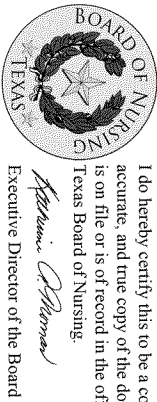


IN THE MATTER OF PERMANENT
REGISTERED NURSE
LICENSE NUMBER 721851
ISSUED TO
BRIAN SCOTT SHEPHERD,
RESPONDENT

§ 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 A. Thomas
Executive Director of the Board

ORDER OF THE BOARD

TO: BRIAN SCOTT SHEPHERD
1008 RED OAK DR
ORANGE, TX 77632

During open meeting held in Austin, Texas, on May 8, 2018, 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 721851, previously issued to BRIAN SCOTT SHEPHERD, 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 **8th day of May, 2018.**

TEXAS BOARD OF NURSING

BY:



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

Attachment: Formal Charge filed February 21, 2018.


d17r(RN)(2016.05.11)

Re: Permanent Registered Nurse License Number 721851
Issued to BRIAN SCOTT SHEPHERD
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of May, 2018, 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
BRIAN SCOTT SHEPHERD
1008 RED OAK DR
ORANGE, TX 77632

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

In the Matter of § **BEFORE THE TEXAS**
Permanent Registered Nurse §
License Number 721851 §
Issued to BRIAN SCOTT SHEPHERD, §
Respondent § **BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, BRIAN SCOTT SHEPHERD, is a Registered Nurse holding License Number 721851, 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 March 29, 2016, Respondent's license to practice professional nursing in the State of Louisiana was suspended by the Louisiana State Board of Nursing for failure to comply with his agreement to participate in the Recovering Nurse Program.

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

CHARGE II.

On March 23, 2017, Respondent's license to practice professional nursing in the State of California was revoked by the Board of Registered Nursing, Department of Consumer Affairs, State of California.

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

CHARGE III.

On or about August 14, 2017, Respondent's license to practice professional nursing in the State of Louisiana was reinstated with probation for a minimum of five (5) years and continued compliance with the Recovering Nurse Program, by the Louisiana State Board of Nursing.

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.

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, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, located at 22 TEX. ADMIN. CODE §213.33(b), which can be found under the "Discipline & Complaints; Board Policies & Guidelines" section of the Board's website, www.bon.texas.gov.

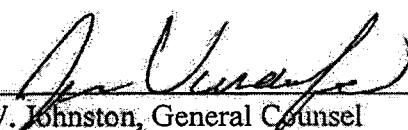
BALANCE OF THIS PAGE LEFT INTENTIONALLY BLANK

CONTINUED ON NEXT PAGE

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: Louisiana State Board of Nursing Suspension Letter dated March 29, 2016; Board of Registered Nursing, Department of Consumer Affairs, State of California Default Decision and Order dated March 23, 2017; and Louisiana State Board of Nursing Consent Order dated August 14, 2017.

Filed this 21 day of February, 2018.

TEXAS BOARD OF NURSING


James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300
Jena Abel, Deputy General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 24036103
John R. Griffith, Assistant General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 24079751
Jessica Lance, Assistant General Counsel
State Bar No. 24091434
Jacqueline A. Strashun, Assistant General Counsel
State Bar No. 19358600
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: Louisiana State Board of Nursing Suspension Letter dated March 29, 2016; Board of Registered Nursing, Department of Consumer Affairs, State of California Default Decision and Order dated March 23, 2017; and Louisiana State Board of Nursing Consent Order dated August 14, 2017.

D(2017.11.09)

Louisiana State Board of Nursing

17373 Perkins Road

Baton Rouge, LA 70810

Telephone: (225) 755-7500 Fax: (225) 755-7583

<http://www.lsbnp.state.la.us>

REGULAR AND CERTIFIED MAIL

RETURN RECEIPT REQUESTED

#7015 1730 0001 9096 0063

March 29, 2016

Brian Scott Shepherd
1330 West Mcneese Street, Apt 9206
Lake Charles, LA 70605

Dear Mr. Shepherd:

Reference is to the Program Agreement signed with the Recovering Nurse Program, effective **November 9, 2015**. This agreement allowed that your Louisiana RN license be retained, contingent upon adherence to stipulations, specifically, that you adhere to all stipulations of the Recovering Nurse Program (RNP), including but not limited to the following:

