



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 TEXAS BOARD OF NURSING

In the Matter of § AGREED
Vocational Nurse License Number 310550 §
issued to ERIKA MARIE SMESNY, a/k/a, §
ERIKA MARIE SMESNY KRIGAR § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of ERIKA MARIE SMESNY, a/k/a, ERIKA MARIE SMESNY KRIGAR, Vocational Nurse License Number 310550, 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)&(12), 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 October 12, 2016.

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 San Jacinto College North, Houston, Texas, on August 9, 2012. Respondent was licensed to practice vocational nursing in the State of Texas on October 11, 2012.
5. Respondent's nursing employment history includes:

09/2012 - 04/2013	LVN	Humble Cardiology Associates Humble, TX
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(nursing employment history continued)

04/2013 - 04/2015	LVN	Liberty Healthcare Center Liberty, TX
04/2015 - 09/2015		Unknown/unemployed
09/2015 - Present	Non nursing	Tarver Abstract Company Liberty, TX

6. On or about April 28, 2015, Respondent was arrested by the Liberty County Sheriff's Office, for THEFT PROP >=\$1500<\$20K, a State Jail Felony offense, committed on April 28, 2015. On or about July 16, 2015, Respondent entered into an agreement in the 75th District Court, Liberty County, Texas, under Cause No. F11003 to participate in the Liberty County Pre-Trial Intervention Program for a period of twelve (12) months, beginning July 16, 2015.
7. On or about August 31, 2016, Respondent submitted an assessment performed by Joe Barela, MA, LCDC II of Memorial Hermann Prevention and Recovery Center, Baytown, Texas, on September 14, 2016, for substance use disorder. Mr. Barela recommended that Respondent continue with 12-step meetings as scheduled until she began a program.
8. In response to Findings of Fact Numbers Six (6) and Seven (7), Respondent states she experienced post partum depression with some drug addiction while she was on maternity leave. She was treated with an antidepressant and her addiction led her to take prescription drugs.
9. 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.
10. 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.
11. 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.
12. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use disorder.
13. 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.

14. 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 §217.12(5)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(12), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 310550, heretofore issued to ERIKA MARIE SMESNY, 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, subject to ratification by the Texas Board of Nursing, that Vocational Nurse License Number 310550, previously issued to ERIKA MARIE SMESNY, to practice nursing in Texas is hereby **SUSPENDED** and said suspension is **ENFORCED** until Respondent:

- A. **Applies to, is accepted into, and completes enrollment in the Texas Peer Assistance Program for Nurses (TPAPN)**, including payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00); and
- B. **Waives confidentiality and provides a copy of the fully executed TPAPN participation agreement to the Board.**

IT IS FURTHER AGREED, upon verification of successful completion of the above requirements, the Suspension will be **STAYED**, and RESPONDENT will be placed on **PROBATION** for such a time as is required for RESPONDENT to successfully complete the TPAPN **AND** until Respondent fulfills the additional requirements of this Order.

- C. RESPONDENT SHALL pay all re-registration fees, if applicable, and RESPONDENT'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.
- 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.
- E. RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.
- F. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- G. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- H. Respondent may not work outside the State of Texas in another nurse licensure compact party state without first obtaining the written permission of the Texas Board of Nursing and the Board of Nursing in the nurse licensure compact party state where Respondent wishes to work.

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 the suspension being stayed**:

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. FURTHER COMPLAINTS

If, during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

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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.

VI. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT may be eligible for nurse licensure compact privileges, if any.

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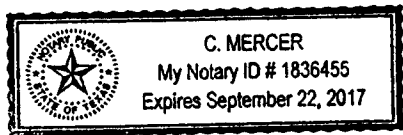
RESPONDENT'S CERTIFICATION

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 21st day of October, 2016.
Erika Marie Smesny
ERIKA MARIE SMESNY, Respondent

Sworn to and subscribed before me this 21 day of OCT, 2016.


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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 ratify and adopt the Agreed Order that was signed on the 21st day of October, 2016, by ERIKA MARIE SMESNY, Vocational Nurse License Number 310550, and said Order is final.

Effective this 25th day of October, 2016.



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