

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Registered Nurse           §  
License Number 605927                       §  
issued to DAVID PAUL ALEXANDER           §

ORDER OF THE BOARD

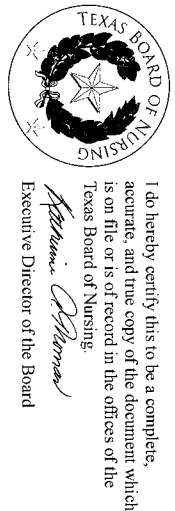
On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 605927, issued to DAVID PAUL ALEXANDER, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent is currently licensed to practice professional nursing in the State of Texas.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing.
3. Respondent received an Associate Degree in Nursing from College of San Mateo, San Mateo, California on May 1, 1994. Respondent was licensed to practice professional nursing in the State of Texas on July 11, 1994.
4. Respondent's complete professional nursing employment history is unknown.
5. On or about October 24, 2011, Respondent received a Decision and Order from the California State Board of Registered Nursing wherein Respondent's license to practice professional nursing in the State of California was Revoked with the revocation stayed and Respondent was placed on Probation for a period of three (3) years with terms and conditions due to filing false reports and unauthorized dispensing of medications. A copy of the Decision and Order issued by the California State Board of Nursing dated October 24, 2011 is attached and incorporated herein by reference as part of this Order.



6. On or about November 8, 2011, Respondent received a Decision and Order from the California State Board of Registered Nursing wherein Respondent's license to practice professional nursing in the State of California was accepted for Voluntary Surrender. A copy of the Decision and Order issued by the California State Board of Nursing dated November 8, 2011 is attached and incorporated by reference as part of this Order.
7. On December 12, 2011, the Board received a notarized statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's notarized statement, dated December 6, 2011, is attached and incorporated herein by reference as part of this Order.
8. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
9. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

#### 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)(8), Texas Occupations Code.
4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

## ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse 605927 License Number , heretofore issued to DAVID PAUL ALEXANDER, to practice professional nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title of registered nurse or the abbreviation RN or wear any insignia identifying himself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.


IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice professional nursing in the State of Texas.

Effective this 5<sup>th</sup> day of January, 2012.



TEXAS BOARD OF NURSING

By:

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

David Paul Alexander  
551 Ventura Avenue  
San Mateo, California 94403  
Texas RN License #605927

Voluntary Surrender Statement

November 29, 2011

Dear Texas Board of Nursing:

I no longer desire to be licensed as a professional nurse. Accordingly, I voluntarily surrender my license/licenses to practice in Texas. I waive representation by counsel and consent to the entry of an Order which outlines requirements for reinstatement of my license. I understand that I will be required to comply with the Board's Rules and Regulations in effect at the time I submit any petition for reinstatement.

Signature

Date

Texas Nursing License Number/s 605927

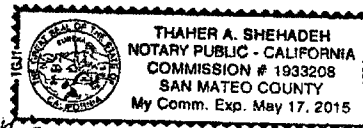
The State of

Before me, the undersigned authority, on this date personally appeared DAVID PAUL ALEXANDER who, being duly sworn by me, stated that he executed the above for the purpose therein contained and that he understood same.

Sworn to before me the 6<sup>th</sup> day of December, 2011.

SEAL

Notary Public in and for the State of





## STATE OF CALIFORNIA

This is to certify that the attached documents are true and correct copies of records on file in this office pertaining to:

DAVID PAUL ALEXANDER, RN License No. 683001

**BOARD OF REGISTERED NURSING,**

*Louise R. Bailey M.Ed., RN*

Louise R. Bailey, M.Ed., RN

**Executive Officer**

LB: ss

September 23, 2011

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**DAVID PAUL ALEXANDER**

Registered Nurse License No. 683001

Respondent

Case No. 2011-689

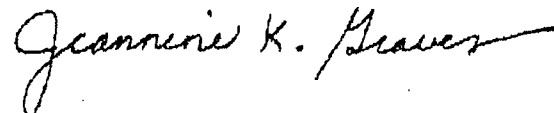
OAH No. 201105163

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **October 24, 2011**.

IT IS SO ORDERED **September 24, 2011**.



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President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 TIMOTHY J. McDONOUGH  
Deputy Attorney General  
4 State Bar No. 235850  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 622-2134  
Facsimile: (510) 622-2270  
7 E-mail: Tim.McDonough@doj.ca.gov  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **DAVID PAUL ALEXANDER**  
13 **551 Ventura Avenue**  
**San Mateo, CA 94403**  
14 **Registered Nurse No. 683001**

15 Respondent.

Case No. 2011-689

OAH No. 2011050163  
**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of  
21 Registered Nursing. She brought this action solely in her official capacity and is represented in  
22 this matter by Kamala D. Harris, Attorney General of the State of California, by Timothy J.  
23 McDonough, Deputy Attorney General.

