



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

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of §
Registered Nurse License Number 547944 §
& Vocational Nurse License Number 114733 §
issued to DONALD WAYNE MCCARRELL §

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 547944, and Vocational Nurse License Number 114733, issued to DONALD WAYNE MCCARRELL, 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 licenses to practice professional nursing and vocational nursing in the State of Texas are in delinquent status.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing.
3. Respondent received a Certificate in Vocational Nursing from Kiamichi Vocational Technical School of Nursing, Durant, Oklahoma, on February 21, 1986. Respondent was licensed to practice vocational nursing in the State of Texas on July 14, 1986. Respondent received an Associate Degree in Nursing from Tarrant County Junior College, Fort Worth, Texas, on May 1, 1988. Respondent was licensed to practice professional nursing in the State of Texas on September 1, 1988.
4. Respondent's nursing employment history is unknown.

5. On or about June 26, 2015, Respondent's California registered nurse license was issued a Probated Revocation through a Decision and Order by the California Board of Registered Nursing, Sacramento, California. A copy of the California Board of Registered Nursing's Decision and Order effective June 26, 2015, is attached and incorporated, by reference, as part of this Order.
 6. Formal Charges were filed on September 25, 2015.
 7. Formal Charges were mailed to Respondent on September 29, 2015.
 8. On October 19, 2015, the Board received a statement from Respondent voluntarily surrendering the right to practice nursing in Texas. A copy of Respondent's statement, dated October 15, 2015, is attached and incorporated herein by reference as part of this Order.
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9. 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.
 10. 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 547944, and Vocational Nurse License Number 114733, heretofore issued to DONALD WAYNE MCCARRELL, 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.

ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 547944, and Vocational Nurse License Number 114733, heretofore issued to DONALD WAYNE MCCARRELL, 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 or vocational nursing, use the title of "registered nurse" or "vocational nurse" or the abbreviation "RN" or "LVN" or wear any insignia identifying himself as a registered nurse or vocational nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse or vocational 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 19th day of October, 2015.

TEXAS BOARD OF NURSING

By: 

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

This letter is to inform

The Texas board of nursing

I am surrendering my

RN and LVN License as
of 10-15-15,

Donald W. McCall

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

In the Matter of the Accusation Against:

Case No. 2015-223

DONALD WAYNE MCCARRELL
P.O. Box 1634
Atoka, OK 74525

Registered Nurse License No. 453012

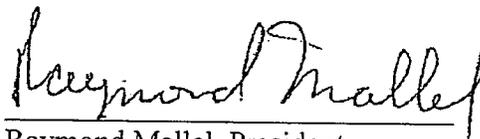
Respondent

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 June 26, 2015.

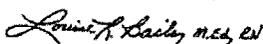
IT IS SO ORDERED May 28, 2015.



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 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Supervising Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 2015-223

11 **DONALD WAYNE MCCARRELL**
12 **P.O. Box 20263**
El Sobrante, CA 94820-6623

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

13 **Registered Nurse License No. 453012**

14 Respondent.

15 In the interest of a prompt and speedy settlement of this matter, consistent with the public
16 interest and responsibility of the Board of Registered Nursing, Department of Consumer Affairs,
17 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
18 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

19 PARTIES

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

24 2. Respondent Donald Wayne McCarrell ("Respondent") is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about April 30, 1990, the Board of Registered Nursing issued Registered Nurse
27 License No. 453012 to Respondent. The License was in full force and effect at all times relevant
28 to the charges in Accusation No. 2015-223 and will expire on April 30, 2016, unless renewed.

CONTINGENCY

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

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

14 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
15 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
16 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
17 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
18 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
19 writing executed by an authorized representative of each of the parties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (d) Home Health Care - If Respondent is approved to work in the home health care
6 setting, the individual providing supervision and/or collaboration shall have person-to-person
7 communication with Respondent as required by the Board each work day. Respondent shall

8 maintain telephone or other telecommunication contact with the individual providing supervision
9 and/or collaboration as required by the Board during each work day. The individual providing
10 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
11 patients' homes visited by Respondent with or without Respondent present.

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

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

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

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

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

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

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

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

8 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
9 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
10 amount of \$2,420.00. Respondent shall be permitted to pay these costs in a payment plan
11 approved by the Board, with payments to be completed no later than three months prior to the end
12 of the probation term.

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

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

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

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

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

5 Surrender of Respondent's license shall be considered a disciplinary action and shall
6 become a part of Respondent's license history with the Board. A registered nurse whose license
7 has been surrendered may petition the Board for reinstatement no sooner than the following

8 minimum periods from the effective date of the disciplinary decision:

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

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

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

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

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

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

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

25 If Respondent fails to have the above assessment submitted to the Board within the 45-day
26 requirement, Respondent shall immediately cease practice and shall not resume practice until
27 notified by the Board. This period of suspension will not apply to the reduction of this
28 probationary time period.

1 The Board may waive or postpone this suspension only if significant, documented evidence
2 of mitigation is provided. Such evidence must establish good faith efforts by Respondent to
3 obtain the assessment, and a specific date for compliance must be provided. Only one such
4 waiver or extension may be permitted.

