

IN THE MATTER OF PERMANENT
ADVANCED PRACTICE REGISTERED
NURSE LICENSE NUMBER ,
PERMANENT REGISTERED NURSE
LICENSE NUMBER 685238 &
PERMANENT VOCATIONAL NURSE
LICENSE NUMBER 138155
ISSUED TO MICHAEL SCOTT ADAMS,
RESPONDENT

§ BEFORE THE TEXAS
§
§ BOARD OF NURSING
§
§ ELIGIBILITY AND
§
§ DISCIPLINARY COMMITTEE
§
§



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 Thomas
Executive Director of the Board

ORDER OF THE BOARD

TO: MICHAEL SCOTT ADAMS
14895 VAN AVE
SAN LEANDRO, CA 94578

During open meeting held in Austin, Texas, on **June 16, 2015**, the Texas Board of Nursing Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's license(s) to practice nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Committee, after review and due consideration, adopts the proposed findings of fact and

conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing [22 TEX. ADMIN.CODE § 213.16(j)]. All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Registered Nurse License Number 685238, and Permanent Vocational Nurse License Number 138155, previously issued to MICHAEL SCOTT ADAMS, to practice nursing in the State of Texas be, and the same is/are hereby, REVOKED.

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

Entered this 16th day of June, 2015.

TEXAS BOARD OF NURSING

BY:



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Attachment: Formal Charge filed April 29, 2015.

d17r(2014.12.05)

Re: Permanent Registered Nurse License Number 685238
& Permanent Vocational Nurse License Number 138155
Issued to MICHAEL SCOTT ADAMS
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 19 day of June, 2015, a true and correct copy of the foregoing DEFAULT ORDER was served and addressed to the following person(s), as follows:

Via USPS Certified Mail, Return Receipt Requested

MICHAEL SCOTT ADAMS
14895 VAN AVE
SAN LEANDRO, CA 94578

Via USPS First Class Mail

MICHAEL SCOTT ADAMS
15835 PASEO LARGAVISTA
SAN LORENZO, CA 94580

BY:



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

**In the Matter of
Permanent Registered Nurse
License Number 685238 &
Permanent Vocational Nurse
License Number 138155
Issued to MICHAEL SCOTT ADAMS,
Respondent**

§ **BEFORE THE TEXAS**
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§ **BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MICHAEL SCOTT ADAMS, is a Registered Nurse holding License Number 685238, which is in delinquent status at the time of this pleading, and is a Vocational Nurse holding License Number 138155, 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 February 13, 2015, Respondent's California registered nurse license was issued a Probated Revocation by the California Board of Registered Nursing, Sacramento, California. A copy of the California Board of Registered Nursing's Decision and Order effective February 13, 2015, 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.

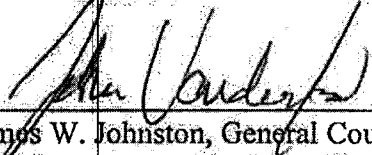
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, for Lying and Falsification, and for Fraud, Theft and Deception, which 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: First Amended Agreed Board Order dated June 12, 2001, and Decision and Order effective February 13, 2015.

Filed this 29 day of April, 2015.

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
State Bar No. 24036103

Natalie E. Adelaja, Assistant General Counsel
State Bar No. 24064715

John R. Griffith, Assistant General Counsel
State Bar No. 24079751

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

John F. Legris, Assistant General Counsel
State Bar No. 00785533

John Vanderford, Assistant General Counsel
State Bar No. 24086670

333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-8657
F: (512) 305-8101 or (512)305-7401

Attachments: First Amended Agreed Board Order dated June 12, 2001, and Decision and Order effective February 13, 2015.

D(2015.02.24)

BOARD OF VOCATIONAL
NURSE EXAMINERS

VS.

MICHAEL SCOTT ADAMS

STATE OF TEXAS

COUNTY OF TRAVIS

FIRST AMENDED
AGREED BOARD ORDER

On this day came to be considered by the Board of Vocational Nurse Examiners the matter of vocational nurse license number 138155 held by MICHAEL SCOTT ADAMS, hereinafter called Respondent.

By letter, the Board of Vocational Nurse Examiners sent preliminary notice to Respondent of its intent to take disciplinary action with respect to said license held by Respondent, as a result of a complaint and subsequent investigation. Said investigation produced evidence indicating that Respondent has been convicted of a crime of the grade of a misdemeanor that relates to the practice of vocational nursing and/or involves moral turpitude, in violation of the Texas Occupations Code, Chapter 302, Section 302.402 (a) (3) (B), in the following manner and Respondent has engaged in unprofessional or dishonorable conduct that, in the Board's opinion, is likely to deceive, defraud, or injure the public, in violation of Texas Occupations Code, Chapter 302, Section 302.402 (a) (10).

a. On or about April 30, 2000, Respondent submitted his Licensure Renewal Application to the Board of Vocational Nurse Examiners. On said Application, Respondent answered "yes" to the question asking "Were you convicted of a misdemeanor other than a minor traffic violation since your last renewal?"

b. On or about January 31, 1997, Respondent was convicted of the Misdemeanor Offense of: PUBLIC INTOXICATION, in the Justice of the Peace Court, Precinct 3, Comal County, Texas, under Cause Number 248056. As a result of said conviction, Respondent was jailed on the date of the offense, December 21, 1996, and issued a fine of \$133.50.

c. Respondent has been convicted of a crime, which the Board considers to be directly related to the duties and responsibilities of a Licensed Vocational Nurse. Said conviction is inconsistent with the basic duties and responsibilities inherent in the occupation of vocational

FIRST AMENDED AGREED BOARD ORDER
RE: MICHAEL SCOTT ADAMS, LVN #138155
PAGE 2

nursing in that said occupation requires knowledge and familiarity of drugs, and compliance with drug laws.

