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Board of Vocational Nursing
and Psychiatric Technicians

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

In the Matter of the Accusation Against: **CLINTON JACKSON WILLIAMS** **12266 Haster Street, #D** **Garden Grove, CA 92840** **Vocational Nurse License No. VN 159569** Respondent.	Case No. VN-2009-5101 **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, Department of Consumer Affairs.

2. On or about December 30, 1992, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 159569 to Clinton Jackson Williams (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2875 of the Code provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

5. Section 118, subdivision (b) of the Code 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 section 2892.1 of the Code, the Board may renew an expired license at any time within four years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

> Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:
>
> (a) Considering the denial of a license by the board under Section 480; or
>
> (b) Considering suspension or revocation of a license under Section 490.
>
> Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

8. Section 493 of the Code states:

> Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

9. Section 2878 of the Code states:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

. . . .

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

. . . .

10. Section 2878.5 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

. . . .

(b) Use any controlled substance as defined in Division 10 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.

(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous drug, or the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, in which event the record of the conviction is conclusive evidence thereof. . . .

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 2521, states:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the

functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(a) Procuring a license by fraud, misrepresentation, or mistake.

(b) A conviction of practicing medicine without a license in violation of Chapter 5 of Division 2 of the Business and Professions Code.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

(d) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13, Chapter 5, Division 2 of the Business and Professions Code.

(e) Conviction of a crime involving fiscal dishonesty.

(f) Any crime or act involving the sale, gift, administration, or furnishing of "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and Professions Code.

12. California Code of Regulations, Title 16, section 2522 states:

When considering a) the denial of a license under Section 480 of the Business and Professions Code, b) the suspension or revocation of a license on the ground that a licensee has been convicted of a crime, or c) a petition for reinstatement of a license under Section 2787.7 of the Business and Professions Code, the Board in evaluating the rehabilitation of an individual and his or her present eligibility for a license, will consider the following criteria:

(1) Nature and severity of the act(s), offense(s), or crime(s) under consideration.

(2) Actual or potential harm to the public.

(3) Actual or potential harm to any patient.

(4) Overall disciplinary record.

(5) Overall criminal actions taken by any federal, state or local agency or court.

(6) Prior warnings on record or prior remediation.

(7) Number and/or variety of current violations.

(8) Mitigation evidence.

(9) In case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.

(10) Time passed since the act(s) or offense(s) occurred.

(11) If applicable, evidence of proceedings to dismiss a conviction pursuant to Penal Code section 1203.4.

(12) Cooperation with the Board and other law enforcement or regulatory agencies.

(13) Other rehabilitation evidence.

COST RECOVERY

13. Section 125.3 of the Code provides, in pertinent part, that the 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

(March 14, 2002 Criminal Conviction for DUI on January 4, 2002)

14. Respondent has subjected his license to disciplinary action under sections 490 and 2878, subdivision (f) of the Code in that he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a licensed vocational nurse. The circumstances are as follows:

a. On or about March 14, 2002, in a criminal proceeding entitled *People of the State of California v. Clinton Jackson Williams,* in Orange County Superior Court, case number 02HM00504, Respondent was convicted on his plea of guilty of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08 percent or higher, a misdemeanor. A second count of violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol, was dismissed pursuant to a plea agreement.

b. As a result of the conviction, on or about March 14, 2002, Respondent was sentenced to three years informal probation, and ordered to complete a First Offender Alcohol Program. Respondent was further ordered to pay fines, fees, and restitution in the amount of $1,276, and comply with the terms of standard DUI probation.

c. The facts that led to the conviction are that on or about January 4, 2002, Respondent was arrested by the California Highway Patrol for driving under the influence of alcohol with a BAC of .16 percent.

SECOND CAUSE FOR DISCIPLINE

(May 2, 2008 Criminal Convictions for DUI on October 18, 2007)

15. Respondent has subjected his license to disciplinary action under sections 490 and 2878, subdivision (f) of the Code in that he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a licensed vocational nurse. The circumstances are as follows:

a. On or about May 2, 2008, in a criminal proceeding entitled *People of the State of California v. Clinton Jackson Williams,* in Orange County Superior Court, case number 07WM13591, Respondent was convicted on his plea of guilty of violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol; and Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08 percent or higher, misdemeanors. As to both counts, the court found true the allegations that Respondent drove with a BAC of .20 percent or more, pursuant to Vehicle Code section 23538, subdivision (b)(2); and that Respondent was a habitual offender in that he suffered three DUI convictions within a 10-year period, pursuant to Vehicle Code section 23566, subdivision (d).[1]

b. As a result of the conviction, on or about May 2, 2008, Respondent was sentenced to five years formal probation, and 365 days in the Orange County Jail. Respondent was further ordered to complete an 18-month Multiple Offender Alcohol Program, attend a MADD Victim Impact Panel, pay fines, fees, and restitution, and comply with the terms of enhanced DUI probation. Execution of the jail term was stayed pending Respondent's compliance with the DUI Court program. On or about June 26, 2009, Respondent successfully graduated from the DUI Court program and the jail sentence was permanently stayed. Respondent's probation was converted to "informal" and will expire on May 1, 2013.

c. The facts that led to the conviction are that on or about the evening of October 17, 2007, a patrol officer with the Garden Grove Police Department observed a vehicle parked in a closed shopping center directly in front of a liquor store. The engine was running, its

[1] Both the court and arrest records indicate that Respondent was arrested and convicted of driving under the influence in 1999, however, our office was not able to obtain certified copies.

headlights on, and the driver (Respondent) was slumped over in the driver's seat. The officer attempted to make contact with Respondent several times but there was no response. The officer observed that Respondent's eyes were bloodshot and glassy and there was a strong odor of an alcoholic beverage on his breath. An empty bottle of cognac in a paper bag was on the ground outside of the vehicle with the matching bottle cap inside the vehicle. The officer directed Respondent to either call a taxi or have someone pick him up and take him home. The officer observed Respondent lock his vehicle and walk away holding a cell phone to his ear; he was weaving as he walked. The officer returned to the area approximately six minutes later at the same time Respondent was observed walking across the parking lot to his vehicle. The officer then saw Respondent drive through the parking lot without his headlights and exit onto a street. The officer followed Respondent until they stopped at an apartment complex. Respondent was uncooperative with the officer and refused to answer questions. Respondent submitted to a series of field sobriety tests which he failed to perform as explained and demonstrated, eventually refusing to finish the tests. Respondent was arrested for driving under the influence of alcohol.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Use of Alcohol in a Dangerous Manner)

16. Respondent has subjected his license to disciplinary action under section 2878.5, subdivision (b) of the Code in that on or about January 4, 2002, and October 17, 2007, as detailed in paragraphs 14 and 15, above, Respondent used alcohol and was under the influence of alcohol in a manner that was dangerous or injurious to himself and others, in that he operated a motor vehicle on a public roadway with a BAC in excess of .16 percent.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Criminal Convictions Involving the Consumption of Alcohol)

17. Respondent has subjected his license to disciplinary action under section 2878.5, subdivision (c) of the Code in that on or about March 14, 2002, and May 2, 2008, as detailed in paragraphs 14 and 15, above, Respondent was convicted of violating Vehicle Code section 23152, subdivisions (a) and (b), with a prior conviction in 1999 for the same violations.

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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 Vocational Nurse License Number VN 159569, issued to Clinton Jackson Williams;

2. Ordering Clinton Jackson Williams 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;

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

DATED: April 26, 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

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