



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

In the Matter of License Number 232384 § AGREED
issued to DIANE CAROL S.S. SMITH § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Bo
considered the matter of DIANE CAROL S.S. SMITH, Registered Nurse License Number 232384,
hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have
violated Section 301.452(b)(10)&(13), Texas Occupations Code (effective September 1, 2003).
Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed
to the entry of this Order offered on December 11, 2008, 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.
4. Respondent received an Associate Degree from College of the Mainland, Texas City, Texas, on August 1, 1974. Respondent was licensed to practice professional nursing in the State of Texas on December 6, 1974.
5. Respondent's professional nursing employment history includes:

12/74-1983	Unknown
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Respondent's professional nursing employment history continued:

1984-1987	RN	Bayshore Medical Center Pasadena, Texas
1987-1994	RN	Park Plaza Hospital Houston, Texas
1994-1995	RN	Maui Memorial Hospital Wailuku, Hawaii
1995-1998	RN	Office of Earl Hasegawa, DDS Kahului, Hawaii
1998-2002	RN	Maui Plastic Surgery Kahului, Hawaii
12/02-09/04	RN	Clear Lake Regional Medical Center Webster, Texas
10/04-Present	Unknown	

6. At the time of the initial incident, Respondent was employed as a Registered Nurse with Clear Lake Regional Medical Center, Webster, Texas, and had been in this position for one (1) year and nine (9) months.
7. On or about September 4 and 9, 2004, while employed as a Registered Nurse with Clear Lake Regional Medical Center, Webster, Texas, Respondent withdrew Morphine from the AcuDose Medication Dispensing System for Patients without valid physicians' orders as follows:

Date	Patient	Physician's Order	AcuDose Record	MAR
09/04/04	JS	No Valid Order for Morphine	2mg Morphine @ 0853	Not Documented
09/09/04	BD	No Valid Order for Morphine	2mg Morphine @ 1456	Not Documented

Respondent's conduct was likely to injure the Patients in that the administration of Morphine without a valid physician's order could result in the Patients suffering from adverse reactions.

8. On or about September 4, 9, 20, and 21, 2004, while employed as a Registered Nurse with Clear Lake Regional Medical Center, Webster, Texas, Respondent withdrew Morphine and Demerol from the AcuDose Medication Dispensing System for Patients but failed to document or accurately document the administration of the medications in the patients' Medication Administration Records (MAR), as follows:

Date	Patient	Physician's Order	AcuDose Record	MAR
09/04/04	JS	No Valid Order for Morphine	2mg Morphine @ 0853	Not Documented
09/09/04	BD	No Valid Order for Morphine	2mg Morphine @ 1456	Not Documented
09/20/04	LP	25mg Demerol Q3-4hrs PRN	25mg Demerol @ 1001	Not Documented
09/21/04	LP	25mg Demerol Q3-4hrs PRN	50mg Demerol @ 0944	Not Documented

Respondent's conduct above was likely to injure the Patients in that subsequent care givers would rely on her documentation to further medicate the Patients which could result in an overdose.

9. On or about September 4, 9, 20, and 21, 2004, while employed as a Registered Nurse with Clear Lake Regional Medical Center, Webster, Texas, Respondent withdrew Morphine and Demerol from the AcuDose Medication Dispensing System for Patients but failed to follow the policy and procedure for the wastage, or failed to waste in a timely manner, as follows:

Date	Patient	Physician's Order	AcuDose Record	MAR	Wastage
09/04/04	JS	No Valid Order for Morphine	2mg Morphine @ 0853	Not documented	1935-Returned 2mg Morphine
09/09/04	BD	No Valid Order for Morphine	2mg Morphine @ 1456	Not Documented	No Wastage
09/20/04	LP	25mg Demerol Q3-4hrs PRN	25mg Demerol @ 1001	Not Documented	No Wastage
09/21/04	LP	25mg Demerol Q3-4hrs PRN	50mg Demerol @ 0944	Not Documented	No Wastage

Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

10. On or about September 9, 2004, while employed as a Registered Nurse with Clear Lake Regional Medical Center, Webster, Texas, Respondent failed to document, or completely document, the nursing care she provided to Patients BD, AO, FM, and MS. Respondent's conduct was likely to injure the patients in that subsequent care givers would not have the benefit of the documented information upon which to base their medical care.