By Respondent's signature on this Order, Respondent neither admits nor denies the truth of the matters previously set out in this Order with respect to the above-mentioned investigation. By Respondent's signature on this Order, Respondent acknowledges that they have read and understood this Order and have approved it for consideration by the Board.

By their notarized signature on this Order, Respondent does hereby waive the right to a formal Complaint, Notice of Hearing and a Public Hearing held before an Administrative Law Judge with the State Office of Administrative Hearings, and to judicial review of this disciplinary action. Notice of this disciplinary action will appear in the Board's newsletter sent to Texas employers.

ORDER OF THE BOARD

NOW THEREFORE, IT IS ORDERED that license number 138155, heretofore issued to MICHAEL SCOTT ADAMS to practice vocational nursing in the State of Texas be, and the same is hereby **REPRIMANDED**.

This Agreed Order shall not be effective or take effect and become enforceable in accordance with its terms until endorsed by a majority of the Board present and voting, at its next regularly called session.

Dated this the 3 day of 26TH, 20001.

FIRST AMENDED AGREED BOARD ORDER
RE: MICHAEL SCOTT ADAMS, LVN #138155
PAGE 3

Michael S. Adams
Signature of Respondent

12445 Alameda Trace Circle #417
Current Address

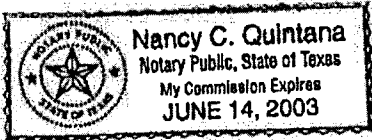
AUSTIN TX 78727
City, State and Zip

512-257-1461
Area Code and Telephone Number

The State of Texas
County of Williamson

Before me, the undersigned authority, on this day personally appeared MICHAEL SCOTT ADAMS, who being duly sworn by me stated that he or she executed the above for the purpose therein contained, and that he or she understood same.

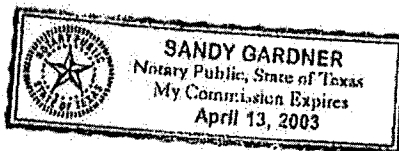
SWORN TO AND SUBSCRIBED before me on this the 26 day of March, 2001.



Nancy C. Quintana
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My Commission Expires June 14, 2003

Mary M. Strange
Mary M. Strange, RN
Agent for the Board of
Vocational Nurse Examiners

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the 30th day of MARCH, 2001.




Sandy Gardner
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

BOARD ORDER
RE: MICHAEL ADAMS, LVN #138155
PAGE: 4

WHEREFORE, PREMISES CONSIDERED, the Board of Vocational Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Board Order, notarized on the 28th day of March, 2001 by Respondent, license number 138155 and that Said Order is Final.

Effective this 12th day of June, 2001



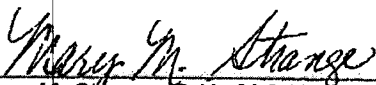
Mary M. Strange, RN, MSN.
Executive Director
On Behalf of Said Board

BOARD ORDER
RE: MICHAEL ADAMS, LVN #138155
PAGE: 5

CERTIFICATE OF SERVICE

I hereby certify that on the 15TH day of June, 2001, a true and correct copy of the foregoing
BOARD ORDER was served by placement in the U.S. Mail first class mail, and addressed to the
following person(s):

MICHAEL ADAMS
12445 ALMEDA TRACE CIRCLE NO. 417
AUSTIN TX 78727



Mary M. Strange, R.N., M.S.N
Executive Director
Agent for the Board of Vocational Nurse Examiners

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

In the Matter of the First Amended Accusation
Against:

MICHAEL SCOTT ADAMS
15835 Paseo Largavista
San Lorenzo, CA 94580

Registered Nurse License No. 617740

Respondent

Case No. 2014-1068

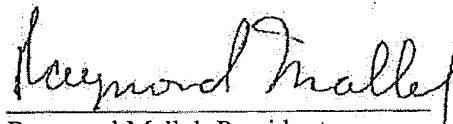
OAH No. 2014061018

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 this matter.

This Decision shall become effective on February 13, 2015.

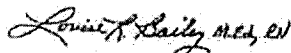
IT IS SO ORDERED January 14, 2015.



Raymond Mallel, 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
Executive Officer



1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
4 State Bar No. 253027
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2221
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

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

11 In the Matter of the First Amended Accusation
Against:
12 **MICHAEL SCOTT ADAMS**
13 15835 Paseo Largavista
San Lorenzo, CA 94580
14
15 Registered Nurse License No. 617740
16 Respondent.

Case No. 2014-1068
OAH No. 2014061018

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 PARTIES

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

25 2. Respondent Michael Scott Adams ("Respondent") is represented in this proceeding
26 by attorney Adam G. Slote, whose address is: One Embarcadero Center, Suite 400
27 San Francisco, CA 94111.

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1 3. On or about April 28, 2003, the Board of Registered Nursing issued Registered Nurse
2 License No. 617740 to Michael Scott Adams ("Respondent"). The Registered Nurse License was
3 in full force and effect at all times relevant to the charges brought in First Amended Accusation
4 No. 2014-1068 and will expire on May 31, 2015, unless renewed.

5 JURISDICTION

6 4. First Amended Accusation No. 2014-1068 was filed before the Board of Registered
7 Nursing ("Board"), Department of Consumer Affairs, and is currently pending against
8 Respondent. The Accusation and all other statutorily required documents were properly served
9 on Respondent on March 3, 2014. Respondent timely filed his Notice of Defense contesting the
10 Accusation. The First Amended Accusation and all other statutorily required documents were
11 properly served on Respondent on September 17, 2014.

12 5. A copy of First Amended Accusation No. 2014-1068 is attached as exhibit A and
13 incorporated herein by reference.

14 ADVISEMENT AND WAIVERS

15 6. Respondent has carefully read, fully discussed with counsel, and understands the
16 charges and allegations in First Amended Accusation No. 2014-1068. Respondent has also
17 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
18 Settlement and Disciplinary Order.

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

26 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
27 every right set forth above.

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1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in First
3 Amended Accusation No. 2014-1068.

