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

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

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

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

FIRST AMENDED COMPLAINT

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Lynda G. Pringle, who after being by me duly sworn, did depose and say:

As an Investigator for the Board of Vocational Nurse Examiners, I, Lynda G. Pringle, do hereby present to the Executive Director of the Board of Vocational Nurse Examiners, the following complaint against PONTIA N. SMITH, a practitioner of vocational nursing in Texas licensed by the Board of Vocational Nurse Examiners with license number 083717, hereinafter called Respondent.

I.

a. On or about October 19, 2001, the Board of Vocational Nurse Examiners received a referral from the Texas Peer Assistance Program for Nurses (TPAPN) alleging that Respondent had declined participation in their program.

II.

a. Respondent was employed as a Licensed Vocational Nurse with Prescription Home Health Agency in San Antonio, Texas from about September 13, 1999 through about September 29, 2000.

b. While so employed with said facility, Respondent accepted nursing assignments when her emotional condition prevented the safe and effective delivery of patient care.

Respondent verbalized threats of suicide to patients and was observed exhibiting unusual behavior, including crying spells and paranoia. Respondent also disclosed confidential information concerning the personal lives of patients to third parties not involved with patient care. As a result of Respondent's mental impairment, the facility subsequently referred Respondent to TPAPN.

c. On or about October 2, 2000, the Board of Vocational Nurse Examiners received a referral from the Texas Peer Assistance Program for Nurses (TPAPN) alleging that Respondent had declined participation in their program. However, on or about June 1, 2001, Respondent sent correspondence to the Board office requesting that she be allowed to participate in TPAPN. On or about June 28, 2001, Respondent executed an affidavit in which she acknowledged that she had a mental impairment problem and formally requested to be allowed to participate in TPAPN. However, by letter dated October 19, 2001, the Board was informed that Respondent had again declined participation in their program.

d. Respondent by her actions and admission has demonstrated a lack of fitness to practice vocational nursing because of her impaired mental condition which could result in injury to the public or to herself.

III.

Furthermore, Respondent failed to timely notify the Board of Vocational Nurse Examiners of her change of address in accordance with Board Rule 235.46.

IV.

The foregoing acts constitute unprofessional or dishonorable conduct that, in the opinion of the Board, is likely to deceive, defraud, or injure the public, in violation of the Texas Occupations Code, Chapter 302, Section 302.402 (a) (10) and Rule 239.11 of the Rules and Regulations of the Board of Vocational Nurse Examiners, Title 22, Texas Administrative Code. Rule 239.11, provides in pertinent part: that "Unprofessional Conduct" shall include, but not be limited to:

(10) practicing as a vocational nurse holding a license or temporary permit or a graduate making application for licensure, and or applying for employment or by virtue of being an LVN in an Educational program while the individual's ability to practice is impaired by alcohol, drugs, physical or mental disability and/or testing positive for alcohol, illicit drugs, or other substances not prescribed;

(21) disclosing confidential information or knowledge concerning the patient/client except where required or allowed by law;

(27) failing to conform to the minimal standards of acceptable prevailing practice, regardless of whether or not actual injury to any person was sustained, including but not limited to:

(B) accepting an assignment when one's physical or emotional condition prevents the safe and effective delivery of care or accepting an assignment for which one lacks the educational preparation, experience, knowledge or ability;

V.

Respondent is lacking in fitness to practice as a vocational nurse because of a mental or physical health condition that could result in injury to a patient or the public, in violation of the Texas Occupations Code, Chapter 302, Section 302.402 (a) (12).

VI.

The foregoing acts constitute grounds for the Board of Vocational Nurse Examiners to take disciplinary action as provided under the Texas Occupations Code, Chapter 302, Licensed Vocational Nurse, Section 302.403 and Section 302.451, relief such as revocation, suspension, suspension with probation,

reprimand, warning, denial of licensure and/or imposition of administrative penalties (fines), may be recommended by the Board. Pursuant to Board Rule 239.19 the Board may assess penalties (fines), in the minimum amount of two hundred fifty dollars ($250.00), not to exceed two thousand dollars ($2,000.00).

