FILED

MAY 16 2011

Board of Vocational Nursing and Psychiatric Technicians

KAMALA D. HARRIS.
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General
LORRIE M. YOST
Deputy Attorney General
State Bar No. 119088
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 445-2271
Facsimile: (916) 327-8643
Attorneys for Complainant

BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JOHN LEE BROWN** **181 E. Honolulu, Apt. 301** **Lindsay, CA 93247** **Psychiatric Technician License No. PT 13412** Respondent.	Case No. PT-2007-2664 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

Psychiatric Technician License

2. On or about November 5, 1971, the Board issued Psychiatric Technician License Number PT 13412 to John Lee Brown ("Respondent"). The psychiatric technician license expired on September 30, 2008.

STATUTORY PROVISIONS

3. Section 4520 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensed psychiatric technician for any reason provided in

Article 3 (commencing with section 4520) of the Psychiatric Technicians Law (Code § 4500, et. seq.)

4. Code section 118, subdivision (b) provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 4545, the Board may renew an expired license at any time within four years after the expiration.

5. Code section 4521 states, in pertinent part that a license that has expired may be renewed at any time within four years after its expiration.

6. Code section 4521 states, in pertinent part:

> The board may suspend or revoke a license issued under this chapter [the Psychiatric Technicians Law (Bus. & Prof Code, 4500, et seq.)] for any of the following reasons:
>
> (a) Unprofessional conduct, which includes but is not limited to any of the following:
>
> (4) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug as defined in Section 4022 .
>
> (5) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
>
> (f) Conviction of any offense substantially related to the qualifications, functions, and duties of a psychiatric technician, in which event the record of the conviction shall be conclusive evidence of the conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.

7. California Code of Regulations section 2576.6 states, in pertinent part:

> (b) A licensed psychiatric technician shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:
>
> (4) Abstaining from chemical/substance abuse;

///

(c) A violation of this section constitutes unprofessional conduct for purposes of initiating disciplinary action.

COST RECOVERY

8. Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction)

9. Respondent has subjected his license to discipline pursuant to Code section 4521, subdivision (f) in that Respondent has been convicted of the following crimes that are substantially related to the qualifications, functions, and duties of a licensed psychiatric technician:

a. On or about May 12, 2003, in the Superior Court, County of Tulare, Porterville Division, California, in the matter entitled *People vs. John Lee Brown* , 2003, Case No. CR M-03-0109304-2 , Respondent was convicted following his plea of guilty to a violation of Health and Safety Code section 11550, subdivision (a) (under the influence of a controlled substance, to wit, Methamphetamine), a misdemeanor. The circumstances of the crime are that on or about May 5, 2003, the Porterville Police Department dispatched an officer to Respondent's residence regarding a disturbance. Respondent indicated to the officer that one of his neighbors was "tazing" him, through the walls of her trailer, which Respondent said caused his head and kidneys to burn. The officer drove Respondent to Sierra View District Hospital for a psychiatric evaluation; however, that facility refused to hold Respondent for a psychiatric evaluation because he tested positive for Methamphetamine and Tetrahydrocannabinol. The officer subsequently transported Respondent to the Tulare County Main Jail for booking.

b. On or about January 31, 2007, in the Superior Court, County of Tulare, California, in the matter entitled *People vs. John Lee Brown* , 2006, Case No. PCM176456, Respondent was convicted following his plea of guilty to a violation of Health and Safety Code section 11550,

subdivision (a) (under the influence of a controlled substance), a misdemeanor. The circumstances of the crime are that on or about December 14, 2006, a Tulare County Sheriff's officer initiated a stop of Respondent's vehicle. The officer made contact with Respondent and noticed Respondent's face was twitching, his speech was rapid, and he had trouble sitting still in his vehicle. The officer ran a check on Respondent and found he had two misdemeanor warrants. Respondent informed the officer that he had snorted Methamphetamine and was subsequently arrested for being under the influence of a controlled substance.

SECOND CAUSE FOR DISCIPLINE

(Furnish Self with Controlled Substances)

10. Respondent has subjected his license to discipline pursuant to Code section 4521, subdivision (a)(4), on the grounds of unprofessional conduct, in that on or about May 5, 2003, and December 14, 2006, Respondent administered the controlled substance methamphetimine to himself, as more particularly set forth in paragraph 9, above.

THIRD CAUSE FOR DISCIPLINE

(Use Controlled Substances to an Extent or in a Manner Dangerous or Injurious)

11. Respondent has subjected his license to discipline pursuant to Code section 4521, subdivision (a)(5), on the grounds of unprofessional conduct, in that on or about May 5, 2003, and December 14, 2006, Respondent used the controlled substance Methamphetamine to an extent or in a manner dangerous or injurious to himself or others, as more particularly set forth in paragraph 9, above.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Failure to Abstain from Chemical/Substance Abuse)

12. Respondent has subjected his license to discipline pursuant to Code section 4521, subdivision (a), and California Code of Regulations Title 16, section 2576.6, subdivision (b)(4), on the grounds of unprofessional conduct, in that on or about May 5, 2003, and December 14, 2006, Respondent failed to adhere to the standards of his profession by using the controlled substance Methamphetamine, as more particularly set forth in paragraph 9, above.

///

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Psychiatric Technician License Number PT 13412, issued to John Lee Brown;

2. Ordering John Lee Brown to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: May 18, 2011

TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

SA2010101783 10635084.doc