDENTIALITY REQUIREMENTS

While RESPONDENT remains in compliance with the terms of this Order, this Order shall remain confidential in accordance with the authority outlined in Section 301.466(d), Texas Occupations Code. However, should Respondent fail to successfully complete the terms of this Order or should Respondent commit a subsequent violation of the Nursing Practice Act or Board Rules, this Order shall be treated as prior disciplinary action and will become public information.

V. EFFECT OF NONCOMPLIANCE

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 TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact 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(s) alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the entry of this Order and all conditions of said 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 Texas Board of Nursing, 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

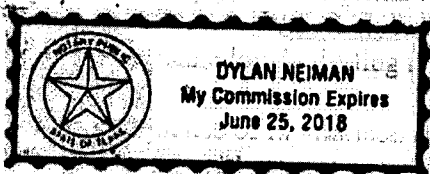
Signed this 29 day of April, 2015.

Krista Marie Smith
KRISTA MARIE SMITH, Respondent

Sworn to and subscribed before me this 29 day of April, 2015.

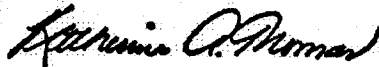
SEAL

Dylan Neiman
Notary Public in and for the State of TEXAS



WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Confidential Agreed Order for Peer Assistance Program that was signed on the 29th day of April, 2015, by KRISTA MARIE SMITH, Vocational Nurse License Number 300151, and said Order is final.

Effective this 7th day of May, 2015.



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