



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or its record in the offices of the Texas Board of Nursing.
William A. Barnett
 Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § REINSTATEMENT
 Registered Nurse License Number 632764 §
 issued to HARLAN EUGENE SMITH § AGREED ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the Petition for Reinstatement of Registered Nurse License Number 632764, held by HARLAN EUGENE SMITH, hereinafter referred to as Petitioner.

An informal conference was conducted on November 1, 2016, in accordance with Section 301.464, Texas Occupations Code. Petitioner appeared in person.

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 Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Petitioner waived notice and hearing, and agreed to the entry of this Order.
3. Petitioner received a Baccalaureate Degree in Nursing from the University of Central Oklahoma, Edmond, Oklahoma, on May 1, 1996. Petitioner was licensed to practice professional nursing in the State of Texas on July 29, 1996.
4. Petitioner's nursing employment history includes:

7/95 - 6/96	LPN/Charge Nurse	Timberlane Manor Edmund, Oklahoma
7/96 - 10/96	Staff Nurse	Northeast Medical Center Bonham, Texas
9/96 - 1/98	Field Nurse	Homecare Health Durant, Oklahoma

Petitioner's nursing employment history continued:

1/98 - 3/02	Staff Nurse	Texoma Medical Center Denison, Texas
1/02 - 3/02	Field Nurse	Perfect Home Care Fort Worth, Texas
3/02 - 5/02	Agency Nurse	Staff Search Dallas, Texas
6/02 - 3/04	Unknown	
4/04 - 5/04	Staff Nurse	Integrus Medical Center Madill, Oklahoma
6/04 - 9/04	Unknown	
10/04 - 12/05	Charge Nurse	Oakridge Nursing and Rehabilitation Durant, Oklahoma
1/06 - 2/11	Not employed in nursing	
3/11 - 9/14	Staff Nurse	Texoma Medical Center Denison, Texas

5. On October 15, 2002, Petitioner voluntarily surrendered his license to practice professional nursing in the State of Texas. A copy of the October 15, 2002, Agreed Order, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this Order.
6. On September 14, 2010, Petitioner's license to practice professional nursing was Reinstated with Stipulations by the Texas Board of Nursing. A copy of the September 14, 2010, Reinstatement Agreed Order, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this Order.
7. On November 24, 2014, Petitioner voluntarily surrendered his license to practice professional nursing in the State of Texas. A copy of the November 24, 2014, Agreed Order, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this Order.

8. On or about May 20, 2016, Petitioner submitted a Petition for Reinstatement of License to practice professional nursing in the State of Texas.
9. Petitioner presented the following in support of said petition:
 - 9.1. Letter, dated May 3, 2016, from Pamela Shepherd, CADC, Oklahoma Department of Mental Health and Substance Abuse Services, Woodward, Oklahoma, stating Petitioner was admitted to The Lighthouse Substance Abuse Program of Northwest Center for Behavioral Health on September 28, 2015. He successfully completed a thirty (30) day program on October 28, 2015. At discharge, Petitioner was provided the following aftercare recommendations: maintain abstinence from substances, attend 12 step meetings regularly, and obtain and utilize a sponsor for guidance and support. Petitioner was also provided contact information for outpatient counseling and encouraged to utilize this resource as needed in his recovery.
 - 9.2. Letter of support, dated March 8, 2016, from Doug Bailey, Plant Manager, ETS Test Systems, Durant, Oklahoma, stating he rehired Petitioner last month due to the fact that the last time he worked for Mr. Bailey he was an outstanding employee and they were able to promote him up to different positions during Petitioner's tenure with the company. His promotions were based on his hard work, long hours, and ability to get along with his co-workers. Petitioner has managed a good attendance record.
 - 9.3. Letter of support from Donny Brooks stating he attends Narcotics Anonymous meetings with Petitioner. Mr. Brooks has seen Petitioner through ups and downs and can say, in the last year, he has been working a better program than ever before. Petitioner takes his recovery seriously.
 - 9.4. Letter of support from Gary Washington stating he has known Petitioner for over twenty (20) years. Mr. Washington has observed Petitioner working a diligent recovery program at both Alcoholics Anonymous and Narcotics Anonymous meetings. Petitioner has been devoted to recovery and has been an inspiration to the group.
 - 9.5. Letter of support from Bill stating he has known Petitioner for more than ten (10) years. Mr. Bill sponsored Petitioner a few years ago until Petitioner moved to Texas and is now sponsoring him again. Petitioner is in recovery and working the twelve (12) steps.
 - 9.6. Letter of support from Stanley Roberts stating Petitioner is an active participant in his recovery from drugs. Mr. Roberts has often attended meetings with Petitioner and routinely communicates with Petitioner regarding recovery. Mr. Roberts sees Petitioner's willingness to go to whatever lengths to maintain a substance free lifestyle.

