



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Patricia A. Plummer
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of §
Registered Nurse License Number 733429 §
issued to KENNETH TOD MCFARLAND §

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 733429, issued to KENNETH TOD MCFARLAND, 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's license to practice professional nursing in the State of Texas is currently in delinquent status.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing.
3. Respondent received an Associate Degree in Nursing from Cerritos College, Norwalk, California, on June 15, 1984. Respondent was licensed to practice professional nursing in the State of Texas on September 6, 2006.
4. Respondent's complete professional nursing employment history is unknown.
5. Formal Charges were filed on April 28, 2014. A copy of the Formal Charges is attached and incorporated, by reference, as part of this Order.
6. Formal Charges were mailed to Respondent on April 28, 2014.

7. On May 20, 2014, 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 May 20, 2014, 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 cause pursuant to Section 301.452(b)(8), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 733429, heretofore issued to KENNETH TOD MCFARLAND, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
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 301.453(d), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

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ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 733429, heretofore issued to KENNETH TOD MCFARLAND, to practice nursing in the State of Texas, is/are 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/s is/are 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 nursing in the State of Texas.

Effective this 20th day of May, 2014.

TEXAS BOARD OF NURSING

By:



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

Date: May 20, 2014
To: Texas Board of Nursing
From: Kenneth Tod McFarland
Regarding: Registered Nurse number 733429

To whom it may concern,

I, Kenneth Tod McFarland, hereby surrender my Texas nursing license and all rights to practice nursing in the state of Texas. I'm sorry but I don't not have a copy of my Texas license to send you, as a shredded it back when I was having my psychological issues.


I'm sure you are aware of what I've done in the state of California, most notably writing a prescription and using a physician's name that I forged, the prescription was for myself.

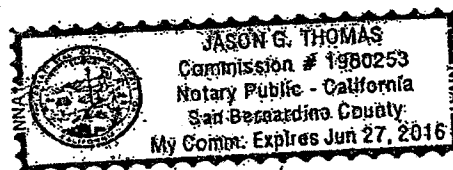
I have already been through hearings and have freely given up my license to practice nursing in the state of California, and will happily do the same in the state of Texas as I am no longer a registered nurse.

Thank you for taking this letter in consideration.

Respectfully submitted,


Kenneth Tod McFarland


Notary Public **JASON G. THOMAS**
May 20, 2014



In the Matter of § BEFORE THE TEXAS
Permanent Registered Nurse §
License Number 733429 §
Issued to KENNETH TOD MCFARLAND, §
Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, KENNETH TOD MCFARLAND, is a Registered Nurse holding License Number 733429, which is in delinquent status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about December 14, 2013, the Voluntary Surrender of Respondent's registered nurse license, nurse practitioner certificate, and nurse practitioner furnishing certificate, was accepted by the State of California Board of Registered Nursing, Sacramento, California. A copy of the Decision and Order dated December 14, 2013, is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8), Texas Occupations Code.

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.texas.gov.


NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, for Lying and Falsification, and for Fraud, Theft and Deception, which can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.texas.gov/disciplinaryaction/discp-matrix.html.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Decision and Order of State of California Board of Registered Nursing dated December 14, 2013.

Filed this 28th day of April, 2014.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Abel, Assistant General Counsel
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P: (512) 305-6811
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Attachments: Decision and Order of State of California Board of Registered Nursing dated December 14, 2013.

D/2013.11.19

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

In the Matter of the Accusation Against:

KENNETH TOD MCFARLAND
6561 Flagstone Place
Rancho Cucamonga, CA 91739

Registered Nurse License No. 375735
Nurse Practitioner Certificate No. 15326
Nurse Practitioner Furnishing Certificate No. 15326

Respondent

Case No. 2013-309

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 this matter.

This Decision shall become effective on December 14, 2013.

IT IS SO ORDERED December 14, 2013.

