BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse	§	AGREED
License Number 555459	§	
& Vocational Nurse License Number 79126	§	
issued to CAROL JANELLE 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 Boa accepted the voluntary surrender of Registered Nurse License Number 555459 and Vocational Nurse License Number 79126, issued to CAROL JANELLE SMITH, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c) of the Texas Occupations Code.

Respondent waived informal proceedings, 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 provided to 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 informal proceedings, notice and hearing, and agreed to the entry of this Order.

3. Respondent is currently licensed to practice professional nursing in the State of Texas. Respondent's license to practice vocational nursing in the State of Texas is currently in delinquent status.

4. Respondent received a Certificate in Vocational Nursing from Saint Joseph Hospital Vocational Nursing School, Fort Worth, Texas, on July 31, 1978. Respondent was licensed to practice vocational nursing in the State of Texas on November 28, 1978. Respondent received an Associate Degree in Nursing from Tarrant County Junior College, Fort Worth, Texas, on May 9, 1989. Respondent was licensed to practice professional nursing in the State of Texas on August 25, 1989.

5. Respondent's employment history includes:

1978-1990	Staff Nurse Huguley Memorial Hospital Fort Worth, Texas
10/1990-10/1991	Staff Nurse Osteopathic Medical Center Fort Worth, Texas
10/1991- 03/1997	ICU Nurse Plaza Medical Center Fort Worth, Texas
03/1997-03/1999	GI lab Nurse All Saints Hospital Fort Worth, Texas
11/1999 - Unknown	GI Lab Nurse LifeCare Speciality Hospital Fort Worth, Texas

6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a Registered Nurse with LifeCare Hospital, Fort Worth, Texas, and had been in this position for approximately five (5) Years.

7. On or about June 29, 2010, Respondent was sent a proposed Agreed Order issuing a Warning with Stipulations and a Fine, which contained the following Findings of Fact:

- On or about November 12, 2004, while employed with LifeCare Speciality Hospital, Fort Worth, Texas, Respondent exceeded her scope of practice as a registered nurse in that she made an abdominal incision and inserted a laparoscopic trocar while assisting a physician in the placement of a Percutaneous Endoscopic Gastrostomy (PEG) tube for Patient MR# 003523. Respondent may have improperly secured the PEG tube for Patient MR# 003523, and may have exposed him to additional risk of harm in that said patient's PEG tube eroded the superior epigastric artery of his abdominal wall, causing internal and external bleeding. Patient MR#003523 underwent emergent surgical intervention and blood transfusion to stabilize his bleeding.

- On or about November 19, 2007, during an Oral Deposition for case #236-222165-07 at the 236th District Court, Tarrant County, Texas, Respondent acknowledged that

while working at LifeCare Speciality Hospital and other locations, she exceeded her scope of practice as a registered nurse in that she made abdominal incisions and inserted laparoscopic trocars while assisting physicians in the placement of Percutaneous Endoscopic Gastrostomy (PEG) tubes for numerous patients, beginning on or about 1999 through 2004 or later. Respondent's action may have exposed patients to the risk of harm in that she may have lacked the education, training, and credentials to perform said procedure.

- In response to Findings of Fact Numbers Seven (7) and eight (8), Respondent states that she had worked as a Gastrointestinal (GI) Laboratory nurse for several years and was trained by a board certified surgeon in how to perform incisions and insert safety PEG trocars. Respondent adds that the surgeon identified each step of performing an initial incision from how to hold a scalpel, how to retract skin, where to initially anesthesize and how deep, how to insert the needle to locate the stomach while the surgeon observed on the monitor from the scope and to retract and inject the lidocaine injection. The safety trocar would be inserted by the nurse through the incision while the physician watched the monitor and gave instructions on proper placement. Respondent adds that she was certified by said surgeon at least once every three years beginning in 2000. Respondent denies ever performing a PEG tube placement procedure without a surgeon present. Respondent also states that the Texas Board of Nursing failed to make a clear distinction regarding the role of a Registered Nurse in the placement of PEG tubes, and that the statutes and rules in place at the time did not specifically prohibit a registered nurse from making incisions or advancing trocars.

8. On August 6, 2010, Respondent's attorney sent electronic mail correspondence, which expressed the following: "Respondent resides outside the United States due to her spouse's employment. She is not currently practicing nursing and has not present intention to return to practice. To resolve this matter without further expense or inconvenience she is voluntarily surrendering her license to practice." A copy of the August 6, 2010 electronic mail is attached and incorporated, by reference, as part of this Order."

9. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license(s) to practice nursing in the State of Texas.

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)&(13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)&(12) [*Effective September 1, 1999*], 22 TEX. ADMIN. CODE §217.11(1)(A)&(1)(T) [*Effective September 28, 2004]*, and 22 TEX. ADMIN. CODE §217.12(1)&(12) [*Effective September 1, 1999*] and 22 TEX. ADMIN. CODE §217.12 (1)(B)&(1)(E) [*Effective September 28, 2004]*.

4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Registered License Number 555459, and Licensed Vocational Nurse Number 79126, heretofore issued to CAROL JANELLE 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.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Registered License Number 555459, and Vocational Nurse License Number 79126, heretofore issued to CAROL JANELLE 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/vocational nursing, use the title "registered/vocational nurse" or the abbreviation "RN"/"LVN" or wear any insignia identifying her as a registered/vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered/vocational 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.

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.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. 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 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.

Under Penalty of Perjury Signed this 1st day of September, 2010.

Carol Janelle Smith

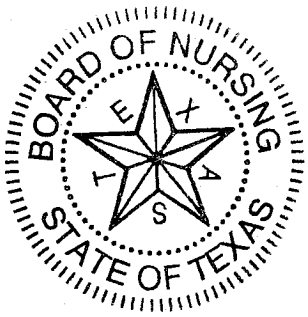
CAROL JANELLE SMITH, Respondent

Approved as to form and substance.

Bruce S. Campbell, Attorney for Respondent

Signed this 2 day of September, 2010.

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 555459, and Vocational Nurse License Number 79126, previously issued to CAROL JANELLE SMITH.



Effective this 9 day of September, 20 10.

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