4 10. Respondent agrees that his Registered Nurse License is subject to discipline and he
5 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
6 below.

7 CIRCUMSTANCES IN MITIGATION

8 11. Respondent Michael Scott Adams has never been the subject of any disciplinary
9 action. He is admitting responsibility at an early stage in the proceedings.

10 CONTINGENCY

11 12. This stipulation shall be subject to approval by the Board of Registered Nursing.
12 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
13 Registered Nursing may communicate directly with the Board regarding this stipulation and
14 settlement, without notice to or participation by Respondent or his counsel. By signing the
15 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
16 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
17 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
18 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
19 action between the parties, and the Board shall not be disqualified from further action by having
20 considered this matter.

21 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
22 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
23 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

24 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
25 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
26 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
27 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
28

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

3 15. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Board may, without further notice or formal proceeding, issue and enter the following
5 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Registered Nurse License No. 617740 issued to
8 Respondent Michael Scott Adams ("Respondent") is revoked. However, the revocation is stayed
9 and Respondent is placed on probation for three (3) years on the following terms and conditions.

10 **Severability Clause.** Each condition of probation contained herein is a separate and
11 distinct condition. If any condition of this Order, or any application thereof, is declared
12 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
13 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
14 and enforceable to the fullest extent permitted by law.

15 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and
16 detailed account of any and all violations of law shall be reported by Respondent to the Board in
17 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with
18 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
19 45 days of the effective date of the decision, unless previously submitted as part of the licensure
20 application process.

21 **Criminal Court Orders:** If Respondent is under criminal court orders, including
22 probation or parole, and the order is violated, this shall be deemed a violation of these probation
23 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

24 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with
25 the conditions of the Probation Program established by the Board and cooperate with
26 representatives of the Board in its monitoring and investigation of the Respondent's compliance
27 with the Board's Probation Program. Respondent shall inform the Board in writing within no

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1 more than 15 days of any address change and shall at all times maintain an active, current license
2 status with the Board, including during any period of suspension.

3 Upon successful completion of probation, Respondent's license shall be fully restored.

4 3. **Report in Person.** Respondent, during the period of probation, shall appear in
5 person at interviews/meetings as directed by the Board or its designated representatives.

6 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
7 practice as a registered nurse outside of California shall not apply toward a reduction of this
8 probation time period. Respondent's probation is tolled, if and when he resides outside of
9 California. Respondent must provide written notice to the Board within 15 days of any change of
10 residency or practice outside the state, and within 30 days prior to re-establishing residency or
11 returning to practice in this state.

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

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

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

25 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
26 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
27 6 consecutive months or as determined by the Board.

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

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

6 If Respondent has not complied with this condition during the probationary term, and
7 Respondent has presented sufficient documentation of his good faith efforts to comply with this
8 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
9 extension of Respondent's probation period up to one year without further hearing in order to
10 comply with this condition. During the one year extension, all original conditions of probation
11 shall apply.

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

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

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

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

27 Respondent shall practice only under the direct supervision of a registered nurse in good
28 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods

1 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
2 approved.

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

5 (a) Maximum - The individual providing supervision and/or collaboration is present in
6 the patient care area or in any other work setting at all times.

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

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

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

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

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

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

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

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

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

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

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

14 **11. Cost Recovery.** Respondent shall pay to the Board costs associated with its
15 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
16 amount of \$3,300.00. Respondent shall be permitted to pay these costs in a payment plan
17 approved by the Board, with payments to be completed no later than three months prior to the end
18 of the probation term.

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

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

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

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

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

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

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

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

1 If Respondent is determined to be unable to practice safely as a registered nurse, the
2 licensed physician, nurse practitioner, or physician assistant making this determination shall
3 immediately notify the Board and Respondent by telephone, and the Board shall request that the
4 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
5 immediately cease practice and shall not resume practice until notified by the Board. During this
6 period of suspension, Respondent shall not engage in any practice for which a license issued by
7 the Board is required until the Board has notified Respondent that a medical determination
8 permits Respondent to resume practice. This period of suspension will not apply to the reduction
9 of this probationary time period.

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

17 **15. Mental Health Examination.** Respondent shall, within 45 days of the effective date
18 of this Decision, have a mental health examination including psychological testing as appropriate
19 to determine her capability to perform the duties of a registered nurse, including a determination
20 as set forth below in the condition titled "Rule-Out Substance Abuse Assessment." The
21 examination will be performed by a psychiatrist, psychologist or other licensed mental health
22 practitioner approved by the Board. The examining mental health practitioner will submit a
23 written report of that assessment and recommendations to the Board. All costs are the
24 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
25 result of the mental health examination will be instituted and followed by Respondent.

26 If Respondent is determined to be unable to practice safely as a registered nurse, the
27 licensed mental health care practitioner making this determination shall immediately notify the
28 Board and Respondent by telephone, and the Board shall request that the Attorney General's

1 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
2 practice and may not resume practice until notified by the Board. During this period of
3 suspension, Respondent shall not engage in any practice for which a license issued by the Board
4 is required, until the Board has notified Respondent that a mental health determination permits
5 Respondent to resume practice. This period of suspension will not apply to the reduction of this
6 probationary time period.

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

14 **16. Rule-Out Substance Abuse Assessment.** If the examiner conducting the physical
15 and/or mental health examination determines that the respondent is dependent upon drugs or
16 alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or alcohol
17 dependence in remission), that might reasonably affect the safe practice of nursing, then the
18 respondent must further comply with the following additional terms and conditions of probation:

19 **A. Participate in Treatment/Rehabilitation Program for Chemical**
20 **Dependence.** Respondent, at his expense, shall successfully complete during the
21 probationary period or shall have successfully completed prior to commencement
22 of probation a Board-approved treatment/rehabilitation program of at least six
23 months duration. As required, reports shall be submitted by the program on forms
24 provided by the Board. If Respondent has not completed a Board-approved
25 treatment/rehabilitation program prior to commencement of probation,
26 Respondent, within 45 days from the effective date of the decision, shall be
27 enrolled in a program. If a program is not successfully completed within the first

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1 nine months of probation, the Board shall consider Respondent in violation of
2 probation.