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

REGISTERED NURSING PROGRAM

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



Raymond Mallel
Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
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2 ARMANDO ZAMBRANO
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3 CHRISTINE JUNE LEE
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4 State Bar No. 282502
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Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 2013-309

12 **KENNETH TOD MCFARLAND**
6561 Flagstone Place
13 Rancho Cucamonga, CA 91739

**STIPULATED SURRENDER
OF LICENSE AND DISCIPLINARY
ORDER**

14 Registered Nurse License No. 375735
Nurse Practitioner Certificate No. 15326
15 Nurse Practitioner Furnishing
Certificate No. 15326
16

Respondent.
17
18

19 In the interest of a prompt and speedy resolution of this matter, consistent with the public
20 interest and the responsibility of the Board of Registered Nursing, Department of Consumer
21 Affairs, the parties hereby agree to the following Stipulated Surrender of License and
22 Disciplinary Order, which will be submitted to the Board of Registered Nursing for approval, and
23 adoption as the final disposition of Accusation No. 2013-309.

24 **PARTIES**

25 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Executive Officer of the Board
26 of Registered Nursing, Department of Consumer Affairs. She brings this action solely in her
27 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the
28 State of California, by Armando Zambrano, Deputy Attorney General.

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Disciplinary Order are hereby submitted for consideration by the Board of Registered Nursing.

Dated: August 27, 2013

Respectfully Submitted,

KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General


CHRISTINE JUNE LEE
Deputy Attorney General
Attorney for Complainant

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Exhibit A

Accusation No. 2013-309

1 KAMALA D. HARRIS
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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-309

13 **KENNETH TOD MCFARLAND**
6561 Flagstone Place
14 Rancho Cucamonga, CA 91739

A C C U S A T I O N

15 Registered Nurse License No. 375735
Nurse Practitioner Certificate No. 15326
16 Nurse Practitioner Furnishing
Certificate No. 15326

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

24 **Registered Nurse License**

25 2. On or about August 31, 1984, the Board of Registered Nursing, Department of
26 Consumer Affairs, issued Registered Nurse License No. 375735 to Kenneth Tod McFarland
27 ("Respondent"). The Registered Nurse License was in full force and effect at all times relevant to
28 the charges brought herein and will expire on September 30, 2012, unless renewed.

1 8. Section 2764 of the Code provides:

2 "The lapsing or suspension of a license by operation of law or by order or decision
3 of the board or a court of law, or the voluntary surrender of a license by a licentiate
4 shall not deprive the board of jurisdiction to proceed with any investigation of or
action or disciplinary proceeding against such license, or to render a decision
suspending or revoking such license."

5 STATUTORY PROVISIONS

6 9. Section 2761 of the Code provides, in pertinent part:

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

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

10 (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 or regulations adopted pursuant to it."

11 10. Section 2762 of the Code provides:

12 "In addition to other acts constituting unprofessional conduct within the meaning of
13 this chapter it is unprofessional conduct for a person licensed under this chapter to
do any of the following:

14 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a
15 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 or dangerous device as defined in Section 4022.

16 (b) Use any controlled substance as defined in Division 10 (commencing with
17 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
18 device 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 such use impairs his or her ability to conduct with safety to the
public the practice authorized by his or her license.

19 (c) Be convicted of a criminal offense involving the prescription, consumption, or
20 self-administration of any of the substances described in subdivisions (a) and (b) of
this section, or the possession of, or falsification of a record pertaining to, the
21 substances described in subdivision (a) of this section, in which event the record of
the conviction is conclusive evidence thereof.

22 (d) Be committed or confined by a court of competent jurisdiction for intemperate
23 use of or addiction to the use of any of the substances described in subdivisions (a)
and (b) of this section, in which event the court order of commitment or
confinement is prima facie evidence of such commitment or confinement.

24 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
25 entries in any hospital, patient, or other record pertaining to the substances
described in subdivision (a) of this section."

26 11. Code section 2770.7 provides, in pertinent part:

27 "(a) The board shall establish criteria for the acceptance, denial, or termination of
28 registered nurses in the diversion program. Only those registered nurses who have
voluntarily requested to participate in the diversion program shall participate in the
program."