24 2. Respondent David Paul Alexander is representing himself in this proceeding and has  
25 chosen not to exercise his right to be represented by counsel.

26 3. On or about July 12, 2006, the Board of Registered Nursing issued Registered Nurse  
27 License No. 683001 to David Paul Alexander (Respondent). The Registered Nurse License was  
28

1 in full force and effect at all times relevant to the charges brought in Accusation No. 2011-689  
2 and will expire on November 30, 2011, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2011-689 was filed before the Board of Registered Nursing (Board),  
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
6 and all other statutorily required documents were properly served on Respondent on February 7,  
7 2011. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of  
8 Accusation No. 2011-689 is attached as Exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in  
11 Accusation No. 2011-689. Respondent has also carefully read, and understands the effects of this  
12 Stipulated Settlement and Disciplinary Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
15 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
16 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
17 the attendance of witnesses and the production of documents; the right to reconsideration and  
18 court review of an adverse decision; and all other rights accorded by the California  
19 Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
21 every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Accusation  
24 No. 2011-689.

25 9. Respondent agrees that his Registered Nurse License is subject to discipline and he  
26 agrees to be bound by the Board of Registered Nursing (Board)'s probationary terms as set forth  
27 in the Disciplinary Order below.  
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1                   4.     **Residency, Practice, or Licensure Outside of State.** Periods of residency  
2 or practice as a registered nurse outside of California shall not apply toward a reduction of this  
3 probation time period. Respondent's probation is tolled, if and when he resides outside of  
4 California. Respondent must provide written notice to the Board within 15 days of any change of  
5 residency or practice outside the state, and within 30 days before re-establishing residency or  
6 returning to practice in this state.

7             Respondent shall provide a list of all states and territories where he has ever been licensed  
8 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
9 information regarding the status of each license and any changes in such license status during the  
10 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing  
11 license during the term of probation.

12                   5.     **Submit Written Reports.** Respondent, during the period of probation,  
13 shall submit or cause to be submitted such written reports/declarations and verification of actions  
14 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
15 statements relative to Respondent's compliance with all the conditions of the Board's Probation  
16 Program. Respondent shall immediately execute all release of information forms as may be  
17 required by the Board or its representatives.

18             Respondent shall provide a copy of this Decision to the nursing regulatory agency in every  
19 state and territory in which he has a registered nurse license.

20                   6.     **Function as a Registered Nurse.** Respondent, during the period of  
21 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
22 hours per week for 6 consecutive months or as determined by the Board.

23             For purposes of compliance with the section, "engage in the practice of registered nursing"  
24 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
25 non-direct patient care position that requires licensure as a registered nurse.

26             The Board may require that advanced practice nurses engage in advanced practice nursing  
27 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

28             If Respondent has not complied with this condition during the probationary term, and

1 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
2 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
3 extension of Respondent's probation period up to one year without further hearing in order to  
4 comply with this condition. During the one year extension, all original conditions of probation  
5 shall apply.

6           7.     **Employment Approval and Reporting Requirements.** Respondent shall  
7 obtain prior approval from the Board before commencing or continuing any employment, paid or  
8 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
9 performance evaluations and other employment related reports as a registered nurse upon request  
10 of the Board.

11           Respondent shall provide a copy of this Decision to his employer and immediate  
12 supervisors before commencement of any nursing or other health care related employment.

13           In addition to the above, Respondent shall notify the Board in writing within seventy-two  
14 (72) hours after he obtains any nursing or other health care related employment. Respondent  
15 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,  
16 regardless of cause, from any nursing, or other health care related employment with a full  
17 explanation of the circumstances surrounding the termination or separation.

18           8.     **Supervision.** Respondent shall obtain prior approval from the Board  
19 regarding Respondent's level of supervision and/or collaboration before commencing or  
20 continuing any employment as a registered nurse, or education and training that includes patient  
21 care.

22           Respondent shall practice only under the direct supervision of a registered nurse in good  
23 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
24 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
25 approved.

26           Respondent's level of supervision and/or collaboration may include, but is not limited to the  
27 following:

28           (a) Maximum - The individual providing supervision and/or collaboration is present in the

1 patient care area or in any other work setting at all times.

2 (b) Moderate - The individual providing supervision and/or collaboration is in the patient  
3 care unit or in any other work setting at least half the hours Respondent works.

4 (c) Minimum - The individual providing supervision and/or collaboration has person-to-  
5 person communication with Respondent at least twice during each shift worked.

6 (d) Home Health Care - If Respondent is approved to work in the home health care setting,  
7 the individual providing supervision and/or collaboration shall have person-to-person  
8 communication with Respondent as required by the Board each work day. Respondent shall  
9 maintain telephone or other telecommunication contact with the individual providing supervision  
10 and/or collaboration as required by the Board during each work day. The individual providing  
11 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
12 patients' homes visited by Respondent with or without Respondent present.

