



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.
Stephanie P. Thomas
Executive Director of the Board

IN THE MATTER OF PERMANENT
VOCATIONAL NURSE
LICENSE NUMBER 302308
ISSUED TO
LEEANN RUTH SMILEY,
RESPONDENT

§ BEFORE THE TEXAS
§ BOARD OF NURSING
§ ELIGIBILITY AND
§ DISCIPLINARY COMMITTEE

ORDER OF THE BOARD

TO: Leeann Ruth Smiley
2955 Lavell Avenue
Wichita Falls, Tx 76308

During open meeting held in Austin, Texas, on Tuesday, March 21, 2017, 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 302308, previously issued to LEEANN RUTH SMILEY, to practice nursing in the State of Texas be, and the same is 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 21st day of March, 2017.

TEXAS BOARD OF NURSING

BY: 

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

Attachment: Formal Charge filed February 3, 2017.

Re: Permanent Vocational Nurse License Number 302308
Issued to LEEANN RUTH SMILEY
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

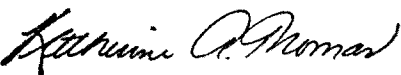
I hereby certify that on the 3rd day of March, 2017, a true and correct copy of the foregoing DEFAULT ORDER was served and addressed to the following person(s), as follows:

Via USPS Certified Mail, Return Receipt Requested

Leeann Ruth Smiley
2955 Lavell Avenue
Wichita Falls, Tx 76308

Via USPS First Class Mail

Leeann Ruth Smiley
2955 Lavell Avenue
Wichita Falls, Tx 76308

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 302308 §
Issued to LEEANN RUTH SMILEY, §
Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, LEEANN RUTH SMILEY, is a Vocational Nurse holding License Number 302308, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about April 17, 2016, Respondent failed to comply with the Agreed Order issued to Respondent on April 16, 2015, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Roman Numeral III. Remedial Education Courses of the Agreed Order which states, in pertinent part: RESPONDENT SHALL successfully complete the following remedial education courses within one (1) year of entry of this Order, unless otherwise specifically indicated:

- A. A course in Texas nursing jurisprudence and ethics that shall be a minimum of six (6) hours in length.

A copy of the Findings of Fact, Conclusions of Law and Agreed Order dated April 16, 2015, is attached and incorporated herein, by reference, as part of this pleading.

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(11)(B).

CHARGE II.

On or about April 17, 2016, Respondent failed to comply with the Agreed Order issued to Respondent on April 16, 2015, by the Texas Board of Nursing. Noncompliance is the result of Respondent's failure to comply with Roman Numeral III. Remedial Education Courses of the Agreed Order which states, in pertinent part: RESPONDENT SHALL successfully complete the following remedial education courses within one (1) year of entry of this Order, unless otherwise specifically indicated:

- 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

A copy of the Findings of Fact, Conclusions of Law and Agreed Order dated April 16, 2015, is attached and incorporated herein, by reference, as part of this pleading.

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(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, 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.

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 April 16, 2015.

Filed this 3 day of February, 2017.

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

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

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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 April 16, 2015

D(2016.10.03)



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
Vocational Nurse License Number 302308
issued to LEEANN RUTH SMILEY

§ AGREED
§
§ ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board considered the matter of LEEANN RUTH SMILEY, Vocational Nurse License Number 302308, 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 Nursing from Vernon College at Wichita Falls, Wichita Falls, Texas on August 11, 2011. Respondent was licensed to practice vocational nursing in the State of Texas on September 1, 2011.
5. Respondent's nursing employment history includes:

09/11-Present

Licensed Vocational Nurse

Dr. Adam S. Butera, M.D.
Wichita Falls, Texas

6. At the time of the incident, Respondent was employed as a Licensed Vocational Nurse with Dr. Adam S. Butera, M.D., Wichita Falls, Texas, and had been in that position for two (2) years and eight (8) months.
7. On or about May 2, 2014, while employed as a Licensed Vocational Nurse with Dr. Adam S. Butera, M.D., Wichita Falls, Texas, Respondent failed to follow the facility's policy and procedure for wastage of discontinued medications belonging to Patient J.H., in that a bottle of Tizanidine containing thirty-six (36) pills, a bottle of Buspirone containing seventy-eight (78) pills, and a second bottle of Buspirone containing seventy-eight (78) pills were found in her jacket by a police officer during a traffic stop. Respondent's conduct left medications unaccounted for, and is a violation of Chapter 483 (Dangerous Drugs Act) of the Texas Health and Safety Code.
8. On or about May 2, 2014, while employed as Licensed Vocational Nurse with Dr. Adam S. Butera, M.D., Wichita Falls, Texas, Respondent misappropriated discontinued medications belonging to Patient J.H., in that she admitted to a police officer to stealing a pill bottle of Tizanidine containing thirty-six (36) pills, a bottle of Buspirone containing seventy-eight (78) pills, and a second bottle of Buspirone containing seventy-eight (78) pills from her employer. Respondent's conduct was likely to defraud the facility and the patient of the cost of the medications.
9. On or about May 2, 2014, while employed as Licensed Vocational Nurse with Dr. Adam S. Butera, M.D., Wichita Falls, Texas, Respondent was arrested by the Wichita Falls Police Department, Wichita Falls, Texas, for Possession of Dangerous Drug, a Class A misdemeanor offense. This matter is pending.
10. In response to Findings of Fact Numbers Seven (7) through Nine (9), Respondent denies "stealing" the medications but does admit that she accidentally took them from the facility. Respondent states she was pulled over during a routine traffic stop for not using her blinker appropriately before a turn. Respondent states she gave the police officer permission to search her vehicle due to her knowing that she did not have anything illegal. Respondent states the police officer found medications in her jacket pocket, which she had forgotten to finish wasting at work earlier that day. Respondent states she was arrested for possession but not for theft. Respondent states the criminal charges are still pending.
11. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to immoderate 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 § 217.11(1)(A) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(4),(6)(G),(8),(10)(C),(10)(E),(11)(B)&(13).
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 302308, heretofore issued to LEEANN RUTH SMILEY.
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.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **WARNING WITH STIPULATIONS AND A FINE** in accordance with the terms of this Order.

- A. This Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.
- B. This Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. 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 effective date of this Order, 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), 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. MONETARY FINE

RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars (\$250.00) within forty-five (45) days of entry of this Order. 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, RESPONDENT must work as a nurse, providing direct patient care in a licensed healthcare setting, for a minimum of sixty-four (64) hours per month for four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until four (4) 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:** RESPONDENT 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, RESPONDENT 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:** RESPONDENT 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. RESPONDENT 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. **Indirect Supervision:** RESPONDENT 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 RESPONDENT, 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 Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

- D. **Nursing Performance Evaluations:** RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT'S capability to practice nursing. These reports shall be completed by the nurse who supervises the RESPONDENT 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 four (4) quarters [one (1) year] of employment as a nurse.

VI. DRUG AND ALCOHOL RELATED REQUIREMENTS

- A. While under the terms of this Order, RESPONDENT 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, RESPONDENT 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 RESPONDENT 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, RESPONDENT 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 Respondent obtains employment and submits the Notification of Employment form to the Board.

- For the first three (3) month [1st quarter] period RESPONDENT 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 stipulation/probation period, 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 RESPONDENT 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. RESPONDENT 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 RESPONDENT'S place of employment at any time during the stipulation period and require RESPONDENT to produce a specimen for screening.

Consequences of Positive or Missed Screens. Any positive result for which RESPONDENT does not have a valid prescription or refusal to submit to a drug or alcohol screen may subject RESPONDENT to 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. 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.

VII. SUBSEQUENT CRIMINAL PROCEEDINGS

IT IS FURTHER AGREED, SHOULD RESPONDENT be convicted of or receive a deferred order for the offense(s) as outlined in Finding of Fact Number Nine (9), said judicial action may result in further disciplinary action, up to and including Revocation of Respondent's license(s) to practice nursing in the State of Texas.

VIII. 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

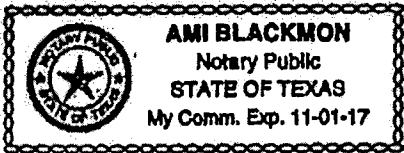
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that when this Order becomes final and the terms of this Order become effective, 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 possible revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 14 day of April, 2015.

Leeann Smiley
LEEANN RUTH SMILEY, Respondent

Sworn to and subscribed before me this 14 day of April, 2015.

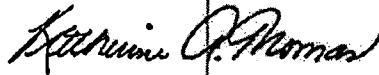
SEAL



Ami Blackmon
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 14 day of April, 2015, by LEEANN RUTH SMILEY, Vocational Nurse License Number 302308, and said Order is final.

Effective this 16 day of June, 2015.



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