- 9.7. Letter of support from Detra stating she has been attending Narcotics Anonymous meetings with Petitioner for approximately ten (10) months. During this time, Ms. Detra has seen Petitioner go through some extremely difficult times and remain sober through it all. This is apparent by his continued regular and, at times, increased meeting attendance, his daily contact with his sponsor or another member, his willingness to work the steps and do what his sponsor suggests. Petitioner's honesty and positive attitude are also a testament to his continued sobriety.
- 9.8. Sixteen (16) negative drug screens dating from June 29, 2015, through September 1, 2016.
- 9.9. Documentation of support group attendance dating from April 27, 2015, through May 1, 2016
- 9.10. Documentation of the required continuing education contact hours.
10. The Executive Director considered evidence of Petitioner's past behavior in light of the character factors set out in 22 Tex. Admin. Code §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character and relicensure.
11. Relicensure of Petitioner poses no direct threat to the health and safety of patients or the public provided Petitioner complies with the stipulations outlined in this Order.
12. The Executive Director's review of Petitioner's eligibility for relicensure has been made on the basis of Petitioner's disclosures.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Pursuant to Section 301.467, Texas Occupations Code, the Board may refuse to issue or renew a license, and may set a reasonable period that must lapse before reapplication. Pursuant to 22 TEX. ADMIN. CODE §213.26, the Board may impose reasonable conditions that a Petitioner must satisfy before reissuance of an unrestricted license.
3. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 Tex. Admin. Code §213.27, and pursuant to 22 Tex. Admin. Code §213.33, the Board is satisfied that the individual is able to consistently conform her conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

4. This Order is conditioned upon the accuracy and completeness of Petitioner's disclosures. Any subsequently discovered discrepancies will result in investigation and possible disciplinary action, up to revocation of Petitioner's license(s).

TERMS OF ORDER

I. REINSTATEMENT OF LICENSURE

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that the petition of HARLAN EUGENE SMITH for reinstatement of license to practice nursing in the state of Texas be **GRANTED** and Registered Nurse License Number 632764 is hereby **REINSTATED** in accordance with the terms of this Order.

II. COMPLIANCE WITH LAW AND APPLICABILITY

While under the terms of this Order, PETITIONER agrees to obtain, read, and 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.

- A. PETITIONER SHALL pay all re-registration fees, if applicable, and PETITIONER'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.
- B. This Order SHALL be applicable to PETITIONER's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. PETITIONER 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 PETITIONER wishes to work.

III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, Petitioner SHALL successfully complete the following remedial education course(s) **within one (1) year of relicensure, unless otherwise specifically indicated:**

- A. **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.
- B. **The course "Sharpening Critical Thinking Skills,"** a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension.

In order to receive credit for completion of this/these course(s), Petitioner 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. Petitioner 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. MONITORING FEE

PETITIONER SHALL **pay a monitoring fee in the amount of five hundred dollars (\$500.00) within forty-five (45) days of relicensure.** Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

V. **EMPLOYMENT REQUIREMENTS**

In order to complete the terms of this Order, PETITIONER must work as a nurse in the State of Texas, providing direct patient care in a clinical healthcare setting, for a minimum of sixty-four (64) hours per month for twelve (12) quarterly periods [three (3) years] of employment. This requirement will not be satisfied until twelve (12) quarterly periods of employment as a nurse have elapsed. Any quarterly period without continuous employment with the same employer for all three (3) months will not count towards completion of this requirement. Periods of unemployment or of employment that do not require the use of a registered nurse (RN) or a vocational nurse (LVN) license, as appropriate, will not apply to this period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** PETITIONER SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, PETITIONER SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** PETITIONER SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. PETITIONER SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.
- C. **Direct Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this Order, PETITIONER SHALL be directly supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse. Direct supervision requires another nurse, as applicable, to be

working on the same unit as PETITIONER and immediately available to provide assistance and intervention. PETITIONER SHALL work only on regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

