BEFORE THE TEXAS BOARD OF NURSING

****

In the Matter of Vocational Nurse	§	AGREED
License Number 83717	§	
issued to PONTIA N. SMITH	§	ORDER

TEXAS BOARD OF NURSING
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

On this day the Texas Board of Nursing, hereinafter referred to as the Bc considered the matter of PONTIA N. SMITH, Vocational Nurse License Number 83717, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(2)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on June 7, 2010, by Katherine A. Thomas, MN, RN, Executive Director.

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 representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

3. Respondent is currently licensed to practice vocational nursing in the State of Texas.

4. Respondent received a Certificate in Vocational Nursing from Austin Community College, Austin, Texas, on September 8, 1979. Respondent was licensed to practice vocational nursing in the State of Texas on October 16, 1979.

5. Respondent's nursing employment history is unknown.

6. a. On or about June 10, 2002, Respondent's license to practice vocational nursing was REVOKED by the Board of Vocational Nurse Examiners for the State of Texas. A copy of the Default Order dated June 10, 2002, is attached and incorporated, by reference, as part of this Order.

b. On or about December 3, 2002, Respondent was issued the sanction of REPRIMAND by the Board of Vocational Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law and Agreed Board Order dated December 3, 2002, is attached and incorporated, by reference, as part of this Order.

7. On or about June 22, 2005, Respondent submitted a Texas Online Renewal Document for Licensed Vocational Nurses, in which she provided false, deceptive, and/or misleading information, in that she answered "No" to the question:

"Have you been convicted, adjudged guilty by a court, plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests (excluding minor traffic violations) since the last renewal? This includes expunged offenses and deferred adjudication with or without a finding of guilt. ***Please note that DUI's, DWI's and PI's must be reported and are not considered minor traffic violations. (One time minor in possession [MIP] or minor in consumption [MIC] do not need to be disclosed; therefore, you may answer "No." If you have two or more MIPs or MICs, you must answer "Yes".)"***

Respondent failed to disclose that on or about July 16, 2003, Respondent entered a plea of Nolo Contendere for THEFT >=$20<$500 BY CHECK, (a Class B misdemeanor offense committed on October 8, 2002), in the County Court at Law of Comal County, Texas, under Cause No. 2003-CR-0048. As a result of the plea, proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on unsupervised probation for a period of six (6) months. Respondent was successfully discharged from unsupervised probation on October 6, 2007.

8. On or about June 24, 2007, Respondent submitted a Texas Online Renewal Document for Licensed Vocational Nurses to the Board of Vocational Nurse Examiners for the State of Texas, in which she provided false, deceptive, and/or misleading information, in that she answered "No" to the question:

"Have you ever been convicted, placed on community supervision whether or not adjudicated guilty, sentenced to serve jail time or prison time or granted pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests whether or not on appeal (excluding minor traffic violations)? This includes expunged offenses and deferred adjudication with or without a finding of guilt. ***Please note that DUI's, DWI's and PI's must be reported and are not considered minor traffic violations. One time minor in possession [MIP] or minor in consumption [MIC] do not need to be disclosed; therefore, you may answer "No". If you have two or more MIPs or MICs, you must answer "Yes". You may answer "No" if you have previously disclosed a criminal matter otherwise responsive to this question ina renewal and/or licensure form."***

Respondent failed to disclose that on or about July 16, 2003, Respondent entered a plea of Nolo Contendere for THEFT >=$20<$500 BY CHECK, (a Class B misdemeanor offense committed on October 8, 2002), in the County Court at Law of Comal County, Texas, under Cause No. 2003-CR-0048. As a result of the plea, proceedings against Respondent were deferred without entering an adjudication of guilt and Respondent was placed on unsupervised probation for a period of six (6) months. Respondent was successfully discharged from unsupervised probation on October 6, 2007.

9. In response to Findings of Fact Numbers Seven (7) and Eight (8), Respondent states that on or about October 8, 2002, she deposited a check through an ATM and did not realize that the money was not credited until she tried to use the money. Additionally, Respondent states that she did not know these charges needed to be disclosed.

10. Formal Charges were filed on April 29, 2010.

11. Formal Charges were mailed to Respondent on April 30, 2010.

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 violations of Sections 301.452(b)(2)&(10), Texas Occupations Code (effective September 1, 2003), and 22 Tex. Admin. Code §217.12(6)(I) (effective September 28, 2004).

3.. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 83717, heretofore issued to PONTIA N. SMITH, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of REMEDIAL EDUCATION WITH A FINE, and RESPONDENT SHALL 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.

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.

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this Order, Respondent 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 Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT 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. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT's successful completion of the course.

This course 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.*

(2) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars ($250) . RESPONDENT SHALL pay this fine 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.

IT IS FURTHER AGREED, that 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 shall be eligible for nurse licensure compact privileges, if any.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT shall 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 violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that 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 revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

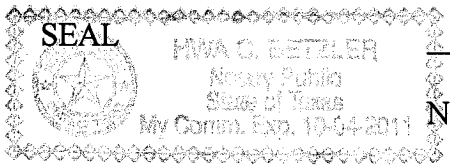
Signed this 8 day of November, 2010.

Pontia N. Smith

PONTIA N. SMITH, Respondent

Sworn to and subscribed before me this 8th day of November, 2010.

SEAL



Miva C Betzler

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 8th day of November, 2010, by PONTIA N. SMITH, Vocational Nurse License Number 83717, and said Order is final.

Effective this 12th day of November, 2010.