1 "(d) Neither acceptance nor participation in the diversion program shall preclude
2 the board from investigating or continuing to investigate, or taking disciplinary
3 action or continuing to take disciplinary action against, any registered nurse for any
4 unprofessional conduct committed before, during, or after participation in the
5 diversion program.

6 (e) All registered nurses shall sign an agreement of understanding that the
7 withdrawal or termination from the diversion program at a time when the program
8 manager or diversion evaluation committee determines the licensee presents a
9 threat to the public's health and safety shall result in the utilization by the board of
10 diversion treatment records in disciplinary or criminal proceedings.

11 (f) Any registered nurse terminated from the diversion program for failure to
12 comply with program requirements is subject to disciplinary action by the board for
13 acts committed before, during, and after participation in the diversion program. A
14 registered nurse who has been under investigation by the board and has been
15 terminated from the diversion program by a diversion evaluation committee shall
16 be reported by the diversion evaluation committee to the board."

17
18 12. Code section 2770.11 provides:

19 "(a) Each registered nurse who requests participation in a diversion program shall
20 agree to cooperate with the rehabilitation program designed by the committee and
21 approved by the program manager. Any failure to comply with the provisions of a
22 rehabilitation program may result in termination of the registered nurse's
23 participation in a program. The name and license number of a registered nurse who
24 is terminated for any reason, other than successful completion, shall be reported to
25 the board's enforcement program.

26 (b) If the program manager determines that a registered nurse, who is denied
27 admission into the program or terminated from the program, presents a threat to the
28 public or his or her own health and safety, the program manager shall report the
name and license number, along with a copy of all diversion records for that
registered nurse, to the board's enforcement program. The board may use any of the
records it receives under this subdivision in any disciplinary proceeding."

13. Code section 4022 provides:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-
use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device
to sale by or on the order of a _____," "Rx only," or words of similar import, the
blank to be filled in with the designation of the practitioner licensed to use or order
use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed
only on prescription or furnished pursuant to Section 4006.

14. Code section 4060 provides:

"No person shall possess any controlled substance, except that furnished to a person
upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug
order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse
practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section

1 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant
2 to either Section 4052.1 or 4052.2. This section shall not apply to the possession of
3 any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,
4 physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor,
5 certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in
6 containers correctly labeled with the name and address of the supplier or producer.

7 Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner,
8 a physician assistant, or a naturopathic doctor, to order his or her own stock of
9 dangerous drugs and devices."

10 15. Code section 822 provides:

11 "If a licensing agency determines that its licentiate's ability to practice his or her
12 profession safely is impaired because the licentiate is mentally ill, or physically ill
13 affecting competency, the licensing agency may take action by any one of the
14 following methods:

15 (a) Revoking the licentiate's certificate or license.

16 (b) Suspending the licentiate's right to practice.

17 (c) Placing the licentiate on probation.

18 (d) Taking such other action in relation to the licentiate as the licensing agency in
19 its discretion deems proper.

20 The licensing agency shall not reinstate a revoked or suspended certificate or
21 license until it has received competent evidence of the absence or control of the
22 condition which caused its action and until it is satisfied that with due regard for the
23 public health and safety the person's right to practice his or her profession may be
24 safely reinstated."

25 16. Health and Safety Code section 11170 provides:

26 "No person shall prescribe, administer, or furnish a controlled substance for himself."

27 17. Health and Safety Code section 11173 provides:

28 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or
attempt to procure the administration of or prescription for controlled substances,
(1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of
a material fact.

(b) No person shall make a false statement in any prescription, order, report, or
record, required by this division.

(c) No person shall, for the purpose of obtaining controlled substances, falsely
assume the title of, or represent himself to be, a manufacturer, wholesaler,
pharmacist, physician, dentist, veterinarian, registered nurse, physician's assistant,
or other authorized person.

(d) No person shall affix any false or forged label to a package or receptacle
containing controlled substances."

18. Health and Safety Code section 11174 provides:

"No person shall, in connection with the prescribing, furnishing, administering, or
dispensing of a controlled substance, give a false name or false address."