3 Based on Board recommendation, each week Respondent shall be required
4 to attend at least one, but no more than five 12-step recovery meetings or
5 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse
6 support group as approved and directed by the Board. If a nurse support group is
7 not available, an additional 12-step meeting or equivalent shall be added.

8 Respondent shall submit dated and signed documentation confirming such
9 attendance to the Board during the entire period of probation. Respondent shall
10 continue with the recovery plan recommended by the treatment/rehabilitation
11 program or a licensed mental health examiner and/or other ongoing recovery
12 groups.

13 **B. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
14 shall completely abstain from the possession, injection or consumption by any
15 route of all controlled substances and all psychotropic (mood altering) drugs,
16 including alcohol, except when the same are ordered by a health care professional
17 legally authorized to do so as part of documented medical treatment. Respondent
18 shall have sent to the Board, in writing and within fourteen (14) days, by the
19 prescribing health professional, a report identifying the medication, dosage, the
20 date the medication was prescribed, the Respondent's prognosis, the date the
21 medication will no longer be required, and the effect on the recovery plan, if
22 appropriate.

23 Respondent shall identify for the Board a single physician, nurse
24 practitioner or physician assistant who shall be aware of Respondent's history of
25 substance abuse and will coordinate and monitor any prescriptions for Respondent
26 for dangerous drugs, controlled substances or mood-altering drugs. The
27 coordinating physician, nurse practitioner, or physician assistant shall report to the
28 Board on a quarterly basis Respondent's compliance with this condition. If any

1 substances considered addictive have been prescribed, the report shall identify a
2 program for the time limited use of any such substances.

3 The Board may require the single coordinating physician, nurse
4 practitioner, or physician assistant to be a specialist in addictive medicine, or to
5 consult with a specialist in addictive medicine.

6 C. **Submit to Tests and Samples.** Respondent, at his expense, shall
7 participate in a random, biological fluid testing or a drug screening program which
8 the Board approves. The length of time and frequency will be subject to approval
9 by the Board. Respondent is responsible for keeping the Board informed of
10 Respondent's current telephone number at all times. Respondent shall also ensure
11 that messages may be left at the telephone number when he is not available and
12 ensure that reports are submitted directly by the testing agency to the Board, as
13 directed. Any confirmed positive finding shall be reported immediately to the
14 Board by the program and Respondent shall be considered in violation of
15 probation.

16 In addition, Respondent, at any time during the period of probation, shall
17 fully cooperate with the Board or any of its representatives; and shall, when
18 requested, submit to such tests and samples as the Board or its representatives may
19 require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
20 controlled substances.

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

27 If Respondent fails to participate in a random, biological fluid testing or
28 drug screening program within the specified time frame, Respondent shall

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immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation; the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

D. **Therapy or Counseling Program.** Respondent, at his expense, shall participate in an on-going counseling program until such time as the Board releases him from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Adam G. Slote. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 09/18/2014

michael s adams
MICHAEL SCOTT ADAMS
Respondent

I have read and fully discussed with Respondent Michael Scott Adams the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 09/18/2014

Adam Slote
Adam G. Slote
Attorney for Respondent


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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing.

Dated: 9/19/14

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


SUSANA A. GONZALES
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 2014-1068

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
4 State Bar No. 253027
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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 First Amended Accusation
Against:
12 **MICHAEL SCOTT ADAMS**
13 15835 Paseo Largavista
14 San Lorenzo, CA 94580
15 Registered Nurse License No. 617740
16 Respondent.

Case No. 2014-1068

FIRST AMENDED ACCUSATION

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this First Amended Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.
23 2. On or about April 28, 2003, the Board of Registered Nursing issued Registered
24 Nurse License Number 617740 to Michael Scott Adams (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought in this First
26 Amended Accusation and will expire on May 31, 2015, unless renewed.

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1 JURISDICTION

2 3. This First Amended Accusation is brought before the Board of Registered Nursing
3 ("Board"), Department of Consumer Affairs, under the authority of the following laws. All
4 section references are to the Business and Professions Code unless otherwise indicated.

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

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

13 STATUTORY AND REGULATORY PROVISIONS

14 6. Section 2761 of the Code states, in pertinent part:

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

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

18 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
19 functions."

20 7. Section 2762 of the Code states, in pertinent part:

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

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

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1 8: California Code of Regulations, title 16, section 1442, states:

2 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure
3 from the standard of care which, under similar circumstances, would have ordinarily been
4 exercised by a competent registered nurse. Such an extreme departure means the repeated failure
5 to provide nursing care as required or failure to provide care or to exercise ordinary precaution in
6 a single situation which the nurse knew, or should have known, could have jeopardized the
7 client's health or life."

8 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

9 9. Code section 4021 states:

10 "Controlled substance' means any substance listed in Chapter 2 (commencing with Section
11 11053) of Division 10 of the Health and Safety Code."

12 10. Code section 4022 provides:

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

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

17 "(b) Any device that bears the statement: 'Caution: federal law restricts this device to sale
18 by or on the order of a _____,' 'Rx only,' or words of similar import . . .

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

21 11. Fentanyl is a Schedule II controlled substance as designated by Health and Safety
22 Code section 11055, subdivision (c)(8), and a dangerous drug under Code section 4022. It is used
23 preoperatively, during surgery and in the immediate postoperative period. Among other
24 applications, the drug may be used in the management of breakthrough cancer pain.

25 12. Lorazepam, also known by its brand name Ativan, is a Schedule IV controlled
26 substance as designated by Health and Safety Code section 11057, subdivision (d)(16), and a
27 dangerous drug under Code section 4022. Ativan is an anti-anxiety drug primarily used for the
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1 treatment of anxiety, tension, and anxiety with depression, insomnia, and acute alcohol withdraw
2 symptoms.