WHEREFORE, PREMISES CONSIDERED, I, Lynda G. Pringle, do hereby suggest and request the Board of Vocational Nurse Examiners take disciplinary action against PONTIA N. SMITH, LVN #083717, in accordance with the provisions of the laws of the State of Texas.

Lynda G. Pringle
AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME by the said Lynda G. Pringle, on this the day 12th September 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
My Commission Expires April 6, 2003

Filed with the Board of Vocational Nurse Examiners on the 12th day of September 2002.

Kirby W. Hattox, Supervisor
Enforcement Division
Board of Vocational Nurse Examiners

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

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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

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

IN THE MATTER OF PERMANENT	§	**BEFORE THE BOARD**
OF	§	**VOCATIONAL NURSE EXAMINERS**
LICENSE NUMBER #083717	§	**IN AND FOR THE**
ISSUED TO	§	**STATE OF TEXAS**
PONTIA N. SMITH	§	

DEFAULT ORDER

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

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 in accordance with the TEX. OCC. CODE ANN. § 302.403 & § 302.404 and served on the Respondent, pursuant to TEX. GOV'T CODE ANN. Chapter 2001 (Vernon 2000), 22 TEX. ADMIN. CODE (TAC) § 239.23 (1999); which alleges violations of the Texas Occupations Code, Chapter 302, and grounds to take disciplinary action against Respondent.

During open meeting on June 10, 2002, at Austin, Texas, the Board finds that, after proper and timely notice was given in the above-styled case, Respondent has failed to file an "Answer to Appear".

The Board, after review and due consideration of Respondent's failure to enter an appearance, in accordance with 22 TEX. ADMIN. CODE (TAC) § 239.46 (2000), ratifies and adopts the Default Order.

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, **REVOKED**.

Appeals from a final decision or Order of the Board must be made pursuant to the requirements of the Administrative Procedure Act, TEX. GOV'T CODE, ANN., Chapter 2001, § 2001.146, as amended. A motion for rehearing must be filed the Board within 20 days from the date of this notice, as a jurisdictional prerequisite to an Appeal.

Terrie L. Hairston
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 10th day of June, 2002.

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

Sandy Gardner
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My Commission Expires 4/13/03

WHEREFORE, PREMISES CONSIDERED, the Board of Vocational Nurse Examiners for the State of Texas does hereby ratify and adopt the Default Order, on the 10th day of June, 2002, that Said Order is Final in the matter of PONTIA N. SMITH, LVN #083717.

Effective this 10th day of June, 2002.

Terrie L. Hairston, R.N., C.H.E.,
Executive Director
On Behalf of Said Board

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of June, 2002, a true and correct copy of the foregoing **DEFAULT ORDER** was served by placement in the U.S. Mail first class mail, and addressed to the following person(s):

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

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

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

COMPLAINT

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Lynda G. Pringle, who after being by me duly sworn, did depose and say:

As an Investigator for the Board of Vocational Nurse Examiners, I, Lynda G. Pringle, do hereby present to the Executive Director of the Board of Vocational Nurse Examiners, the following complaint against PONTIA N. SMITH, a practitioner of vocational nursing in Texas licensed by the Board of Vocational Nurse Examiners with license number 083717, hereinafter called Respondent.

I.

a. On or about October 19, 2001, the Board of Vocational Nurse Examiners received a referral from the Texas Peer Assistance Program for Nurses (TPAPN) alleging that Respondent had declined participation in their program.