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CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

1
2 19. Norco is the brand name for a narcotic that contains Hydrocodone bitartrate and
3 Acetaminophen. Hydrocodone is in a group of drugs called opioid pain relievers.
4 Acetaminophen is a less potent pain reliever that increases the effects of hydrocodone. Norco is
5 generally prescribed to treat moderate to severe pain. It is designated as a Schedule III controlled
6 substance per Health and Safety Code section 11056(e)(4). It is usually found in tablet form and
7 marketed under the trade names Vicodin, and Lortab.

8 20. Darvocet contains a combination of Propoxyphene and Acetaminophen.
9 Propoxyphene is a narcotic pain reliever. Darvocet is generally prescribed to treat mild to
10 moderate pain and is designated as a Schedule IV controlled substance per Health & Safety Code
11 Section 11057(c)(2). In November 2010, the US Food and Drug Administration (FDA) withdrew
12 all medications containing Propoxyphene due to concerns about dangerous cardiac side effects.

13 21. Fentanyl is a powerful synthetic opiate analgesic similar to but approximately 100
14 times more potent than morphine. It is typically used to treat patients with severe pain, or to
15 manage pain after surgery. It is also sometimes used to treat people with chronic pain who are
16 physically tolerant to opiates. It is designated as a Schedule II controlled substance per Health &
17 Safety Code Section 11055(c)(8).

18 22. Dilaudid is the brand name for the narcotic Hydromorphone Hydrochloride. It is an
19 opioid pain reliever and generally prescribed to treat moderate to severe pain. It is designated as
20 a Schedule II controlled substance per Health and Safety Code section 11055(b)(1)(J).

21 23. Percocet is the brand name for the narcotic that contains Oxycodone and
22 Acetaminophen. Oxycodone is in a group of drugs called opioid pain relievers. Acetaminophen
23 is a less potent pain reliever that increases the effects of Oxycodone. Percocet is generally
24 prescribed to treat moderate to severe pain. It is designated as a Schedule II controlled substance
25 per Health and Safety Code section 11055(b)(1)(M).

26 24. Ultram is the brand name for the pain reliever Tramadol. It is a centrally-acting
27 synthetic analgesic used to treat moderate to severe pain. It is designated as a dangerous drug per
28 Health and Safety Code section 4022 and can be lawfully dispensed only by a prescription.

1 COST RECOVERY

2 25. Business and Professions Code Section 125.3 provides, in pertinent part, that the
3 Board may request the administrative law judge to direct a licentiate found to have committed a
4 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
5 investigation and enforcement of the case.

6 PUBLIC SAFETY RISK:
7 RESPONDENT'S TERMINATION FROM
8 DRUG DIVERSION PROGRAM

9 26. On January 12, 2012, the Respondent voluntarily requested to participate in the Board
10 of Registered Nursing's Diversion Program in order to obtain assistance with his chemical
11 dependency. At the time, the Respondent was working as a Nurse Practitioner at Desert Valley
12 Hospital, in Victorville, CA. He admitted taking forty (40) Norco pills per day and writing false
13 and fraudulent prescriptions for personal use.

14 27. On January 19, 2012, the Respondent voluntarily entered a 60-day inpatient program.

15 28. On March 28, 2012, the Respondent underwent surgery to his left index finger after
16 reportedly suffering an accident while using a utility knife. The Respondent received Fentanyl
17 and Dilaudid in the hospital and a prescription for Ultram.

18 29. On March 29, 2012, the Respondent was admitted into the Board's Diversion
19 Program administered by Maximus. The Respondent agreed to comply with all the recovery
20 terms and conditions including complete sobriety, abstaining from mind-altering substances,
21 suspension from nursing practice, successful completion of a 12-step program with 90-day
22 inpatient treatment, random drug testing, and regular reporting.

23 30. On April 5, 2012, the Respondent underwent emergency surgery to his lower left leg
24 after reportedly suffering a chainsaw accident while cutting wood. The Respondent received
25 Percocet in the hospital and a prescription for Ultram.