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

BOARD OF VOCATIONAL NURSE EXAMINERS	§	STATE OF TEXAS
VS	§	
PONTIA N. SMITH	§	COUNTY OF TRAVIS

AGREED BOARD ORDER

On this day came to be considered by the Board of Vocational Nurse Examiners for the State of Texas, hereinafter referred to as the Board, the matter of vocational nurse license number 083717, held by PONTIA N. SMITH hereinafter called Respondent.

A sworn Complaint has been filed and served on the Respondent, which alleges violations of the Texas Occupations Code, Chapter 302, and grounds to take disciplinary action against Respondent.

An informal conference was held on October 9, 2002, at the office of the Board of Vocational Nurse Examiners. The conference was conducted by Terrie L. Hairston, R.N., C.H.E., Hearing Officer, assisted by Ms. Janette Bowers, member of the Board of Vocational Nurse Examiners. Respondent was present and was not represented by counsel.

The conference was attended by Lynda G. Pringle, Investigator for the Board, and Mr. Eugene Clayborn, Assistant Attorney General. By their notarized signature on this Order, Respondent does hereby waive the right to Notice of Formal Hearing and a Formal Hearing of the Complaint before the Board, and to judicial review of this disciplinary action after this Order is ratified by the Board.

After reviewing the Complaint and information provided at the informal conference, Respondent agrees to the entry of an Order dispensing with the need for further proceedings on the Complaint. By Respondent's signature on this Order, Respondent neither admits nor denies the truth of the allegations stated in the Complaint. By Respondent's signature on this Order, Respondent acknowledges that they have read and understood this Order and have approved it for consideration by the Board. Notice of this disciplinary action will appear in the Board's newsletter sent to Texas employers.

ORDER OF THE BOARD

NOW THEREFORE, IT IS ORDERED, subject to ratification by the Board of Vocational Nurse Examiners that license number 083717, heretofore issued to PONTIA N. SMITH to practice vocational nursing in the State of Texas be, and the same is hereby reinstated and **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent be issued an administrative fine in the amount of $ 50.00, said fine shall be in the form of a cashier's check or money order, payable to the Board of Vocational Examiners. Said fine shall be paid in monthly installments of $ 25.00, due on the 30th of each month, commencing the month following the date of the Boards ratification of this Order, and continuing thereafter until the full amount of the fine has been paid. Said fee shall be sent to the Board office, addressed to the "Board of Vocational Nurse Examiners", 333 Guadalupe, Suite 3-400, Austin, TX 78701.

This Agreed Order shall not be effective or take effect and become enforceable in accordance with its terms until ratified by a majority of the Board present and voting, at its next regularly called session.

Dated this the 9th day of October, 2002.

Pontia Smith
Signature of Respondent

2101 Misty Hollow
Current Address

New Braunfels, TX 78132
City, State and Zip

830 / 226-5142
Area Code and Telephone Number

The State of Texas
County of Travis

Before me, the undersigned authority, on this day personally appeared PONTIA N. SMITH who being duly sworn by me stated that he or she executed the above for the purpose therein contained, and that he or she understood same.

SWORN TO AND SUBSCRIBED before me this the 9th day of October, 2002.

E.E. STEARNS, JR.
Notary Public, State of Texas
My Commission Expires
APRIL 6, 2003

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Terrie L. Hairston, R.N., C.H.E.,
Agent for the Board of
Vocational Nurse Examiners

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the 31st day of October, 2002.

SANDY GARDNER
Notary Public, State of Texas
My Commission Expires
April 13, 2003

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

WHEREFORE, PREMISES CONSIDERED, the Board of Vocational Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Board Order, notarized on the 9th day of October, 2002 by Respondent, license number 083717 and that Said Order is Final.

Effective this 3rd day of December, 2002

Terrie L. Hairston, RN, CHE
Executive Director
On Behalf of Said Board

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of December, 2002, a true and correct copy of the foregoing **BOARD ORDER** was served by placement in the U.S. Mail, first class, and addressed to the following person(s):

PONTIA N. SMITH
2101 MISTY HOLLOW
NEW BRAUNFELS, TX 78132-2700

Terrie L. Hairston

Terrie L. Hairston, RN, CHE
Executive Director
Agent for the Board of Vocational Nurse Examiners

BEFORE THE BOARD OF VOCATIONAL NURSE EXAMINERS
IN AND FOR THE STATE OF TEXAS

****

In the matter of Permanent
License Number 083717 Issued
To PONTIA N. SMITH

ORDER OF THE BOARD

TO: PONTIA N. SMITH
2101 MISTY HOLLOW
NEW BRAUNFELS, TEXAS 78132-2700

JOHN F. LEGRIS
ATTORNEY AT LAW
411 SOUTH PRESA
SAN ANTONIO, TEXAS 78206

WHEREAS, PONTIA N. SMITH (hereinafter "Respondent") has submitted to the Board, through her attorney of record, John F. Legris, a Motion for Rehearing requesting that she have the opportunity to present her case before an Administrative Law Judge of the State Office of Administrative Hearings or resolve this matter through an Informal Conference, the Board takes the following action:

ORDER

The Board, after review and due consideration of Respondent's Motion for Rehearing which was filed timely in accordance with Sections 2001.145 and 2001.146 of the Administrative Procedure Act, vacates the Default Order, previously ratified and adopted by the Board on June 10, 2002.

NOW THEREFORE, IT IS ORDERED that license number 083717 heretofore issued to PONTIA N. SMITH, to practice vocational nursing in the State of Texas be, and the same is hereby reinstated.

IT IS FURTHER ORDERED that Respondent's Motion for Rehearing is hereby granted and that an administrative hearing or informal conference be set in this matter at the next available setting.

Terrie L. Hairston, R.N., C.H.E.,
Agent for the Board of
Vocational Nurse Examiners