- D. No Night or Rotating Shifts, Overtime, or On-Call:** For the first year [four (4) quarters] of employment as a Nurse under this Order, PETITIONER SHALL NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which PETITIONER is regularly assigned.
- E. No Critical Care:** For the first year [four (4) quarters] of employment as a Nurse under this Order, PETITIONER SHALL NOT practice as a nurse in any critical care area. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.
- F. No Administration of Controlled Medications:** For the first year [four (4) quarters] of employment as a Nurse under this Order, PETITIONER SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, Propofol, or other synthetic opiates.
- G. Indirect Supervision:** For the remainder of the probation period, PETITIONER SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse, who is on the premises. The supervising nurse is not required to be on the same unit or ward as PETITIONER, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the PETITIONER is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

- H. **Nursing Performance Evaluations:** PETITIONER SHALL CAUSE each employer to submit, on forms provided to the PETITIONER by the Board, periodic reports as to PETITIONER'S capability to practice nursing. These reports shall be completed by the nurse who supervises the PETITIONER and these reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month quarterly period for twelve (12) quarters [three (3) years] of employment as a nurse.

VI. DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, PETITIONER SHALL **abstain from the use of alcohol, tramadol and all controlled substances**, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, PETITIONER SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and PETITIONER SHALL submit to a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.
- B. While working as a nurse under the terms of this Order, PETITIONER SHALL **submit to random periodic screens for alcohol, tramadol, and controlled substances**. The Board will provide instructions on how to enroll in the Board's drug and alcohol testing program following the entry of this Order and screening will begin when PETITIONER obtains employment and submits the Notification of Employment form to the Board.
- For the first three (3) month [1st quarter] period PETITIONER works as a nurse under the terms of this Order, random screens shall be performed at least once per week.
 - For the next three (3) month [2nd quarter] period, random screens shall be performed at least twice per month.
 - For the next six (6) month period [3rd & 4th quarters], random screens shall be performed at least once per month.
 - For the remainder of the probation period, if any, random screens shall be performed at least once every three (3) month quarterly period.

All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board. Any test result for a period of time in which the PETITIONER is not working as a nurse under the terms of this Order will not count towards satisfaction of this requirement. All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. PETITIONER SHALL be responsible for the costs of all random drug screening during the stipulation/probation period.

Specimens shall be screened for at least the following substances and their metabolites:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the PETITIONER'S place of employment at any time during the probation period and require PETITIONER to produce a specimen for screening.

Consequences of Positive or Missed Screens. Any positive result for which PETITIONER does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject PETITIONER to further disciplinary action, including TEMPORARY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of PETITIONER's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas. Further, failure to report for a drug screen, excessive dilute specimens, or failure to call in for a drug screen may be considered the same as a positive result or refusal to submit to a drug or alcohol screen.

- C. **While under the terms of this Order, PETITIONER SHALL attend at least two (2) support group meetings each week,** one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. PETITIONER SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by

PETITIONER. PETITIONER SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) month quarterly period. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

VII. RESTORATION OF UNENCUMBERED LICENSE(S)

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

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

PETITIONER'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Reinstatement Agreed Order. I waive representation by counsel. I certify that my past behavior, except as disclosed in my Petition for Reinstatement of Licensure, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of convictions, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

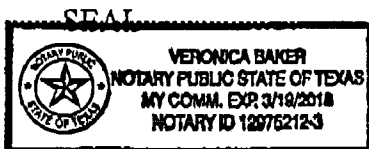
I have reviewed this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to reinstating my license(s) to practice nursing in the state of Texas. I understand that if I fail to comply with all terms and conditions of this Order, my license(s) to practice nursing in the State of Texas will be revoked, as a consequence of my noncompliance.

Signed this 29 day of November, 2016

Harlan Eugene Smith

HARLAN EUGENE SMITH, Petitioner

Sworn to and subscribed before me this 29th day of November, 2016



Veronica Baker
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 29th day of November, 2016, by HARLAN EUGENE SMITH, Registered Nurse License Number 632764, and said Order is final.

Effective this 19th day of January, 2017.



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



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.
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
Registered Nurse License Number 632764 §
issued to HARLAN EUGENE SMITH § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board considered the matter of HARLAN EUGENE SMITH, Registered Nurse License Number 632764, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Order.

The Board makes the following Findings of Fact and Conclusions of Law.

