BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse License Number 614259	§	AGREED
and Vocational Nurse License Number 130806	§	
issued to JUDY LYNN 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 Board, considered the matter of JUDY LYNN SMITH, Registered Nurse License Number 614259 and Vocational Nurse License Number 130806, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(9),(10)&(12), 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.

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 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 Vernon Regional Junior College, Wichita Falls, Texas, on August 31,1990. Respondent was licensed to practice vocational nursing in the State of Texas on November 28, 1990. Respondent received an Associate Degree in Nursing from Regents College, Albany, New York, on February 1, 1995. Respondent was licensed to practice professional nursing in the State of Texas on February 27, 1995.

5. Respondent's nursing employment history includes:

12/90 - 06/99	Charge Nurse	URHCS (8th Street Campus) Wichita Falls, TX
02/97 - 08/03	RN/DON	Homecare Homehealth Services Wichita Falls, TX
10/02 - 10/07	Charge Nurse	Texas Specialty Hospital Wichita Falls, TX
12/07	Registered Nurse	Nightingale Nurses Boca Raton, TX
01/08 - Present	Unknown	

6. At the time of the incident, Respondent was employed as a Registered Nurse with Texas Specialty Hospital, Wichita Falls, Texas, and had been in this position for approximately four (4) years and six (6) months.

7. On or about May 18, 2007, while employed with Texas Specialty Hospital, Wichita Falls, Texas, Respondent lacked fitness to practice professional nursing in that she had slurred speech, was stumbling, acting confused, and was not able to stand or walk. Respondent's condition could have affected her 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.

8. In response to Finding of Fact Number Seven (7), Respondent states that she has a history of high blood pressure in her family. Respondent states that on the night in question, her blood pressure became elevated and she began to feel dizzy, and then blacked out. Respondent states that she sat down in a chair and her co-workers checked her blood sugar. Respondent states that she made an appointment with her physician and was subsequently diagnosed with early onset hypertension.

9. On or about December 17, 2007, while employed as a Registered Nurse with Nightingale Nurses, LLC, Boca Raton, Florida, and assigned to Northwest Texas Hospital, Amarillo, Texas, Respondent lacked fitness to practice professional nursing in that she had slurred speech, was unresponsive to voice or touch, and was not able to stand or walk. Respondent's condition could have affected her 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.

10. On or about December 17, 2007, while employed as a Registered Nurse with Nightingale Nurses, LLC, Boca Raton, Florida, and assigned to Northwest Texas Hospital, Amarillo, Texas, Respondent engaged in the intemperate use of Benzodiazepines and Opiates in that she produced a specimen for a drug screen which resulted positive for Benzodiazepines and Opiates. Possession of Benzodiazepines and Opiates is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substance Act). The use of Benzodiazepines and Opiates by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgements, and decisions regarding patient care, thereby placing the patient in potential danger.

11. In response to Finding of Fact Number Nine (9) and Ten (10), Respondent states that she started feeling faint and passed out during orientation at Nightingale Nurses. Respondent states that she was never oriented on the floor or cared for patients during her employment there. Respondent states that she was re-assessed by her physician and was put on a new medication regimen.

12. The Respondent's conduct described in the preceding Finding of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.

13. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

14. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, 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)(9),(10)&(12), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(B),(4),(5),(10)(A)&(D) &(11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 614259 and Vocational Nurse License Number 130806, heretofore issued to JUDY LYNN SMITH, including revocation of Respondent's license to practice nursing in the State of Texas.

5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

RESPONDENT SHALL deliver the wallet-sized license issued to JUDY LYNN SMITH, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order.

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars ($500.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her license to practice nursing in the State of Texas current.

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§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 is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license and 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 waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 16th day of JULY, 2010.

Judy Lynn Smith
JUDY LYNN SMITH, Respondent

Sworn to and subscribed before me this 16 day of July, 2010.

SEAL
MELISSA STUBBLEFIELD
Notary Public, State of Texas
My Commission Expires
July 9, 2013

Melissa Stubblefield
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 and enter the Agreed Order that was signed on the 16th day of July, 2010, by JUDY LYNN SMITH, Registered Nurse License Number 614259 and Vocational Nurse License Number 130806, and said Order is final.

Entered and effective this 23 day of July, 2010.

Katherine A. Thomas

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