13 9. **Employment Limitations.** Respondent shall not work for a nurse's  
14 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a  
15 traveling nurse, or for an in-house nursing pool.

16 Respondent shall not work for a licensed home health agency as a visiting nurse unless the  
17 registered nursing supervision and other protections for home visits have been approved by the  
18 Board. Respondent shall not work in any other registered nursing occupation where home visits  
19 are required.

20 Respondent shall not work in any health care setting as a supervisor of registered nurses.  
21 The Board may additionally restrict Respondent from supervising licensed vocational nurses  
22 and/or unlicensed assistive personnel on a case-by-case basis.

23 Respondent shall not work as a faculty member in an approved school of nursing or as an  
24 instructor in a Board approved continuing education program.

25 Respondent shall work only on a regularly assigned, identified and predetermined  
26 worksite(s) and shall not work in a float capacity.

27 If Respondent is working or intends to work in excess of 40 hours per week, the Board may  
28 request documentation to determine whether there should be restrictions on the hours of work.

1                   10.     **Complete a Nursing Course(s).** Respondent, at his own expense, shall  
2 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
3 than six months before the end of his probationary term.

4                   Respondent shall obtain prior approval from the Board before enrolling in the course(s).  
5 Respondent shall submit to the Board the original transcripts or certificates of completion for the  
6 above required course(s). The Board shall return the original documents to Respondent after  
7 photocopying them for its records.

8                   11.     **Cost Recovery.** Respondent shall pay to the Board costs associated with  
9 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
10 amount of \$7,000. Respondent shall be permitted to pay these costs in a payment plan approved  
11 by the Board, with payments to be completed no later than three months before the end of the  
12 probation term.

13                   If Respondent has not complied with this condition during the probationary term, and  
14 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
15 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
16 extension of Respondent's probation period up to one year without further hearing in order to  
17 comply with this condition. During the one year extension, all original conditions of probation  
18 will apply.

19                   12.     **Violation of Probation.** If Respondent violates the conditions of his  
20 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside  
21 the stay order and impose the stayed discipline (revocation) of Respondent's license.

22                   If during the period of probation, an accusation or petition to revoke probation has been  
23 filed against Respondent's license or the Attorney General's Office has been requested to prepare  
24 an accusation or petition to revoke probation against Respondent's license, the probationary  
25 period shall automatically be extended and shall not expire until the accusation or petition has  
26 been acted upon by the Board.

27                   13.     **License Surrender.** During Respondent's term of probation, if he ceases  
28 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of

1 probation, Respondent may surrender his license to the Board. The Board reserves the right to  
2 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to  
3 take any other action deemed appropriate and reasonable under the circumstances, without further  
4 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no  
5 longer be subject to the conditions of probation.

6 Surrender of Respondent's license shall be considered a disciplinary action and shall  
7 become a part of Respondent's license history with the Board. A registered nurse whose license  
8 has been surrendered may petition the Board for reinstatement no sooner than the following  
9 minimum periods from the effective date of the disciplinary decision:

10 (1) Two years for reinstatement of a license that was surrendered for any reason other  
11 than a mental or physical illness; or

12 (2) One year for a license surrendered for a mental or physical illness.

13 14. **Physical Examination.** Within 45 days of the effective date of this  
14 Decision, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or  
15 physician assistant, who is approved by the Board before the assessment is performed, submit an  
16 assessment of the Respondent's physical condition and capability to perform the duties of a  
17 registered nurse, including a determination as set forth below in Condition 16, "Rule-Out  
18 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to  
19 the Board. If medically determined, a recommended treatment program will be instituted and  
20 followed by the Respondent with the physician, nurse practitioner, or physician assistant  
21 providing written reports to the Board on forms provided by the Board.

22 If Respondent is determined to be unable to practice safely as a registered nurse, the  
23 licensed physician, nurse practitioner, or physician assistant making this determination shall  
24 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
25 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall  
26 immediately cease practice and shall not resume practice until notified by the Board. During this  
27 period of suspension, Respondent shall not engage in any practice for which a license issued by  
28 the Board is required until the Board has notified Respondent that a medical determination

1 permits Respondent to resume practice. This period of suspension will not apply to the reduction  
2 of this probationary time period.

3 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
4 requirement, Respondent shall immediately cease practice and shall not resume practice until  
5 notified by the Board. This period of suspension will not apply to the reduction of this  
6 probationary time period. The Board may waive or postpone this suspension only if significant,  
7 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
8 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
9 Only one such waiver or extension may be permitted.