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 professional nurse in the State of Texas is in current status.
- 4. Respondent received a Baccalaureate Degree in Nursing from the University of Central Oklahoma, Edmond, Oklahoma, on May 1, 1996. Respondent was licensed to practice professional nursing in the State of Texas on July 29, 1996.
- 5. Respondent's nursing employment history includes:

7/95 - 6/96	LPN/Charge Nurse	Timberlane Manor Edmund, Oklahoma
7/96 - 10/96	Med-Surg Nurse	NEMC Bonham, Texas

Respondent's nursing employment history continued:

9/96 - 1/98	Field Nurse	Homecare Health Pro. Durant, Oklahoma
1/98 - 3/02	ICU Nurse	Texoma Medical Center Denison, Texas
1/02 - 3/02	Staff Nurse	Perfect Home Care, Inc. Fort Worth, Texas
3/02 - 5/02	Agency Nurse	Staff Search Dallas, Texas
6/02 - 3/04	Unknown	
4/04 - 5/04	Staff Nurse	Integris Medical Center Madill, Oklahoma
6/04 - 9/04	Unknown	
10/04 - 12/05	Charge Nurse	Oakridge Nursing and Rehabilitation Durant, Oklahoma
1/06 - 02/11	Not employed in nursing	
03/11 - Present	RN	Texoma Medical Center Denison, Texas

6. On or about October 15, 2002, the Voluntary Surrender of Respondent's registered nurse license was accepted by the Board of Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated October 15, 2002, is attached and incorporated, by reference, as part of this Order.
7. On or about September 14, 2010, Respondent's registered nurse license was Reinstated by the Board. A copy of the Findings of Face, Conclusions of Law, and Agreed Order dated September 14, 2010, is attached and incorporated, by reference, as part of this Order.
8. At the time of the initial incident, Respondent was employed as a registered nurse with Texoma Medical Center, Denison, Texas, and had been in that position for three (3) years and five (5) months.

9. On or about August 31, 2014, while employed with Texoma Medical Center, Denison, Texas, Respondent misappropriated Dilaudid belonging to the facility and patients thereof, in that he admitted to such misappropriation for his personal use. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
10. On or about August 31, 2014, while employed with Texoma Medical Center, Denison, Texas, Respondent lacked fitness to practice professional nursing in that he admitted to his employer that he suffered a drug relapse. Respondent subsequently admitted the same to the Texas Board of Nursing. Respondent's condition could have affected his ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected his ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.
11. Regarding the conduct outlined in Findings of Fact Numbers Nine (9) and Ten (10), Respondent states that he is well aware that what he did was wrong and completely unacceptable, and he is ashamed of his bad decision. He states he completed his Board order in February and made the mistake of getting complacent with his recovery. Respondent explains that he hurt his back and received prescriptions for Norco. He states that he recently continued to use by buying pills off people that sell them. He adds that he had been clean for five years then used off and on for four months leading up to the incident at work. Respondent adds that he is currently in an intensive outpatient program and attending meetings again.
12. Respondent, by his signature to this Order, expresses his desire to voluntarily surrender his license(s) to practice nursing in the State of Texas.
13. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
14. 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.

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), (6)(G), (10)(A), (10)(E) & (11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b)(9),(10) & (12), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 632764, heretofore issued to HARLAN EUGENE SMITH, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

TERMS OF ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the **VOLUNTARY SURRENDER** of Registered Nurse License Number 632764, heretofore issued to HARLAN EUGENE SMITH, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional/registered nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying herself/himself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until:
 - A. One (1) year has elapsed from the date of this Order; and
 - B. RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition for reinstatement.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice 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 violation(s) alleged herein. By my signature on this Order, I agree to the entry of this 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 becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 21 day of November, 2014

Harlan Eugene Smith

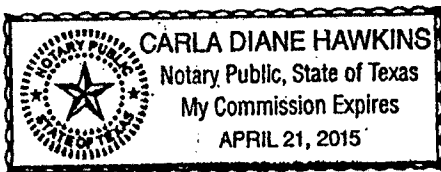
HARLAN EUGENE SMITH, Respondent

Sworn to and subscribed before me this 21 day of November, 2014.

SEAL

Carla Diane Hawkins

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 the voluntary surrender of Registered Nurse License
Number 632764, previously issued to HARLAN EUGENE SMITH.

Effective this 24th day of November, 2014.



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



BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse	§	
License Number 632764	§	REINSTATEMENT
issued to HARLAN EUGENE SMITH	§	AGREED ORDER

I do hereby certify this to be a complete, accurate, and true copy of the document which is on file with the Texas Board of Nursing.
Michelle P. Thomas
 Executive Director of the Board

On this day came to be considered by the Texas Board of Nursing, hereinafter referred to as the Board, the Petition for Reinstatement of Registered Nurse License Number 632764, held by HARLAN EUGENE SMITH, hereinafter referred to as Petitioner.