3 13. Hydromorphone, also known as Dilaudid, is a Schedule II controlled substance as
4 designated by Health and Safety Code section 11055, subdivision (b)(1)(J), and a dangerous drug
5 under Code section 4022. Its principal therapeutic use is relief of pain. Psychic dependence,
6 physical dependence, and tolerance may develop upon repeated administration of narcotics;
7 therefore, Dilaudid should be prescribed and administered with caution.

8 COST RECOVERY

9 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
10 administrative law judge to direct a licentiate found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
13 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
14 included in a stipulated settlement.

15 FACTS

16 15. In or about 2007, Respondent began working as a registered nurse in the Intensive
17 Care Unit ("ICU") at St. Rose Hospital ("St. Rose") in Hayward, California. In or about February
18 2012, St. Rose management conducted an investigation into Respondent's withdrawal and
19 documentation of controlled substances. The investigation revealed numerous instances in which
20 Respondent failed to document the administration or wastage of controlled substances after
21 removing them from the Pyxis machine ("Pyxis"). The Pyxis is an automated medication
22 dispensing machine that maintains an inventory of all of the medication dispensed. There were
23 also several occasions where Respondent documented wasting a medication several hours after
24 removing it from the Pyxis; In addition, hospital policy required nurses to document the "pre
25 med pain scale" and "post med pain scale" on the patient's Medication Administration Record
26 ("MAR") for all medications used to relieve pain. Despite this policy and physician's orders,
27 there were numerous occasions in which Respondent failed to document a patient's pain score
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1 prior to or after administering pain medication. The details regarding Respondent's conduct are
2 as follows:

3 PATIENT 1

4 16. On or about February 1, 2012, Respondent was assigned to care for Patient 1 in the
5 ICU. Patient 1 had physician's orders for Lorazepam 2 milligrams intravenous ("IV") every 15
6 minutes as needed until RASS score 0-2, Fentanyl 50 micrograms IV every 10 to 15 minutes as
7 needed for mild pain (pain score 1-3), 75 micrograms Fentanyl every 10 to 15 minutes as needed
8 for moderate pain (pain score 4-7), and 100 micrograms Fentanyl IV every 10 to 15 minutes as
9 needed for severe pain (pain score 8-10). "RASS score" stands for Richmond Agitation Sedation
10 Scale, which is a sedation scale with four levels of anxiety or agitation, with one level denoting a
11 calm and alert state, and the other 5 levels denoting sedation. Sedation scales provide healthcare
12 professionals with a standardized method to accurately document patient status.

13 a. On or about February 1, 2012, at 8:37 a.m., Respondent removed 100 micrograms of
14 Fentanyl from the Pyxis for Patient 1. Respondent failed to chart administering or wasting the
15 100 micrograms of Fentanyl he removed for Patient 1.

16 b. On or about February 1, 2012, at 10:37 a.m., Respondent removed 100 micrograms of
17 Fentanyl from the Pyxis for Patient 1. Respondent failed to chart administering or wasting the
18 100 micrograms of Fentanyl he removed for Patient 1.

19 c. On or about February 1, 2012, at 4:34 p.m., Respondent removed 2 milligrams of
20 Lorazepam from the Pyxis for Patient 1. Respondent documented administering 2 milligrams of
21 Lorazepam to Patient 1 at 4:00 p.m., thirty-four minutes before he removed it. Respondent failed
22 to document Patient 1's RASS score when he administered the Lorazepam.

23 PATIENT 3

24 17. On or about February 1, 2012, and February 2, 2012, Respondent was assigned to
25 care for Patient 3 in the ICU. Patient 3 had physician's orders for Lorazepam 2 milligrams IV
26 every 15 minutes as needed until RASS score 0-2, Fentanyl 50 micrograms IV every 10 to 15
27 minutes as needed for mild main (pain score 1-3), Fentanyl 75 micrograms IV every 10 to 15
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1 minutes as needed for moderate pain (pain score 4-7), and 100 micrograms Fentanyl IV every 10
2 to 15 minutes as needed for severe pain (pain score 8-10).

3 a. On or about February 1, 2012, at 6:19 p.m., Respondent removed 100 micrograms of
4 Fentanyl from the Pyxis for Patient 3. At 6:00 p.m., Respondent documented administering 25
5 micrograms of Fentanyl to Patient 3 on Patient 3's 24 hour flow sheet, but failed to document the
6 administration of Fentanyl on Patient 3's Medication Administration Record ("MAR").
7 Respondent failed to document administering or wasting the remaining 75 micrograms of
8 Fentanyl that he removed for Patient 3.

9 b. On or about February 2, 2012, at 7:36 a.m., Respondent removed 100 micrograms of
10 Fentanyl from the Pyxis for Patient 3. Respondent documented administering 100 micrograms of
11 Fentanyl to Patient 3 at 8:30 a.m., fifty-four minutes after he removed it from the Pyxis.

12 c. On or about February 2, 2012, at 9:22 a.m., Respondent removed 100 micrograms of
13 Fentanyl from the Pyxis for Patient 3. Respondent failed to chart administering or wasting the
14 100 micrograms of Fentanyl that he removed for Patient 3.

15 d. On or about February 2, 2012, at 7:00 p.m., Respondent removed 100 micrograms of
16 Fentanyl from the Pyxis for Patient 3. Respondent documented administering 100 micrograms of
17 Fentanyl to Patient 3 at 6:00 p.m., one hour before he removed it from the Pyxis.

18 e. During Respondent's shift on February 1, 2012, and February 2, 2012, Respondent
19 administered Lorazepam to Patient 3 on several occasions. Respondent failed to document a
20 RASS score for Patient 3 between 3:00 p.m. and 7:00 p.m. on February 1, 2012, and between
21 7:00 a.m. and 7:00 p.m. on February 2, 2012, despite the physician's order that Lorazepam be
22 administered as needed until RASS score of 0 to 2.