10 15. **Mental Health Examination.** Respondent shall, within 45 days of the  
11 effective date of this Decision, have a mental health examination including psychological testing  
12 as appropriate to determine his capability to perform the duties of a registered nurse, including a  
13 determination as set forth in Condition 16, "Rule –Out Substance Abuse Assessment." The  
14 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
15 practitioner approved by the Board. The examining mental health practitioner will submit a  
16 written report of that assessment and recommendations to the Board. All costs are the  
17 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
18 result of the mental health examination will be instituted and followed by Respondent.

19 If Respondent is determined to be unable to practice safely as a registered nurse, the  
20 licensed mental health care practitioner making this determination shall immediately notify the  
21 Board and Respondent by telephone, and the Board shall request that the Attorney General's  
22 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
23 practice and may not resume practice until notified by the Board. During this period of  
24 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
25 is required, until the Board has notified Respondent that a mental health determination permits  
26 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
27 probationary time period.

28 If Respondent fails to have the above assessment submitted to the Board within the 45-day

1 requirement, Respondent shall immediately cease practice and shall not resume practice until  
2 notified by the Board. This period of suspension will not apply to the reduction of this  
3 probationary time period. The Board may waive or postpone this suspension only if significant,  
4 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
5 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
6 Only one such waiver or extension may be permitted.

7       16.     **RULE-OUT SUBSTANCE ABUSE ASSESSMENT.** If the examiner  
8 conducting the physical and/or mental health examination determines that the respondent is  
9 dependent upon drugs or alcohol, or has had problems with drugs or alcohol (i.e. drug  
10 dependence in remission or alcohol dependence in remission), that might reasonably affect the  
11 safe practice of nursing, then the respondent must further comply with the following additional  
12 terms and conditions of probation.

13       (A)     **PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR**  
14 **CHEMICAL DEPENDENCE**--Respondent, at his expense, shall successfully complete during  
15 the probationary period or shall have successfully completed prior to commencement of probation  
16 a Board-approved treatment/rehabilitation program of at least six months duration. As required,  
17 reports shall be submitted by the program on forms provided by the Board. If Respondent has not  
18 completed a Board-approved treatment/rehabilitation program prior to commencement of  
19 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in  
20 a program. If a program is not successfully completed within the first nine months of probation,  
21 the Board shall consider Respondent in violation of probation.

22       Based on Board recommendation, each week Respondent shall be required to attend at  
23 least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics  
24 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by  
25 the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent  
26 shall be added. Respondent shall submit dated and signed documentation confirming such  
27 attendance to the Board during the entire period of probation. Respondent shall continue with the  
28 recovery plan recommended by the treatment/rehabilitation program or a licensed mental health

1 examiner and/or other ongoing recovery groups.

2 (B) **ABSTAIN FROM THE USE OF PSYCHOTROPIC (MOOD-ALTERING)**

3 **DRUGS-** Respondent shall completely abstain from the possession, injection or consumption by  
4 any route of all controlled substances and all psychotropic (mood altering) drugs, including  
5 alcohol, except when the same are ordered by a health care professional legally authorized to do  
6 so as part of documented medical treatment. Respondent shall have sent to the Board, in writing  
7 and within fourteen (14) days, by the prescribing health professional, a report identifying the  
8 medication, dosage, the date the medication was prescribed, the Respondent's prognosis, the date  
9 the medication will no longer be required, and the effect on the recovery plan, if appropriate.

10 Respondent shall identify for the Board a single physician, nurse practitioner or physician  
11 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and  
12 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-  
13 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report  
14 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances  
15 considered addictive have been prescribed, the report shall identify a program for the time limited  
16 use of any such substances.

17 The Board may require the single coordinating physician, nurse practitioner, or physician  
18 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive  
19 medicine.

20 (C) **SUBMIT TO TESTS AND SAMPLES-** Respondent, at his expense, shall  
21 participate in a random, biological fluid testing or a drug screening program which the Board  
22 approves. The length of time and frequency will be subject to approval by the Board.  
23 Respondent is responsible for keeping the Board informed of Respondent's current telephone  
24 number at all times. Respondent shall also ensure that messages may be left at the telephone  
25 number when he is not available and ensure that reports are submitted directly by the testing  
26 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately  
27 to the Board by the program and Respondent shall be considered in violation of probation.

28 In addition, Respondent, at any time during the period of probation, shall fully cooperate

1 with the Board or any of its representatives, and shall, when requested, submit to such tests and  
2 samples as the Board or its representatives may require for the detection of alcohol, narcotics,  
3 hypnotics, dangerous drugs, or other controlled substances.

4 If Respondent has a positive drug screen for any substance not legally authorized and not  
5 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board  
6 files a petition to revoke probation or an accusation, the Board may suspend Respondent from  
7 practice pending the final decision on the petition to revoke probation or the accusation. This  
8 period of suspension will not apply to the reduction of this probationary time period.