26 31. On May 18, 2012, the Respondent provided a urine sample, which tested positive for
27 the controlled substance Propoxyphene (Darvocet) and Norpropoxyphene. The Respondent later
28 admitted taking two Darvocet pills to help him sleep.

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1 32. On May 29, 2012, the Respondent was placed in a 72-hour involuntary psychiatric
2 hold and underwent emergency surgery after attempting to amputate his left arm with a miter saw
3 and severely damaging tendons. He reportedly felt depressed and cut his arm to the bone. He
4 admitted this was not the first time that he tried to hurt himself and that he had previously tried to
5 amputate his leg with a chainsaw. He was housed in a psychiatric unit for 14 days of treatment.

6 33. On June 22, 2012, the Respondent was terminated unsuccessfully from the Diversion
7 Program for public safety risk and failing to comply with program requirements.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Use of Controlled Substances - Dangerous or Injurious to Himself or Public)**

10 34. Respondent is subject to disciplinary action under Code sections 2761(a) and 2762(b),
11 in that while employed as a registered nurse, he used controlled substances or dangerous drugs to
12 an extent or in a manner dangerous or injurious to himself or any other person, or the public or to
13 the extent that such use impairs his ability to conduct with safety to the public the practice
14 authorized by his license. Complainant refers to and by this reference incorporates the allegations
15 set forth above in paragraphs 27 through 33, inclusive, as though fully set forth herein.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Attempted to Obtain Controlled Substances by Fraud, Deceit, or Misrepresentation)**

18 35. Respondent is subject to disciplinary action under Code sections 2761(a) and 2762(e),
19 in accordance with Code section 4060 and Health and Safety Code sections 11173 and 11170, in
20 that while employed as a registered nurse, obtained or attempted to obtain controlled substances,
21 or procured or attempted to procure the administration of or prescription for controlled
22 substances, by fraud, deceit, misrepresentation, or subterfuge; or by the concealment of a material
23 fact. The facts and circumstances are:

24 a. On or about December 24, 2011, the Respondent obtained or attempted to obtain a
25 controlled substance by using a fraudulent prescription from Desert Valley Hospital. The
26 prescription indicated the Respondent's name as the patient, and ordered 100 pills of Norco
27 10/325.

28 //

1 b. On or about November 26, 2011, the Respondent obtained or attempted to obtain a
2 controlled substance by using a fraudulent prescription from Desert Valley Hospital. The
3 prescription indicated the Respondent's name as the patient, and ordered 100 pills of Norco
4 10/325.

5 c. Both prescriptions were purportedly signed by an emergency room physician, who
6 was subsequently interviewed, and emphatically denied signing the prescription or ordering a
7 prescription for the Respondent. The Respondent later admitted to writing the false and
8 fraudulent prescriptions for personal use.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Attempted to Obtain or Possess in Violation of Law - Controlled Substances)**

11 36. Respondent is subject to disciplinary action under Code sections 2761(a) and 2761(d),
12 in accordance with 2762(a), in that while employed as a registered nurse, he attempted to obtain
13 or obtaining or possessed in violation of law, or prescribed, or except as directed by a licensed
14 physician and surgeon, administered to himself, any controlled substance or dangerous drug.
15 Complainant refers to and by this reference incorporates the allegations set forth above in
16 paragraph 35, as though fully set forth.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Board of Registered Nursing, Department of Consumer Affairs
20 issue a decision:

21 1. Revoking or suspending Registered Nurse License Number 375735, issued to
22 Kenneth Tod McFarland;

23 2. Revoking or suspending Nurse Practitioner Certification No. 15326, issued to
24 Kenneth Tod McFarland;

25 3. Revoking or suspending Nurse Practitioner Furnishing Certification No. 15326,
26 issued to Kenneth Tod McFarland;

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4. Ordering Kenneth Tod McFarland to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: October 24, 2012

for 
LOUISE R. BAILLY, M.ED., RN.
Executive Officer
Board of Registered Nursing
State of California
Complainant

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