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Respondent verbalized threats of suicide to patients and was observed exhibiting unusual behavior, including crying spells and paranoia. Respondent also disclosed confidential information concerning the personal lives of patients to third parties not involved with patient care. As a result of Respondent's mental impairment, the facility subsequently referred Respondent to TPAPN.

c. On or about October 2, 2000, the Board of Vocational Nurse Examiners received a referral from the Texas Peer Assistance Program for Nurses (TPAPN) alleging that Respondent had declined participation in their program. However, on or about June 1, 2001, Respondent sent correspondence to the Board office requesting that she be allowed to participate in TPAPN. On or about June 28, 2001, Respondent executed an affidavit in which she acknowledged that she had a mental impairment problem and formally requested to be allowed to participate in TPAPN. However, by letter dated October 19, 2001, the Board was informed that Respondent had again declined participation in their program.

d. Respondent by her actions and admission has demonstrated a lack of fitness to practice vocational nursing because of her impaired mental condition which could result in injury to the public or to herself.

III.

The foregoing acts constitute unprofessional or dishonorable conduct that, in the opinion of the Board, is likely to deceive, defraud, or injure the public, in violation of the Texas Occupations Code, Chapter 302, Section 302.402 (a) (10) and Rule 239.11 of the Rules and Regulations of the Board of Vocational Nurse Examiners, Title 22, Texas Administrative Code. Rule 239.11, provides in pertinent part: that "Unprofessional Conduct" shall include, but not be limited to:

(10) practicing as a vocational nurse holding a license or temporary permit or a graduate making application for licensure, and or applying for employment or by virtue of being an LVN in an Educational program while the individual's ability to practice is impaired by alcohol, drugs, physical or mental disability and/or testing positive for alcohol, illicit drugs, or other substances not prescribed;

(21) disclosing confidential information or knowledge concerning the patient/client except where required or allowed by law;

(27) failing to conform to the minimal standards of acceptable prevailing practice, regardless of whether or not actual injury to any person was sustained, including but not limited to:

(B) accepting an assignment when one's physical or emotional condition prevents the safe and effective delivery of care or accepting an assignment for which one lacks the educational preparation, experience, knowledge or ability;

IV.

Respondent is lacking in fitness to practice as a vocational nurse because of a mental or physical health condition that could result in injury to a patient or the public, in violation of the Texas Occupations Code, Chapter 302, Section 302.402 (a) (12).

V.

The foregoing acts constitute grounds for the Board of Vocational Nurse Examiners to take disciplinary action as provided under the Texas Occupations Code, Chapter 302, Licensed Vocational Nurse, Section 302.403 and Section 302.451, relief such as revocation, suspension, suspension with probation, reprimand, warning, denial of licensure and/or imposition of administrative penalties (fines), may be recommended by the Board. Pursuant to Board Rule 239.19 the Board may assess penalties (fines), in the minimum amount of two hundred fifty dollars ($250.00), not to exceed two thousand dollars ($2,000.00).

WHEREFORE, PREMISES CONSIDERED, I, Lynda G. Pringle, do hereby suggest and request the Board of Vocational Nurse Examiners take disciplinary action against PONTIA N. SMITH, LVN #083717, in accordance with the provisions of the laws of the State of Texas.

Lynda G. Pringle
AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME by the said Lynda G. Pringle, on this the day 28th February 2002.

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

Sandy Gardner
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My Commission Expires 4/13/03

Filed with the Board of Vocational Nurse Examiners on the 28th day of February 2002.

Kirby W. Hattox, Supervisor
Enforcement Division
Board of Vocational Nurse Examiners

BOARD OF VOCATIONAL NURSE EXAMINERS
333 GUADALUPE STREET, SUITE 3-400
AUSTIN, TEXAS 78701
(512) 305-8100

March 26, 2003

PONTIA SMITH
401 KINGS
CANYON LAKE TX 78133

Dear Ms. Smith:

You have successfully completed the terms of your Agreed Board Order dated December 3, 2002.

All pertinent information will remain in your permanent records. We urge you in the future to promote and uphold the ethical standards a Licensed Vocational Nurse should practice.

If you have any questions concerning this matter, please do not hesitate to contact our office.

Sincerely,

Carolyn Hudson
Investigator

/ch