9 If Respondent fails to participate in a random, biological fluid testing or drug screening  
10 program within the specified time frame, Respondent shall immediately cease practice and shall  
11 not resume practice until notified by the Board. After taking into account documented evidence  
12 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may  
13 suspend Respondent from practice pending the final decision on the petition to revoke probation  
14 or the accusation. This period of suspension will not apply to the reduction of this probationary  
15 time period.

16 (D) **THERAPY OR COUNSELING PROGRAM-** Respondent, at his expense,  
17 shall participate in an on-going counseling program until such time as the Board releases him  
18 from this requirement and only upon the recommendation of the counselor. Written progress  
19 reports from the counselor will be required at various intervals.

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DATED:

7/18/2011

## ENDORSEMENT

Dated: July 18, 2011

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
DIANN SOKOLOFF  
Supervising Deputy Attorney General

2-01

TIMOTHY J. McDONOUGH  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 2011-689**

CONFIDENTIAL

1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 TIMOTHY J. McDONOUGH  
Deputy Attorney General  
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5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 622-2134  
Facsimile: (510) 622-2270  
7 Attorneys for Complainant

8 BEFORE THE  
BOARD OF REGISTERED NURSING  
9 DEPARTMENT OF CONSUMER AFFAIRS  
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:  
DAVID PAUL ALEXANDER  
12 551 Ventura Avenue  
San Mateo, CA 94403

Case No. 2011-689

13 RN License No. 683001

ACCUSATION

14 Respondent.

15  
16  
17  
18 Complainant alleges:

19 PARTIES

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about July 12, 2006, the Board of Registered Nursing (Board) issued  
24 Registered Nurse License Number 683001 to David Paul Alexander (Respondent). The  
25 Registered Nurse License was in full force and effect at all times relevant to the charges alleged  
26 in this Accusation and will expire on November 30, 2011, unless renewed.

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JURISDICTION

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

4. Section 2750 of the Business and Professions Code (Code) provides, in relevant part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in relevant part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated.

STATUTORY PROVISIONS

7. Section 2761 of the Code states, in relevant part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

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

...

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it."

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11. Morphine is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(M), and a dangerous drug as designated by Business and Professions Code section 4022.

#### COST RECOVERY

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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 (Unprofessional Conduct) ((Bus. & Prof. Code §§ 2761(a) and 2762(e))**

13. Respondent has subjected his Registered Nurse License to discipline for unprofessional conduct under Code section 2761, subdivision (a) and 2762, subdivision (e), in that he made false and grossly incorrect and inconsistent entries in hospital and patient records pertaining to controlled substances while working as a nurse in San Mateo, California. The circumstances are as follows:

14. On or about April 1, 2009 through June 15, 2009, Respondent, while working as a nurse in the Emergency Department of Mills Peninsula Health Services (MPHS), consistently failed to properly document the administration of medications. MPHS management officials reviewed Respondent's Pyxis machine<sup>1</sup> activity report from April 1, 2009 through June 10, 2009, and also reviewed 35 patient charts. The review showed a pattern of missing doses of narcotics, including Hydromorphone. The review also showed that Respondent was inconsistent in his wasting of doses. Further, the review indicated that Respondent removed medications for patients from the Pyxis machine which were neither ordered by a physician nor charted as administered to the patient. Narcotic discrepancies discovered by this review and attributable to Respondent are explained below:

///

<sup>1</sup> A Pyxis machine is an automated dispensing system for medications kept in nursing units.

1           *Patient 1*

2           15. On April 1, 2009, at 12:24 p.m., 2:13 p.m., and 2:40 p.m., Respondent removed a 2  
3 mg syringe of Hydromorphone from the Pyxis machine without a physician's order. There was  
4 no documentation that the medications were administered or wasted.

5           *Patient 2*

6           16. On April 2, 2009, at 10:19 a.m., Respondent removed two Hydromorphone 2 mg  
7 syringes from the Pyxis machine pursuant to a physician's order. However, there was no  
8 documentation that the medication was administered or wasted.

9           *Patient 3*

10          17. On April 6, 2009, at 12:07 p.m., Respondent removed one Hydromorphone 2 mg  
11 syringe from the Pyxis machine. Respondent documented the administration of only 1 mg. The  
12 remaining 1 mg was not documented as administered or wasted.

13          *Patient 4*

14          18. On April 3, 2009, at 1:31 p.m., Respondent removed one Hydromorphone 2 mg  
15 syringe from the Pyxis machine. However, there was no documentation that the medication was  
16 administered or wasted.

17          *Patient 5*

18          19. On April 7, 2009, at 11:22 a.m., Respondent removed one Hydromorphone 2 mg  
19 syringe from the Pyxis machine. Respondent documented that 1 mg of Hydromorphone was  
20 administered. However, there was no documentation that the remaining 1 mg was administered  
21 or wasted.