An informal conference was held on July 6, 2010, at the office of the Texas Board of Nursing, in accordance with Section 301.464, Texas Occupations Code.

Petitioner appeared in person. Petitioner was notified of his right to be represented by legal counsel and elected to waive representation by counsel. In attendance were Mary Beth Thomas, PhD, RN, Director of Nursing, Executive Director's Designee; Kyle Hensley, Assistant General Counsel; Anthony L. Diggs, MSCJ, Director of Enforcement; Dominique Mackay, Investigator; and Diane E. Burell, Investigator.

FINDINGS OF FACT

1. Prior to institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Petitioner waived representation by counsel, notice and hearing, and consented to the entry of this Order.
3. Petitioner received a Baccalaureate Degree in Nursing from the University of Central Oklahoma, Edmund, Oklahoma, in May 1996. Petitioner was originally licensed to practice professional nursing in the State of Texas on July 29, 1996.

4. Petitioner's professional nursing employment history includes:

7/95 - 6/96	LPN/Charge Nurse	Timberlane Manor Edmund, Oklahoma
7/96 - 10/96	Med-Surg Nurse	NEMC Bonham, Texas
9/96 - 1/98	Field Nurse	Homecare Health Pro. Durant, Oklahoma
1/98 - 3/02	ICU Nurse	Texoma Medical Center Denison, Texas
1/02 - 3/02	Staff Nurse	Perfect Home Care, Inc. Fort Worth, Texas
3/02 - 5/02	Agency Nurse	Staff Search Dallas, Texas
6/02 - 3/04	Unknown	
4/04 - 5/04	Staff Nurse	Integris Medical Center Madill, Oklahoma
6/04 - 9/04	Unknown	
10/04 - 12/05	Charge Nurse	Oakridge Nursing and Rehabilitation Durant, Oklahoma
1/06 - present	Not employed in nursing	

5. On October 15, 2002, the Texas Board of Nursing accepted the voluntary surrender of Petitioner's license to practice professional nursing in the State of Texas. A copy of the October 15, 2002, Agreed Order, Findings of Fact, and Conclusions of Law, is attached and incorporated, by reference, as a part of this Order.
6. On or about April 19, 2010, Petitioner submitted a Petition for Reinstatement of License to practice professional nursing in the State of Texas.

7. Petitioner presented the following in support of his petition:

- 7.1. Letter, dated April 12, 2010, from Lou Niedens, LPC, LADC, Kiamichi Council on Alcoholism and/or Drug Abuse, Durant, Oklahoma, states Petitioner has been in weekly counseling attendance at the facility since June 4, 2009. Just prior to that, he had completed a 30 day drug/alcohol inpatient treatment known as the Lighthouse in Woodward, Oklahoma. Petitioner has been regular in attendance with this facility and at the local NA 12 step program known as the "Keys to Life" where he has just received his 1-year sobriety medallion. Petitioner has also been in regular attendance at the Nurse Peer Support Group. He appears to remain clean and sober with a positive attitude and in good motion for recovery. Mr. Niedens strongly recommends Petitioner for reinstatement.
- 7.2. Certificate of completion from Lighthouse Substance Abuse Services reflecting Petitioner actively participated in 30 days of residential treatment at Northwest Center for Behavioral Health. Petitioner was admitted on April 13, 2009, and completed the requirements and discharging on May 13, 2009.
- 7.3. Letter of support from Stanley Roberts, Platter, Oklahoma, states he has known Petitioner since they were both five (5) years old, and have maintained their friendship throughout the years. Mr. Roberts has been in recovery and is delighted to see Petitioner's progress in recovery as well. After completion of treatment, Petitioner has consistently worked on his recovery through his efforts in Narcotics Anonymous. Mr. Roberts believes Petitioner has embraced a new way to live and has found happiness in his recovery.
- 7.4. Letter of support from Doug Bailey, Plant Manager, ETS-Lindgren, Durant, Oklahoma, states Petitioner is employed as a SR Fabricator as of August 2009 to present. He is responsible for production. Petitioner has excellent communication skills. In addition, he is extremely organized, reliable and computer literate. He can work independently and is able to follow through to ensure that the job get done. He is flexible and willing to work on any project that is assigned to him. Petitioner was quick to volunteer to assist in other areas of company operations as well.
- 7.5. Letter of support from Billy Albright, Quality Assurance Manager, ETS-Lindgren, Durant, Oklahoma, states Petitioner is an excellent employee. He has been punctual, his attendance is outstanding, and he is an asset to the company. Petitioner works well with others and is not hesitant to take on responsibilities. He can work with little or no supervision and is reliable to make sure that the job gets done. He is willing to work in any other areas and help others when needed. Petitioner is willing to work overtime to help make sure jobs are ready to ship on schedule.