23 PATIENT 4

24 18. On or about February 9, 2012, Respondent was assigned to care for Patient 4 in the
25 ICU. Patient 4 had physician's orders for Lorazepam 2 milligrams IV every 15 minutes as
26 needed until RASS score 0-2, Fentanyl 50 micrograms IV every 10 to 15 minutes as needed for
27 mild pain (pain score 1-3), Fentanyl 75 micrograms IV every 10 to 15 minutes as needed for
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1 moderate pain (pain score 4-7), and 100 micrograms Fentanyl IV every 10 to 15 minutes as
2 needed for severe pain (pain score 8-10).

3 a. On or about February 9, 2012, at 8:03 a.m., Respondent removed 250 micrograms of
4 Fentanyl from the Pyxis for Patient 4. Respondent documented administering 100 micrograms of
5 Fentanyl to Patient 4 at 8:00 a.m. At 7:28 p.m., ten hours and twenty-five minutes after removing
6 it, Respondent documented wasting the remaining 150 micrograms of Fentanyl.

7 b. On or about February 9, 2012, at 10:31 a.m., Respondent removed 250 micrograms of
8 Fentanyl from the Pyxis for Patient 4. Respondent documented administering 100 micrograms of
9 Fentanyl to Patient 4 at 10:30 a.m. At 7:28 p.m., seven hours and fifty-seven minutes after
10 removing it, Respondent documented wasting the remaining 150 micrograms of Fentanyl.

11 c. On or about February 9, 2012, at 11:56 a.m., Respondent removed 250 micrograms of
12 Fentanyl from the Pyxis for Patient 4. Respondent documented administering 100 micrograms of
13 Fentanyl to Patient 4 at 12:00 p.m. At 7:28 p.m., six hours and thirty-four minutes after removing
14 it, Respondent documented wasting the remaining 150 micrograms of Fentanyl.

15 d. On or about February 9, 2012, at 11:56 a.m., Respondent removed 250 micrograms of
16 Fentanyl from the Pyxis for Patient 4. At 7:28 p.m., six hours and twenty-five minutes after
17 removing it, Respondent documented wasting 150 micrograms of Fentanyl. Respondent failed to
18 document the administration or wastage of the remaining 100 micrograms of Fentanyl that he
19 removed for Patient 4.

20 e. On or about February 9, 2012, at 2:03 p.m., Respondent removed 2 milligrams of
21 Lorazepam from the Pyxis for Patient 4. Respondent documented administering 2 milligrams of
22 Lorazepam to Patient 4 at 2:00 p.m. Respondent failed to document a RASS score for Patient 4
23 prior to administering the Lorazepam.

24 f. On or about February 9, 2012, at 5:01 p.m., Respondent removed 250 micrograms of
25 Fentanyl from the Pyxis for Patient 4. Respondent documented administering 100 micrograms of
26 Fentanyl to Patient 4 at 5:00 p.m. At 7:29 p.m., one hour and twenty-eight minutes after
27 removing it, Respondent documented wasting the remaining 150 micrograms of Fentanyl that he
28 removed for Patient 4.

1 g. On or about February 9, 2012, at 6:56 p.m., Respondent removed 250 micrograms of
2 Fentanyl from the Pyxis for Patient 4. At 5:30 p.m., Respondent documented administering 100
3 micrograms of Fentanyl on Patient 4's MAR. Respondent documented administering 100
4 micrograms of Fentanyl to Patient 4 one hour and twenty-five minutes before he removed it from
5 the Pyxis. Respondent failed to document administering or wasting the remaining 150
6 micrograms of Fentanyl.

7 h. On or about February 9, 2012, at 6:58 p.m., Respondent removed 2 milligrams of
8 Lorazepam from the Pyxis for Patient 4. Respondent failed to document administering or wasting
9 the 2 milligrams of Lorazepam that he removed for Patient 4. Respondent also failed to
10 document a RASS score for Patient 4.

11 PATIENT 6

12 19. On or about February 16, 2012, Respondent was assigned to care for Patient 6 in the
13 ICU. Patient 6 had physician's orders for Lorazepam 2 milligrams IV every 15 minutes as
14 needed until RASS score 0-2, Fentanyl 50 micrograms IV every 10 to 15 minutes as needed for
15 mild pain (pain score 1-3), Fentanyl 75 micrograms IV every 10 to 15 minutes as needed for
16 moderate pain (pain score 4-7), and 100 micrograms Fentanyl IV every 10 to 15 minutes as
17 needed for severe pain (pain score 8-10).

18 a. On or about February 16, 2012, at 10:46 a.m., Respondent removed 250 micrograms
19 of Fentanyl from the Pyxis for Patient 6. Respondent documented administering 100 micrograms
20 of Fentanyl to Patient 6 at 10:30 a.m., sixteen minutes before he removed it from the Pyxis.
21 Respondent failed to document administering or wasting the remaining 150 micrograms of
22 Fentanyl that he removed for Patient 6.

23 b. On or about February 16, 2012, at 12:44 p.m., Respondent removed 250 micrograms
24 of Fentanyl from the Pyxis for Patient 6. Respondent documented administering 100 micrograms
25 of Fentanyl to Patient 6 at 12:44 p.m. Respondent failed to document administering or wasting
26 the remaining 150 micrograms of Fentanyl that he removed for Patient 6.

27 c. On or about February 16, 2012, at 3:39 p.m., Respondent removed 250 micrograms of
28 Fentanyl from the Pyxis for Patient 6. Respondent documented administering 100 micrograms of

1 Fentanyl to Patient 6 at 3:30 p.m., nine minutes before he removed the medication from the Pyxis.
2 Respondent documented wasting the remaining 150 micrograms of Fentanyl at 3:39 p.m.

