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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: NANCY BETH HEATON, AKA NANCY BETH REDFERN 713 Cornucipia Exeter, CA 93221 Vocational Nurse License No. VN 78277 Respondent.	Case No. VN-2005-470 **ACCUSATION**

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 July 27, 1977, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 78277 to Nancy Beth Heaton, aka Nancy Beth Redfern (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, 2009, unless renewed.

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JURISDICTION

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

STATUTORY PROVISIONS

4. Section 2875 of the Business and Professions Code (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(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.

6. 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:

"(b) Procuring a certificate by fraud, misrepresentation, or mistake.

"(e) Making or giving any false statement or information in connection with the application for issuance of a license.

"(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.

"(j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee.

7. 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:

"(a) 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 of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

8. Section 2878.6 of the Code states:

"A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a licensed vocational nurse is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment."

9. Section 11032 of the Health and Safety Code provides, in pertinent part, that the term "narcotics" means controlled substances classified in Schedule I or II as defined in section 11054 or 11055 of that code.

10. 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.

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11. 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.

12. Section 490 of the Code states:

"A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

13. 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.'"

14. Section 498 of the Code states:

"A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly

omitting to state a material fact."

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

15. Respondent is subject to disciplinary action under section 2878 (a) in that the Respondent engaged in unprofessional conduct as defined in this section. The circumstances are that the Respondent took medication, Vicodin, that belonged to V. Valdavia.

16. On or about July 25, 2005, Respondent was providing care for a patient at the Valdavia residence. While at the Valdavia residence, the Respondent took at least 4 Vicodin tablets from the Valdavia residence without permission nor prescription and ingested the tablets.

SECOND CAUSE FOR DISCIPLINE

(Procuring a License by Fraud or Misrepresentation)

17. Respondent is subject to disciplinary action under section 2878 (b) in that on or about June 7, 2007, Respondent submitted her license renewal application under oath that included a false answer. The renewal application included a question that states, " Since you last renewed your license, have you been convicted of or pled nolo contendere to any violation of law of any state in the United States or a foreign country?". The Respondent answered the question in the negative.

18. The Respondent is subject to discipline under this section for making a false statement under oath and in connection with her application for renewal of the vocational nursing license.

THIRD CAUSE FOR DISCIPLINE

(Conviction of a Crime Substantially Related to Practice)

19. Respondent is subject to disciplinary action under section 2878 (f)in that on or about March 1, 2006, Respondent pled no contest to a charge of petty theft pursuant to Penal Code Section 484 in connection with the theft of the Vicodin as set forth supra.

20. Respondent is subject to discipline under this section because she pled no contest to a crime involving the taking and use of medications an act that is substantially related to the practice of vocational nursing.

FOURTH CAUSE FOR DISCIPLINE

(Commission of an Act Involving Dishonesty)

21. Respondent is subject to disciplinary action under section 2878 (j) on the basis of the acts described in the first through third causes of action as if set forth herein.

22. Respondent's plea of no contest to the charge of petty theft is an admission, for purposes of licensing and licensing renewal, to the charge of taking the property of another. This act constitutes dishonesty within the meaning of section 2878 (j).

FIFTH CAUSE FOR DISCIPLINE

(Illegal Possession, Self-Administration or Prescribing Controlled Substances)

23. Respondent is subject to disciplinary action under section 2878.5 (a) in that Respondent admitted to consuming the Vicodin tablets obtained illegally at the Valdavia residence as set forth above.

24. In doing the acts alleged, Respondent self-administered Vicodin, a controlled substance.

DISCIPLINE CONSIDERATIONS

25. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about March 11, 2003, in a prior criminal proceeding entitled People v. Nancy Beth Heaton in Glenn County Superior Court, Case Number 03NCR00287. Respondent was convicted of violating Vehicle Code Section 23152 (b) (Driving while under the Influence), a misdemeanor and was issued a Notice of Warning by the Board on or about February 4, 2004.

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:

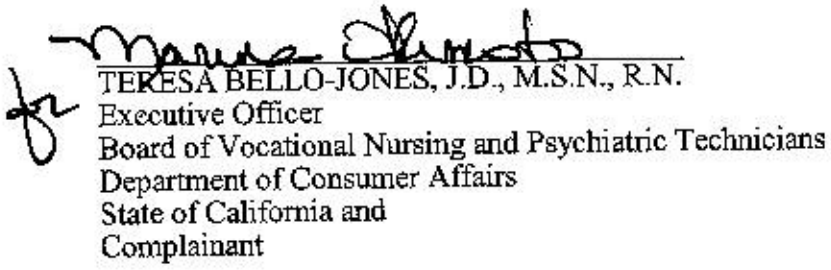
1. Revoking or suspending Vocational Nurse License Number VN 78277, issued to Nancy Beth Heaton, aka Nancy Beth Redfern.

2. Ordering Nancy Beth Heaton, aka Nancy Beth Redfern 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: March 13, 2009



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 and
Complainant

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