22          *Patient 6*

23          20. On April 7, 2009, at 1:09 p.m., Respondent removed one Hydromorphone 2 mg  
24 syringe from the Pyxis machine. Respondent documented that he administered 1 mg, but there  
25 was no documentation that the remaining 1 mg of Hydromorphone was administered or wasted.

26        ///

27        ///

28        ///

*Patient 7*

21. On April 8, 2009, at 2:33 p.m., Respondent removed one Hydromorphone 2 mg syringe from the Pyxis machine. Respondent documented that he administered 1 mg, but there was no documentation that the remaining 1 mg of Hydromorphone was administered or wasted.

*Patient 8*

22. On April 9, 2009, at 10:37 a.m. and at 1:44 p.m., Respondent removed one Hydromorphone 2 mg syringe from the Pyxis machine. With regard to the first 2 mg syringe (10:37 a.m.), Respondent documented that he administered 1 mg of Hydromorphone at 10:52 p.m., but there was no documentation that the remaining 1 mg of Hydromorphone was administered or wasted. With regard to the second 2 mg syringe (1:44 p.m.) there is no documentation that any of the Hydromorphone was administered or wasted.

*Patient 9*

23. On April 13, 2009, Respondent removed a total of 4 mgs of Hydromorphone from the Pyxis machine. Respondent documented that he administered 2 mgs of Hydromorphone to the patient, but there was no documentation that the remaining 2 mgs of Hydromorphone were administered or wasted.

*Patient 10*

24. On April 16, 2009, at both 3:21 p.m. and 4:24 p.m., Respondent removed one Hydromorphone 2 mg syringe from the Pyxis machine, for a total of 4 mgs. Respondent documented that he administered 1 mg of Hydromorphone at 3:21 p.m. and 1 mg of Hydromorphone at 4:26 p.m., but there was no documentation that the remaining 2 mgs of Hydromorphone were administered or wasted.

*Patient 11*

25. On April 16, 2009, at 6:51 p.m., Respondent removed one Hydromorphone 2 mg syringe from the Pyxis machine. There was no physician order for the medication to be given to this patient. Further, there was no documentation that the 2 mgs of Hydromorphone were administered or wasted.

*///*

1        *Patient 12*

2        26. On April 17, 2009, at 7:35 p.m., Respondent removed one Hydromorphone 2 mg  
3 syringe from the Pyxis machine. There was no physician order for the medication to be given to  
4 this patient. Further, there was no documentation that the 2 mgs of Hydromorphone were  
5 administered or wasted.

6                                **SECOND CAUSE FOR DISCIPLINE**  
7                                **(Unprofessional Conduct - Illegally Possessing Controlled Substances)**  
8                                **(Bus. & Prof. Code §§ 2761(a) & 2762(a))**

9        27. Respondent has subjected his Registered Nurse License to discipline for  
10 unprofessional conduct under Code section 2761, subdivision (a) (unprofessional conduct) and  
11 Code section 2762, subdivision (a) (obtain or possess in violation of law any controlled substance  
12 or any dangerous drug), in that Respondent withdrew narcotics, often without a physician's order,  
13 and failed to properly document the use or waste of these medications while working as a Nurse  
14 at MPHS. The circumstances are as follows:

15        28. Complainant re-alleges the allegations contained in paragraphs 13 through 26 above,  
16 and incorporates them by reference as if fully set forth.

17        29. As a result of the review of Respondent's Pyxis machine activity from April 1, 2009  
18 through June 10, 2009, Respondent was placed on administrative leave. An investigative meeting  
19 was held on June 11, 2009 with Respondent and his CNA representative. At the meeting,  
20 Respondent attributed the lack of documentation and waste to "sloppy practices." At the request  
21 of the CNA representative, another month (March 2009) was audited. The audit revealed  
22 additional discrepancies.<sup>2</sup> On June 15, 2009, MPHS terminated Respondent's employment.

23        30. Respondent's handling of medication and failure to properly account for and  
24 document all medications as either administered or wasted is not consistent with the standard  
25 policies and procedures at MPHS. Further, Respondent removed medications from the Pyxis  
26 machine without a physician's order. (See paragraphs 15, 25, and 26, above). Respondent was  
27 illegally in possession of controlled substances when he removed medications without a

28        <sup>2</sup> For example, on March 4, 2009, Respondent removed a 10 mg vial of Morphine and  
administered a 6 mg dose but did not record the waste of the remaining 4 mgs.

1 physician's order. Respondent's failure to properly account for the administration or waste of  
2 controlled substances is contrary to Nursing policies, procedures, and regulations.

3  
4 PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
6 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

- 7 1. Revoking or suspending Registered Nurse License Number 683001, issued to David  
8 Paul Alexander;  
9 2. Ordering David Paul Alexander to pay the Board of Registered Nursing the  
10 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
11 Professions Code section 125.3;  
12 3. Taking such other and further action as deemed necessary and proper.