3 d. On or about February 16, 2012, at 7:00 p.m., Respondent documented administering
4 100 micrograms of Fentanyl to Patient 6 on Patient 6's 24 Hour Flow Sheet. There is no record
5 of Respondent removing Fentanyl for Patient 6 at this time, and Respondent did not document the
6 administration of the medication on Patient 6's MAR. At 7:15 p.m., a different nurse documented
7 administering 100 micrograms of Fentanyl to Patient 6 on Patient 6's MAR.

8 PATIENT 7

9 20. On or about February 16, 2012, and February 17, 2012, Respondent was assigned to
10 care for Patient 7 in the ICU. Patient 7 had physician's orders for Fentanyl 50 micrograms IV
11 every 10 to 15 minutes as needed for mild pain (pain score 1-3), Fentanyl 75 micrograms IV
12 every 10 to 15 minutes as needed for moderate pain (pain score 4-7), and 100 micrograms
13 Fentanyl IV every 10 to 15 minutes as needed for severe pain (pain score 8-10).

14 a. On or about February 16, 2012, at 9:26 a.m., Respondent removed 250 micrograms of
15 Fentanyl from the Pyxis for Patient 7. At 9:00 a.m., Respondent documented administering 100
16 micrograms of Fentanyl to Patient 7 on Patient 7's 24 Hour Flow Chart, but failed to document
17 administering this medication on Patient 7's MAR. Respondent documented wasting the
18 remaining 150 micrograms of Fentanyl at 9:26 a.m.

19 b. On or about February 16, 2012, at 1:41 p.m., Respondent removed 250 micrograms of
20 Fentanyl from the Pyxis for Patient 7. Respondent charted administering 100 micrograms of
21 Fentanyl at 1:00 p.m. on Patient 7's 24-Hour Flow Chart, but failed to document this
22 administration on Patient 7's MAR. Respondent failed to document administering or wasting the
23 remaining 150 micrograms of Fentanyl that he removed for Patient 7.

24 c. On or about February 16, 2012, at 3:07 p.m., Respondent removed 250 micrograms of
25 Fentanyl from the Pyxis for Patient 7. At 3:00 p.m., Respondent charted administering 100
26 micrograms of Fentanyl to Patient 7 on Patient 7's 24 Hour Flow Chart, but failed to document
27 this administration on Patient 7's MAR. Respondent documented wasting the remaining 150
28 micrograms of Fentanyl at 3:07 p.m.

1 d. On or about February 16, 2012, at 5:18 p.m., Respondent removed 250 micrograms of
2 Fentanyl from the Pyxis for Patient 7. At 5:00 p.m., Respondent documented administering 100
3 micrograms of Fentanyl to Patient 7 on Patient 7's 24 Hour Flow Chart, but failed to document
4 this administration on Patient 7's MAR. Respondent documented wasting the remaining 150
5 micrograms of Fentanyl at 5:18 p.m.

6 e. On or about February 17, 2012, at 7:43 a.m., Respondent removed 250 micrograms of
7 Fentanyl from the Pyxis for Patient 7. At 7:40 a.m., Respondent documented on administering
8 100 micrograms of Fentanyl to Patient 7. At 6:43 p.m., eleven hours after removing it from the
9 Pyxis, Respondent documented wasting the remaining 150 micrograms of Fentanyl.

10 f. On or about February 17, 2012, at 8:55 a.m., Respondent removed 250 micrograms of
11 Fentanyl from the Pyxis for Patient 7. At 9:00 a.m., Respondent documented administering 100
12 micrograms of Fentanyl to Patient 7. At 6:43 p.m., nine hours and forty-eight minutes after
13 removing it from the Pyxis, Respondent documented wasting the remaining 150 micrograms of
14 Fentanyl.

15 g. On or about February 17, 2012, at 10:57 a.m., Respondent removed 250 micrograms
16 of Fentanyl from the Pyxis for Patient 7. At 11:00 a.m., Respondent documented administering
17 100 micrograms of Fentanyl to Patient 7. At 3:25 p.m., four hours and twenty-eight minutes after
18 removing it from the Pyxis, Respondent documented wasting the remaining 150 micrograms of
19 Fentanyl.

20 h. On or about February 17, 2012, at 3:36 p.m., Respondent removed 250 micrograms of
21 Fentanyl from the Pyxis for Patient 7. At 3:36 p.m., Respondent documented administering 100
22 micrograms of Fentanyl to Patient 7. At 6:43 p.m., three hours and seven minutes after removing
23 it from the Pyxis, Respondent documented wasting the remaining 150 micrograms of Fentanyl.

24 i. On or about February 17, 2012, at 6:57 p.m., Respondent removed 250 micrograms of
25 Fentanyl from the Pyxis for Patient 7. At 6:50 p.m., Respondent documented administering 100
26 micrograms of Fentanyl to Patient 7. Respondent failed to document administering or wasting the
27 remaining 150 micrograms of Fentanyl.

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PATIENT 9

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2 21. On or about February 25, 2012, Respondent was assigned to care for Patient 9 in the
3 ICU. Patient 9 had physician's orders for Lorazepam 2 milligrams IV every 15 minutes as
4 needed until RASS score 0-2, Fentanyl 50 micrograms IV every 10 to 15 minutes as needed for
5 mild pain (pain score 1-3), Fentanyl 75 micrograms IV every 10 to 15 minutes as needed for
6 moderate pain (pain score 4-7), and 100 micrograms Fentanyl IV every 10 to 15 minutes as
7 needed for severe pain (pain score 8-10).

8 a. On or about February 25, 2012, at 8:01 a.m., Respondent removed Lorazepam 4
9 milligrams from the Pyxis for Patient 9. Respondent failed to document administering or wasting
10 the Lorazepam. Respondent also failed to chart a RASS score for Patient 9.

11 b. On or about February 25, 2012, at 8:46 a.m., Respondent removed Lorazepam 2
12 milligrams from the Pyxis for Patient 9. Respondent failed to document administering or wasting
13 the Lorazepam. Respondent also failed to chart a RASS score for Patient 9.