- 7.6. Letter of support from Bill Simmons, Mead, Oklahoma, states he has been Petitioner's sponsor since June 2009, and has seen a complete turn around in his behavior and personality. Petitioner attends 3-4 meetings per week and also chairs on Tuesday nights. He is currently working the 12 steps of recovery, as well as doing lots of different service work for the group. Petitioner has been clean for thirteen (13) months because he is committed to his recovery and his home group of Narcotics Anonymous. They stay in close contact by phone, as well as doing more things after work and between meetings. Petitioner is a trustworthy, honest and dependable person who Mr. Simmons believes will make the most out of life.
- 7.7. Letter of support from Donnie Brooks, Durant, Oklahoma, states he had the pleasure of meeting Petitioner three (3) years ago when he came to Narcotics Anonymous to overcome his addiction and has grown to become a more productive person. Over the last year, Petitioner has made a great effort in working his steps and applying them to all areas of his life. Harland has chaired the Tuesday night Book study group and doing a great job.
- 7.8. Letter of support from Edward Phelps, Durant, Oklahoma, states he has known Petitioner for about a year and has seen him grow in his recovery. Petitioner is very involved with the local group and is an inspiration to many others that attend. He chairs a meeting every Monday night, and is also involved in the outreach program. Mr. Phelps personally sees a lot of spirituality in his recovery which is a solid mark that his desire is definitely in place.
- 7.9. Letter of support from Chris Baroody, Hugo, Oklahoma, states he has been attending Narcotics Anonymous meetings since January 24, 2008, and chairs a meeting on Monday nights at the Key to Life group in Durant, Oklahoma. There are some members that Mr. Baroody feels fortunate to know and who he looks forward to seeing at meetings because he is confident in the strength of their recovery. Petitioner is one of the individuals. From the beginning, Petitioner has shown an enthusiasm for recovery. Members like Petitioner are the reason why the program has helped so many find sobriety. Mr. Baroody has faith in Petitioner. Mr. Baroody believes in Petitioner's commitment to complete abstinence from all drugs.
- 7.10. Documentation of eight (8) negative, random drug screens collected from November 24, 2009, through June 29, 2010.
- 7.11. Documentation of support group attendance dating from August 31, 2009, through April 13, 2010.
- 7.12. Verification of successful completion of twenty (20) Continuing Education Contact Hours.
8. Petitioner gives March 17, 2009, as his date of sobriety.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. 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.
3. Pursuant to Section 301.467, Texas Occupations Code, the Board may refuse to issue or renew a license, and may set a reasonable period that must lapse before reapplication. Pursuant to 22 TEX. ADMIN. CODE §213.26, the Board may impose reasonable conditions that a Petitioner must satisfy before reissuance of an unrestricted license.

ORDER

IT IS THEREFORE AGREED, subject to ratification by the Texas Board of Nursing, that the petition of HARLAN EUGENE SMITH, Registered Nurse License Number 632764, to practice nursing in the state of Texas, be and the same is hereby GRANTED, AND SUBJECT TO THE FOLLOWING STIPULATIONS SO LONG AS THE PETITIONER complies 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 the stipulations contained in this Order:

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

IT IS FURTHER AGREED and ORDERED that while Petitioner's license is encumbered by this Order, Petitioner may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the State of Texas and the Board of Nursing in the party state where Petitioner wishes to work.

(1) PETITIONER SHALL NOT seek employment or practice nursing for compensation until he has completed the following pre-licensure conditions and obtained a license to practice professional nursing from the Board.

(2) PETITIONER SHALL apply for a "Six-Month Clinical Permit" for the limited purpose of completing a refresher course. PETITIONER SHALL NOT, in any way, attempt to use this clinical permit for any purpose other than attending this course.

(3) PETITIONER SHALL successfully complete a nursing refresher course prior to returning to the practice of professional nursing in the State of Texas. PETITIONER SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. The course content shall include: 1) the role of the professional nurse; 2) a review of the nursing process to include assessment, planning, implementation and evaluation; 3) Pharmacology review; 4) medication administration review for all standard route of administration; 5) documentation, quality assurance and legal implications for nursing practice; and 6) current CPR certification. This course must contain a minimum 80-hour clinical component, providing direct patient care, which is to be supervised by another registered nurse.