13 DATED: 2/7/11

14 LOUISE R. BAILEY, M.ED., RN  
15 Executive Officer  
16 Board of Registered Nursing  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant

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STATE AND CONSUMER SERVICES AGENCY • GOVERNOR BERNARD G. BROWN JR.  
**BOARD OF REGISTERED NURSING**  
PO Box 944210, Sacramento, CA 94244-2100  
P (916) 322-3350 F (916) 574-8637 | [www.rn.ca.gov](http://www.rn.ca.gov)  
Louise R. Bailey, MEd, RN, Executive Officer



November 8, 2011

David Paul Alexander  
551 Ventura Avenue  
San Mateo, CA 94403

Dear Mr. Alexander:

Enclosed is a Decision and Order accepting the Voluntary Surrender of your California Registered Nursing License No. 683001, effective on **November 8, 2011**.

You are required to return your current license/certificate and original license issued July 12, 2006, to the Board. Enclosed is a self-addressed stamped envelope for your convenience. These documents must be returned immediately and any use of them would constitute a violation of law.

**Failure to surrender upon demand your license/certificate is a violation of Section 119 (d) of the Business and Professions (B & P) Code. If the board has not received your license/certificate after 30 calendar days from the effective date of the decision you will be subject to a citation and fine of up to \$2,500. Any use of the license/certificate is a violation of Section 2725 of the B & P Code, and subject to criminal prosecution and additional fines.**

Enclosed is explanatory material on reinstatement and criteria for rehabilitation. Although your license is surrendered, you may take nursing continuing education courses if you do not use your surrendered RN license number to do so. Proof of continuing education may be beneficial as part of your rehabilitation evidence if you petition the Board for reinstatement in the future.

Sincerely,

Shannon Silberling  
Probation Monitor

Encl. Copy of Board Decision  
BRN 925

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Stipulated Settlement  
and Disciplinary Order Against:

**David Paul Alexander**

Registered Nurse License No. 683001

Respondent

Case No. 2011-689

OAH No. 201105163

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on November 8, 2011.

IT IS SO ORDERED November 8, 2011.

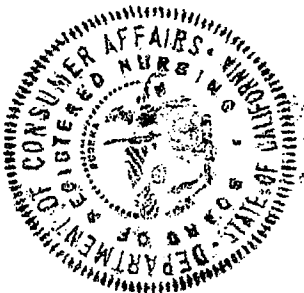
*Jeannine K. Plavers*

President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

I hereby certify the  
foregoing to be a true copy  
of the documents on file in our office.

BOARD OF REGISTERED NURSING

*Louise R. Bailey M.Ed., RN*  
Louise R. Bailey, M. Ed., RN  
Executive Officer



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**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Stipulated Settlement and  
Disciplinary Order Against:

DAVID PAUL ALEXANDER  
551 Ventura Avenue  
San Mateo, CA 94403

Registered Nurse License No. 683001

Respondent.

Case No. 2011-689  
OAH No. 201105163

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties that  
the following matters are true:

**PARTIES**

1. Louise R. Bailey, M.Ed., R.N. (Complainant) is the Executive Officer of  
the Board of Registered Nursing, who brought this action solely in her official capacity.
2. David Alexander (Respondent), is representing himself in this proceeding  
and has chosen not to exercise his right to be represented by counsel.
3. On or about July 12, 2006, the Board of Registered Nursing issued  
Registered Nurse License No. 683001 to David Paul Alexander (Respondent). The Registered  
Nurse License was in full force and effect at all times relevant to the charges brought in  
Accusation No. 2011-689 and will expire on November 30, 2011, unless renewed.

**JURISDICTION**

4. On September 24, 2011, the Board of Registered Nursing adopted  
Stipulated Settlement and Disciplinary Order No. 2011-689, which became effective on October  
24, 2011. The Stipulated Settlement and Disciplinary Order requires, inter alia, the respondent to  
serve a 3-year probation term that includes Probation Conditions # 1-16. The Stipulated  
Settlement and Disciplinary Order is attached as exhibit A and incorporated herein by reference.
5. At all times after the effective date of Respondent's probation, Condition  
13 states,

1                   **“License Surrender.** During Respondent’s term of probation, if he  
2                   ceases practicing due to retirement, health reasons or is otherwise  
3                   unable to satisfy the conditions of probation, Respondent may surrender  
4                   his license to the Board. The Board reserves the right to evaluate  
5                   Respondent’s request and to exercise its discretion whether to grant the  
6                   request, or to take any other action deemed appropriate and reasonable  
7                   under the circumstances, without further hearing. Upon formal  
8                   acceptance of the tendered license and wall certificate, Respondent will  
9                   no longer be subject to the conditions of probation.

