



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.  
*Katherine A. Thomas*  
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse License Number 693659           §        AGREED  
and Vocational Nurse License Number 160528                   §  
issued to JAMES AUBREY SMITH                                   §        ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JAMES AUBREY SMITH, Vocational Nurse License Number 160528 Registered Nurse License Number 693659, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(3)&(10) Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on March 6, 2009, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

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 licenses
2. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent holds a license in vocational nursing which is currently in Delinquent status and is currently licensed to practice professional Nursing in the State of Texas.
4. Respondent received a Certificate in Nursing from Lamar University, Orange, Texas, on August 16, 1996. Respondent was licensed to practice vocational nursing in the State of Texas on October 30, 1996. Respondent received a Baccalaureate Degree in Nursing from Lamar University, Beaumont, Texas, on December 1, 2002. Respondent was licensed to practice professional nursing in the State of Texas on February 13, 2003.

5. Respondent's vocational and professional nursing employment history includes:

10/95 - 09/03	Respiratory Therapist	Christus St. Elizabeth Hospital Beaumont, Texas
10/03 - 09/07	RN Nurse	Christus St. Mary Hospital Port Arthur, Texas
01/05 - 06/05	RN Nurse	Continued Care Hospital of Southeast Texas Orange, Texas
07/05 - 10/05	Respiratory Therapist	Medical Center of Southeast Texas Port Arthur, Texas
10/07 - Present	Respiratory Therapist	Christus St. Mary Hospital Port Arthur, Texas

6. On or about February 17, 2006, Respondent was convicted of CRUELTY TO ANIMALS (a State Jail Felony offense committed on or about October 6, 2004), in the 128th District Court of Orange County, Texas, Cause No. A050157-R. As a result of the conviction, Respondent was sentenced to confinement in a State Jail facility for a period of two (2) years; however, the imposition of sentence of confinement was suspended, and Respondent was placed on probation for a period of five (5) years. Additionally, Respondent was ordered to pay a fine and court costs.
7. Formal Charges were filed on March 2, 2008.
8. Formal Charges were mailed to Respondent on March 6, 2008.
9. First Amended Formal Charges were filed on April 30, 2008.
10. First Amended Formal Charges were mailed to Respondent on April 30, 2008.

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)(3)&(10), Texas

Occupations Code, and 22 TEX. ADMIN. CODE §217.12(13).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 160528 and Registered Nurse License Number 693659, heretofore issued to JAMES AUBREY SMITH, including revocation of Respondent's licenses to practice vocational and professional 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 a REPRIMAND, 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 multistate licensure privilege, if any, to practice nursing in compact states.

IT IS FURTHER AGREED and ORDERED that while Respondent's licenses are 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 that:

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

(2) RESPONDENT SHALL CAUSE his probation officer to submit written reports on forms provided to the Respondent by the Board. The reports shall indicate the RESPONDENT's compliance with the court ordered probation. The reports shall be furnished each and every three (3) month period until RESPONDENT is released from probation.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT's licenses and RESPONDENT shall be eligible for multistate licensure privileges, if any, to practice nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

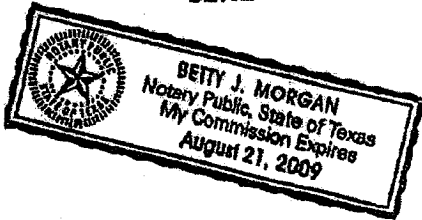
I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violation alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, 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 licenses to practice vocational and professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 6 day of March, 2009.

[Signature]  
JAMES AUBREY SMITH, Respondent

Sworn to and subscribed before me this 6<sup>th</sup> day of March, 2009.

SEAL



[Signature]  
Notary Public in and for the State of Texas

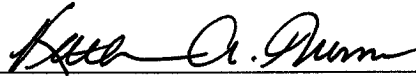
Approved as to form and substance.

[Signature]  
Louis Leichter, Attorney for Respondent

Signed this 6 day of March, 2009

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 6th day of March, 2009, by JAMES AUBREY SMITH, Vocational Nurse License Number 160528 and Registered Nurse License Number 693659, and said Order is final.

Effective this 28th day of April, 2009.



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