(4) Upon completion of the refresher course, PETITIONER SHALL return the clinical permit to the office of the Board, and PETITIONER SHALL CAUSE the sponsoring institution to notify the Board, on a form provided by the Board, of Petitioner's successful completion of the refresher course, including the required clinical component.

(5) Upon verification of successful completion of the agreed pre-licensure probation conditions of reinstatement, as set out in this Order, PETITIONER SHALL pay all re-registration fees and be issued a license to practice professional nursing in the State of Texas, which shall bear the appropriate notation. Said license issued to HARLAN EUGENE SMITH, shall be subject to the following agreed post-licensure probation conditions:

(6) PETITIONER SHALL pay a monitoring fee in the amount of five hundred (\$500.00) dollars. PETITIONER SHALL pay this fine within forty-five (45) days of relicensure. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(7) PETITIONER SHALL, within one (1) year of relicensure, successfully complete a course in Texas nursing jurisprudence and ethics. PETITIONER SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It 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. PETITIONER 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 PETITIONER's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address:*
<http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>

IT IS FURTHER AGREED, SHOULD PETITIONER CHOOSE TO WORK AS A NURSE IN TEXAS, PETITIONER WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR

THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATION PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS PROBATION PERIOD:

(8) PETITIONER SHALL notify all future employers in nursing of this Order of the Board and the stipulations on PETITIONER'S license. PETITIONER SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(9) PETITIONER SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the PETITIONER by the Board, to the Board's office within five (5) days of employment as a nurse.

(10) For the first year of employment as a Nurse under this Order, PETITIONER SHALL be directly supervised by a Registered Nurse. Direct supervision requires another professional nurse to be working on the same unit as PETITIONER and immediately available to provide assistance and intervention. PETITIONER SHALL work only on regularly assigned, identified and predetermined unit(s). The PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(11) For the remainder of the stipulation period, PETITIONER SHALL be supervised by a Registered Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as PETITIONER, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the PETITIONER is currently working. PETITIONER SHALL

work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(12) PETITIONER SHALL NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which PETITIONER is regularly assigned for one (1) year of employment as a nurse.

(13) PETITIONER SHALL NOT practice as a nurse in any critical care area for one (1) year of employment as a nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(14) PETITIONER SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a nurse.

(15) PETITIONER SHALL CAUSE each employer to submit, on forms provided to the PETITIONER by the Board, periodic reports as to PETITIONER'S capability to practice nursing. These reports shall be completed by the Registered Nurse who supervises the PETITIONER. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for three (3) years of employment as a nurse.

(16) PETITIONER SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, PETITIONER SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. In the event that prescriptions for controlled

substances are required for periods of two (2) weeks or longer, the Board may require and PETITIONER SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.

(17) PETITIONER SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the stipulation period, random screens shall be performed at least once every three (3) months. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the PETITIONER'S place of employment at any time during the stipulation period and require PETITIONER to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. PETITIONER SHALL be responsible for the costs of all random drug screening during the stipulation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of PETITIONER's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

(18) PETITIONER SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. PETITIONER SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by PETITIONER. PETITIONER SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) month period. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from PETITIONER's license to practice professional nursing in the State of Texas and PETITIONER shall be eligible for nurse licensure compact privileges, if any.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK

CONTINUED ON NEXT PAGE

PETITIONER'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Reinstatement Agreed Order. I waive representation by counsel. I certify that my past behavior, except as disclosed in my Petition for Reinstatement of Licensure, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of convictions, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

I have reviewed this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. 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 agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to reinstating my license to practice professional nursing in the state of Texas. I understand that if I fail to comply with all terms and conditions of this Order, my license to practice professional nursing in the State of Texas will be revoked, as a consequence of my noncompliance.

Signed this 5 day of August, 2010.

Harlan Eugene Smith
HARLAN EUGENE SMITH, Petitioner

Sworn to and subscribed before me this 5 day of August, 2010.

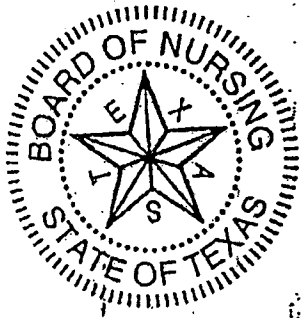
SEAL




Ashley Wiginton

Notary Public in and for the State of OK
Expiration 11-24-2012

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 5th day of August, 2010, by HARLAN EUGENE SMITH, Registered Nurse License Number 632764, and said Order is final.



Effective this 14th day of September, 2010.