14 c. On or about February 25, 2012, at 9:59 a.m., Respondent removed Lorazepam 2
15 milligrams from the Pyxis for Patient 9. Respondent failed to document administering or wasting
16 the Lorazepam. Respondent also failed to chart a RASS score for Patient 9.

17 d. On or about February 25, 2012, at 12:45 p.m., Respondent documented administering
18 100 micrograms of Fentanyl to Patient 9, however Respondent did not remove this medication
19 from the Pyxis. The medication was withdrawn from the Pyxis by another nurse at 12:42 p.m.

20 e. On or about February 25, 2012, at 6:57 p.m., Respondent removed 100 micrograms of
21 Fentanyl from the Pyxis for Patient 9. At 8:10 p.m., one hour and thirteen minutes later, another
22 nurse documented administering 50 micrograms of Fentanyl to Patient 9. At 8:45 p.m., one hour
23 and forty-six minutes after removing it from the Pyxis, Respondent documented wasting the
24 remaining 50 micrograms of Fentanyl.

PATIENT 10

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26 22. On or about February 25, 2012, Respondent was assigned to care for Patient 10 in the
27 ICU. Patient 10 had physician's orders for Morphine 2 milligrams IV every 5 minutes as needed
28 for mild chest pain (Pain Score 1-3), Morphine 3 milligrams IV every 10-15 minutes as needed

1 for moderate chest pain (Pain Score 4-7), and Morphine 4 milligrams IV every 5 minutes as
2 needed for moderate chest pain (Pain Score 8-10). There was also a physician's order for
3 Hydromorphone 1 milligram IV every 2 hours for moderate pain, and 2 milligrams IV every 2
4 hours as needed for severe pain. Each order required documentation of pre and post pain score.

5 a. On or about February 25, 2012, Respondent administered Morphine 2 milligrams to
6 Patient 10 on four different occasions. Respondent failed to follow the physician's order and
7 administered the Morphine without performing or documenting Patient 10's pain scale.

8 b. On or about February 25, 2012, Respondent administered Hydromorphone to Patient
9 10 on seven different occasions. Respondent failed to follow the physician's order and
10 administered the Hydromorphone without performing or documenting Patient 10's pain scale.

11 PATIENT 11

12 23. On or about February 25, 2012, at 7:51 p.m., Respondent removed 100 micrograms of
13 Fentanyl for Patient 11. Respondent was not assigned to care for Patient 11. Respondent failed
14 to chart administering or wasting the Fentanyl that he removed for Patient 11.

15 FIRST CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct - Gross Negligence)
17 (Bus. & Prof. Code, § 2761, subd. (a)(1))

18 24. Complainant realleges the allegations contained in paragraphs 15 through 23 and each
19 of their subparts above, and incorporates them as though fully set forth.

20 25. Respondent has subjected his registered nurse license to disciplinary action under
21 Code section 2761, subdivision (a)(1), in that he engaged in conduct constituting gross negligence
22 as defined in California Code of Regulations, title 16, section 1442. The circumstances are set
23 forth above in paragraphs 15 through 23.

24 SECOND CAUSE FOR DISCIPLINE

25 (Grossly Incorrect or Inconsistent Entries in Medical Record)
26 (Bus. & Prof. Code, §§ 2761, subd. (a); 2762, subd. (e))

27 26. Complainant realleges the allegations contained in paragraphs 15 through 23 and each
28 of their subparts above, and incorporates them as though fully set forth.

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1 27. Respondent has subjected his registered nurse license to disciplinary action under
2 Code section 2761, subdivision (a), as defined by 2762, subdivision (e), in that he engaged in
3 unprofessional conduct by making grossly incorrect, grossly inconsistent, or unintelligible entries
4 in a hospital, patient, or other record pertaining to controlled substances. The circumstances are
5 set forth above in paragraphs 15 through 23.

6 THIRD CAUSE FOR DISCIPLINE
7 (Unprofessional Conduct)
8 (Bus. & Prof. Code, § 2761, subd. (a))

9 28. Complainant realleges the allegations contained in paragraphs 15 through 23 and each
10 of their subparts above, and incorporates them as though fully set forth:

11 29. Respondent has subjected his registered nurse license to disciplinary action under
12 Code section 2761, subdivision (a), in that he engaged in unprofessional conduct. The
13 circumstances are set forth above in paragraphs 15 through 23.

14 DISCIPLINARY CONSIDERATIONS

15 30. To determine the degree of discipline, if any, to be imposed on Respondent,
16 Complainant alleges that on or about June 12, 2001, in a disciplinary action entitled "*Board of*
17 *Vocational Nurse Examiners of the State of Texas vs. Michael Scott Adams*," before the Texas
18 Board of Vocational Nurse Examiners ("Texas Board"), the Texas Board issued a First Amended
19 Agreed Board Order reprimanding Respondent's Texas vocational nursing license. The
20 circumstances of the Texas Board's disciplinary order are set forth below.

21 31. On or about April 30, 2000, Respondent submitted his Licensure Renewal
22 Application to the Texas Board. On his application, Respondent answered "yes" to the question
23 asking whether he had been convicted of a misdemeanor other than a minor traffic violation since
24 his last renewal. Respondent disclosed that on or about January 31, 1997, in the Justice of the
25 Peace Court in Comal County Texas, Cause Number 248056, Respondent was convicted of
26 public intoxication, a misdemeanor. Respondent was jailed on the date of the offense and issued
27 a fine. The Texas Board concluded that Respondent was convicted of a crime directly related to
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the duties and responsibilities of a Licensed Vocational Nurse, and issued the above disciplinary order.

PRAYER

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

1. Revoking or suspending Registered Nurse License Number 617740, issued to Michael Scott Adams;
2. Ordering Michael Scott Adams 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: SEPTEMBER 17, 2014


 LOUISE R. BAILEY, M.Ed., RN
 Executive Officer
 Board of Registered Nursing
 Department of Consumer Affairs
 State of California
 Complainant

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