10                   Surrender of Respondent’s license shall be considered a disciplinary action  
11                   and shall become a part of Respondent’s license history with the Board. A  
12                   registered nurse whose license has been surrendered may petition the Board for  
13                   reinstatement no sooner than the following minimum periods from the effective  
14                   date of the disciplinary decision:

15                   (1)       Two years for reinstatement of a license that was surrendered for  
16                   any reason other than a mental or physical illness; or

17                   (2)       One year for a license surrendered for a mental or physical illness.”

#### 18                   ADVISEMENT AND WAIVERS

19                   6.       Respondent has carefully read and understands Stipulated Settlement  
20                   and Disciplinary Order No. 2011-689. Respondent has carefully read, and understands the  
21                   effects of this Stipulated Surrender of License and Order and understands that this Stipulated  
22                   Surrender, if accepted by the Board, is considered as formal discipline of his license.

23                   7.       Respondent understands that by signing this stipulation he enables  
24                   the Board to accept the surrender of his Registered Nurse License without further process.

#### 25                   CONTINGENCY

26                   8.       This stipulation shall be subject to approval by the Board of Registered  
27                   Nursing. The Respondent understands and agrees that by signing this Stipulated Surrender of  
28                   License and Order, he may not withdraw his agreement or seek to rescind the stipulation prior to

1 the date it becomes effective. If the Board declines to accept this stipulation as its Decision and  
2 Order, the Stipulated Surrender of License and Order shall be of no force or effect, except for  
3 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board  
4 shall not be disqualified from further action by having considered this matter.

5 9. This Stipulated Surrender of License and Order is intended by the parties to  
6 be an integrated writing representing the complete, final, and exclusive embodiment of their  
7 agreement. It supersedes any and all prior or contemporaneous agreements, understandings,  
8 discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of  
9 License and Order may not be altered, amended, modified, supplemented, or otherwise changed  
10 except by a writing executed by an authorized representative of each of the parties.

11 10. The parties understand and agree that facsimile copies of this Stipulated  
12 Surrender of License and Order, including facsimile signatures thereto, shall have the same  
13 force and effect as the originals.

14 11. In consideration of the foregoing stipulations, the parties agree that the  
15 Board may, without further notice or formal proceeding, issue and enter the following Order:

16 **ORDER**

17 IT IS HEREBY ORDERED that Registered Nurse License No. 683001, issued to  
18 Respondent David Paul Alexander is surrendered and the surrender is accepted by the Board of  
19 Registered Nursing.

20 12. The surrender of Respondent's Registered Nurse License and the  
21 acceptance of the surrendered license by the Board shall constitute the imposition of discipline  
22 against Respondent. This stipulation constitutes a record of the discipline and shall become a  
23 part of Respondent's license history with the Board.

24 13. Respondent shall lose all rights and privileges as a Registered Nurse in  
25 California as of the effective date of the Board's Decision and Order.

26 14. Respondent shall cause to be delivered to the Board both his pocket  
27 license and wall certificate, if one was issued, on or before the effective date of the Decision  
28

1 and Order.

2           15. Respondent fully understands and agrees that if he ever files an application for  
3 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a  
4 petition for reinstatement. Respondent must comply with all the laws, regulations and  
5 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all  
6 of the charges and allegations contained in Accusation No. 2011-689 shall be deemed to be true,  
7 correct and admitted by Respondent when the Board determines whether to grant or deny the  
8 petition.

9           16. Upon reinstatement of the license by the Board, Respondent shall pay to  
10 the Board costs associated with its investigation and enforcement pursuant to Business and  
11 Professions Code section 125.3 in the amount of \$7,000.00 which is the amount currently  
12 owed pursuant to Stipulated Settlement and Disciplinary Order No. 2011-689 (Exhibit A). If  
13 the reinstatement of Respondent's license is granted, Respondent shall be permitted to pay  
14 these costs in a payment plan approved by the Board.

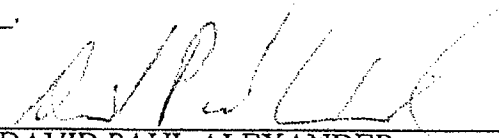
15           17. Respondent shall not apply for licensure or petition for reinstatement for  
16 2 year from the effective date of the Board of Registered Nursing's Decision and Order.

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.


DATED: 10/27/2011

  
\_\_\_\_\_  
DAVID PAUL ALEXANDER  
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully accepted by Louise R. Bailey, M.Ed., R.N. (Complainant) is the Executive Officer for the Board of Registered Nursing.

DATED: November 8, 2011

  
\_\_\_\_\_  
Louise R. Bailey, M.Ed., R.N.  
Executive Officer

BOARD OF REGISTERED NURSING