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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of License Number 632764 § AGREED
issued to HARLAN EUGENE SMITH § ORDER

On this day, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, accepted the voluntary surrender of License Number 632764, issued to HARLAN EUGENE SMITH, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c) of the Texas Occupations Code.

Respondent waived representation by counsel, informal conference and hearing, and agreed to the entry of this Order.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to 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 agreed to the entry of this Order.
3. Respondent's license to practice professional nursing in the State of Texas is currently in delinquent status.
4. Respondent received a Baccalaureate Degree in Nursing from the University of Central Oklahoma, Edmund, Oklahoma, in May of 1996. Respondent was licensed to practice professional nursing in the State of Texas on July 29, 1996.
5. Respondent's professional employment history includes:

07/95 - 06/96 LPN/Charge Nurse
Timberlane Manor
Edmund, Oklahoma

Respondent's professional employment history continued:

07/96 - 10/96	Med-Surg. RN NEMC Bonham, Texas
09/96 - 01/98	Field Nurse Homecare Health Pro. Durant, Oklahoma
01/98 - 03/02	Staff Nurse/ICU Texoma Medical Center Denison, Texas
01/02 - 03/02	Staff Nurse Perfect Home Care, Inc. Fort Worth, Texas
03/02 - 05/02	Staff Nurse Staff Search Dallas, Texas

6. At the time of the incident in Finding of Fact number seven (7), Respondent was employed as a Staff Nurse with Perfect Home Care, Inc., Fort Worth, Texas, and had been in this position for three (3) months.
7. On or about January 31, 2002, and March 6, 2002, while employed with Perfect Home Care, Inc., Fort Worth, Texas, Respondent misappropriated Hydrocodone from the home of his patient. Respondent's conduct was likely to defraud the patient of the cost of the medication.
8. At the time of the incident in Finding of Fact numbers nine (9) through eleven (11), Respondent was employed as a Staff Nurse with Staff Search, Dallas, Texas, and had been in this position for two (2) months.
9. On or about May 2, 2002, while employed with Staff Search, Dallas, Texas, and on duty with Baylor All Saints Medical Center, Fort Worth, Texas, Respondent withdrew Morphine, Tylenol ES, Vicodin, and Lorcet from the Pyxis for patients without a physician's order. Respondent's conduct was likely to injure the patients in that the administration of Morphine, Tylenol ES, Vicodin, and Lorcet without a physician's order could result in the patient suffering adverse reactions.

10. On or about May 2, 2002, while employed with Staff Search, Dallas, Texas, and on duty with Baylor All Saints Medical Center, Fort Worth, Texas, Respondent withdrew Morphine, Tylenol ES, and Lorcet for patients but failed to document the administration of these medications in the patients medical records. Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on the documentation to further medicate the patient which could result in an overdose.
11. On or about May 2, 2002, while employed with Staff Search, Dallas, Texas, and on duty with Baylor All Saints Medical Center, Fort Worth, Texas, Respondent misappropriated Morphine, Tylenol ES, and Lorcet belonging to the facility and the patients. Respondent's conduct was likely to defraud patients and the facility of the cost of the medication.
12. Respondent, by his signature to this Order, expresses his desire to voluntarily surrender his license to practice professional nursing in the State of Texas.
13. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
14. The Board finds that there exists serious risks to public health and safety as a result of dependency.

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 of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(3),(4)&(19).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against License Number 632764, heretofore issued to HARLAN EUGENE SMITH, including revocation of Respondent's professional license to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.

6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.452(b), Texas Occupations Code; and 22 TEX. ADMIN. CODE §213.26-29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of License Number 632764, heretofore issued to HARLAN EUGENE SMITH, to practice professional nursing in the State of Texas, is accepted by the Board of Nurse Examiners.

In connection with this acceptance, the Board imposes the following conditions:

1. ~~RESPONDENT SHALL NOT~~ practice professional nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying himself as a registered nurse or use any designation which, directly or indirectly, identifies him as a registered nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate privilege, if any; to practice professional nursing in the State of Texas.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

Att: M. Garcia

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 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 becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

Signed this 14 day of Oct, 2002

Harlan Smit

Harlan Trozere

Sworn to and subscribed before me this 14 day of October, 2002




Alice M. Wheeler

Notary Public in and for the State of Oklahoma
Commission Expires: 6-30-04
10948

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Board of Nurse Examiners for the State of Texas does hereby accept the voluntary surrender of License Number 632764, previously issued to HARLAN EUGENE SMITH.

Effective this 15th day of October, 2002.


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