11. On or about September 9, 2004, while employed as a Registered Nurse with Clear Lake Regional Medical Center, Webster, Texas, Respondent failed to change post-surgical dressings as ordered by the physician for Patient FM who was assigned to her care. Respondent's conduct was likely to expose the Patient unnecessarily to a risk of harm from complications due to undiagnosed and, consequently, untreated disease processes.
12. On or about September 9, 2004, while employed as a Registered Nurse with Clear Lake Regional Medical Center, Webster, Texas, Respondent failed to remove surgical staples and apply Steri-Strips as ordered by the physician for Patient MS who was assigned to her care. Respondent's conduct was likely to expose the Patient unnecessarily to a risk of harm from complications due to undiagnosed and, consequently, untreated disease processes.
13. On or about September 21, 2004, while employed as a Registered Nurse with Clear Lake Regional Medical Center, Webster, Texas, Respondent withdrew Demerol from the AcuDose Medication Dispensing System for Patient LP in excess frequency/dosage of the physicians' orders, in that she withdrew 50mg Demerol although the physician's order was only for 25mg Demerol every 3 to 4 hours as needed. Respondent's conduct was likely to injure the Patient in that the administration of Demerol in excess frequency and/or dosage of the physician's order could result in the Patient suffering from adverse reactions.
14. On or about October 8, 2004, Respondent provided a specimen for a Hair Analysis Drug Test, which tested negative for Cocaine, Opiates, PCP, Amphetamines and Marijuana.

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 Section 301.452(b)(10)&(13), Texas Occupations Code (effective September 1, 2003), and 22 TEX. ADMIN. CODE §217.11(1),(2),(3),(4),(5)&(18) (effective September 1, 1999), and 22 TEX. ADMIN. CODE §217.12(1),(2),(3),(4),(5),(18)&(22) (effective September 1, 1999).
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 232384, heretofore issued to DIANE CAROL S.S. SMITH, including revocation of Respondent's license to practice 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 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 multistate licensure privilege, if any, to practice professional 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 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 deliver the wallet-sized license issued to DIANE CAROL S.S. SMITH to the office of the Texas Board of Nursing within ten (10) days of the date of ratification of this Order.

(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.

(3) 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) contact 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>.

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in medication administration. 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. The didactic portion of this course shall be a minimum of six (6) hours in length. The course shall contain a minimum twenty-four (24) hour clinical component which is to be provided by the same Registered Nurse who provides the didactic

portion of this course. The clinical component SHALL focus on tasks of medication administration only. In order for the course to be approved, the course's content shall include: a review of proper administration procedures for all standard routes; computation of drug dosages; the five (5) rights of medication administration; factors influencing the choice of route; and possible adverse effects resulting from improper administration. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor 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>.

(5) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in nursing documentation. 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. The course shall be a minimum of six (6) hours in length of classroom time. In order for the course to be approved, the target audience shall include Nurses. The course shall include content on the following: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation.

RESPONDENT SHALL cause the instructor to submit a Verification of Course Completion form, provided by the Board, to the Board's office 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>.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT's license 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 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 to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

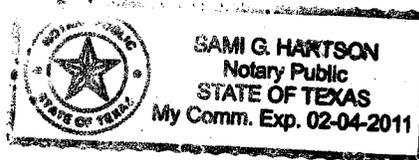
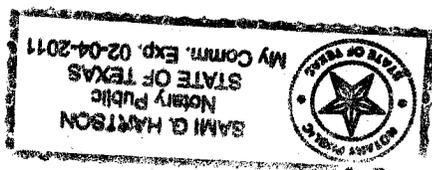
Signed this 2 day of March, 2009.

Diane Carol S.S. Smith
DIANE CAROL S.S. SMITH, Respondent

Sworn to and subscribed before me this 2 day of March, 2009.

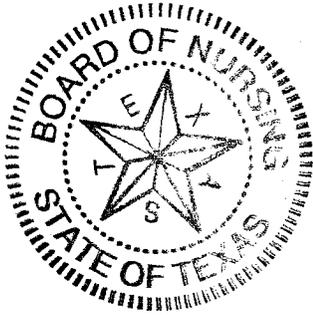
SEAL

[Signature]
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 2nd day of March, 2009, by DIANE CAROL S.S. SMITH, Registered Nurse License Number 232384, and said Order is final.

Effective this 5th day of March, 2009.




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