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

10 **A. Participate in Program for Chemical Dependence.** Respondent, at his
11 expense, shall successfully complete during the probationary period or shall have
12 successfully completed prior to commencement of probation a Board-approved
13 treatment/rehabilitation program of at least six months duration. As required,
14 reports shall be submitted by the program on forms provided by the Board. If
15 Respondent has not completed a Board-approved treatment/rehabilitation program
16 prior to commencement of probation, Respondent, within 45 days from the
17 effective date of the decision, shall be enrolled in a program. If a program is not
18 successfully completed within the first nine months of probation, the Board shall
19 consider Respondent in violation of probation.

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

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

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

20 **C. Submit to Tests and Samples.** Respondent, at his expense, shall
21 participate in a random, biological fluid testing or drug screening program
22 approved by the Board. Length and frequency will be subject to approval by the
23 Board. Respondent is responsible for keeping the Board informed of his current
24 telephone number at all times. Respondent shall also ensure that messages may be
25 received at the telephone number and ensure that reports are submitted directly by
26 the testing agency to the Board, as directed. Any confirmed positive finding shall
27 be reported immediately to the Board by the program and Respondent shall be
28 considered in violation of probation.

1 In addition, Respondent, at any time during the period of probation, shall
2 fully cooperate with the Board or any of its representatives, and shall, when
3 requested, submit to such tests and samples as the Board or its representatives may
4 require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
5 controlled substances.

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

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

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

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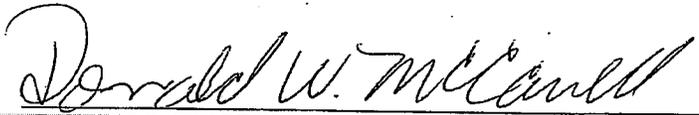
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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. 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: 2-18-15 

DONALD WAYNE MCCARRELL
Respondent

ENDORSEMENT

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

Dated: 2/18/15

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General


JOSHUA A. ROOM
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2015-223

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Supervising Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2015-223

11 **DONALD WAYNE MCCARRELL**
12 **aka DONALD W. MCCARRELL**
13 **3010 Shane Drive**
Richmond, CA 94806

A C C U S A T I O N

14 **Registered Nurse License No. 453012**

15 Respondent.

16 Complainant alleges:

17 PARTIES

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

21 2. On or about April 30, 1990, the Board of Registered Nursing issued Registered Nurse
22 License No. 453012 to Donald Wayne McCarrell aka Donald W. McCarrell (Respondent). The
23 Registered Nurse License was in full force and effect at all times relevant to the charges brought
24 herein and will expire on April 30, 2016, unless renewed.

25 JURISDICTION

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

1 a. On or about December 28, 2012, an automobile in which Respondent was a
2 passenger was pulled over by Santa Clara Police Department officer(s) for suspected violations of
3 a broken tail light and/or tinted front windows. The officer(s) detected the smell of burning or
4 burned marijuana coming from the vehicle. Respondent told the officer(s) that the car belonged to
5 him. Both Respondent and the driver were asked to step out of the vehicle, and both consented to
6 a search of their persons and the vehicle. That search revealed an orange pill bottle containing 7.8
7 grams of suspected marijuana, and a safe disguised as a book. Before the safe was opened,

8 Respondent stated that the safe belonged to him. When the officer(s) sought consent to open the
9 safe, Respondent then claimed it did not belong to him. The safe was opened, and contained two
10 plastic baggies with a total quantity of 2.6 grams of suspected methamphetamine, as well as two
11 plastic drinking straws and a mirror, both coated with white residue, which were suspected of
12 being used to snort methamphetamine. Respondent was placed under arrest. During booking at
13 the Police Department, Respondent refused to provide a blood sample.

14 b. On or about October 21, 2013, Respondent was charged in *People v. Donald*
15 *Wayne McCarrell*, Case No. C1347752 in Santa Clara County Superior Court, with violating (1)
16 Health and Safety Code section 11377, subdivision (a) Possession of Controlled Substance –
17 methamphetamine), a felony, and (2) Health and Safety Code section 11364.1 (Possession of
18 Controlled Substance Paraphernalia), a misdemeanor.

19 c. On or about February 5, 2014, Respondent was found guilty by a jury of Count
20 One – violating Health and Safety Code section 11377, subdivision (a), a felony. Count Two was
21 dismissed pursuant to a motion of the District Attorney.

22 d. On or about May 5, 2014, Respondent was granted court diversion to enter drug
23 treatment pursuant to Proposition 36 (Penal Code section 1210.1). Imposition of sentence was
24 suspended and Respondent was placed on probation for a period of three (3) years, on terms and
25 conditions including credit for time served and/or other credits of four (4) days, completion of a
26 substance abuse treatment program as directed by probation, registration under Health and Safety
27 Code section 11590 as a drug offender, and payment of fines and fees.

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SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Conviction Involving Alcohol or Drugs)

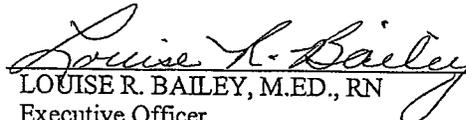
14. Respondent is subject to disciplinary action under section 2762(c) of the Code, for a conviction involving alcohol or drugs, as described in paragraph 13, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 453012, issued to Donald Wayne McCarrell aka Donald W. McCarrell (Respondent);
2. Ordering Respondent to pay the Board 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 11, 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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