- Shall maintain complete and total abstinence from any and all potentially addictive chemicals whether over-the-counter, scheduled or unscheduled (including but not limited to alcohol, alcohol containing products, marijuana, tranquilizers, sedatives, stimulants, narcotics, opioids including ultram (tramadol), nubain, soporifics, androgenic steroids, or any other addictive drug) except as prescribed for a bona fide medical condition by a healthcare provider who is knowledgeable in, and aware of Respondent's history with the Board.
- **3.4 Effect of Non-Compliance** If participant fails to comply with stipulations of the Recovering Nurse Program, Participant agrees to stop the active practice of nursing until such time as he/she becomes compliant with stipulations of the Program, recommendations from the treatment team and the Board staff. If, within ten days of notice of non-compliance, Participant fails to comply with the stipulations of the Recovering Nurse Program, recommendations of the treatment team and the Board staff, Participant agrees to the summary suspension of his/her license and all files relative to this agreement shall be a public record as provided in L.R.S. 44:4.9.

The Recovering Nurse Program (RNP) reported that you were out of compliance with stipulations of RNP, specifically:

1. On March 1, 2016, you informed Board staff you had relapsed on alcohol and resigned from your position as ED/ICU Director at Lake Area Medical Center.
2. On March 2, 2016, you were notified by certified and regular mail you must submit to an inpatient relapse evaluation within ten (10) days.
3. As of the date of this letter, you have failed to notify the Board of any plans to follow through with the inpatient relapse evaluation.
4. As of the date of this letter, the last time you checked in to your FirstLab Account was February 29, 2016. Since that time, you have missed two scheduled drug screens.

The Board Agreement provides that failure to comply with the stipulations of RNP will result in the immediate suspension of your license. Therefore, **your Louisiana RN license is suspended.**

YOU ARE TO CEASE AND DESIST IMMEDIATELY THE PRACTICE OF NURSING IN LOUISIANA.

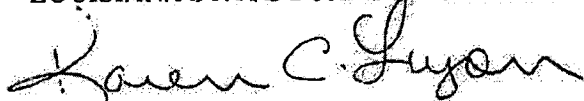
This will be reported to the National Practitioner Data Bank (NPDB) 1135: Suspension of License, F2: Unable to Practice Safely by Reason of Alcohol or Other Substance Abuse.

NPDB Narrative: On November 19, 2015, RN entered into an agreement with the Board for evaluations and drug screens. Respondent's Louisiana RN license was suspended after he reported having relapsed and failed to submit to an Inpatient Relapse Evaluation.

If at some time in the future you can present evidence that the cause for the disciplinary action no longer exists and/or no longer affects your ability to practice nursing safely, you may petition the Board to request approval for the reinstatement of your RN license. Prior to requesting reinstatement, you must enter and complete a comprehensive in-patient relapse evaluation or residential treatment at a Board recognized evaluation center, as listed on the Board's web site. You must provide evaluators with a complete copy of this Board Order prior to the start of evaluations. If approval is granted after this, a period of probation with stipulations would be required.

If you are able to show error in the staff's action then you must so notify the Board in writing within ten (10) days of this date.

LOUISIANA STATE BOARD OF NURSING



Karen C. Lyon, PhD, APRN, ACNS, NEA
Executive Director

KCL/klp

RECEIVED

AUG 10 2017

LOUISIANA STATE BOARD OF NURSING

LOUISIANA STATE BOARD OF NURSING
BATON ROUGE, LOUISIANA

IN THE MATTER OF:
BRIAN SCOTT SHEPHERD
1600 UNIVERSITY AVE.
MONROE, LA 71203

*
*
*

RN105596
CONSENT ORDER

Respondent

TERMS AGREED TO BY LICENSEE

I, BRIAN SCOTT SHEPHERD (Respondent) voluntarily agree to sign and have terms of agreement for the purpose of avoiding a formal hearing with the Louisiana State Board of Nursing.

I, BRIAN SCOTT SHEPHERD do hereby say that I freely, knowingly and voluntarily enter into this agreement. I understand that I have a right to a hearing in this matter and I freely waive such right. I understand that I have a right to legal counsel prior to entering into this agreement.

I admit to and acknowledge that the Louisiana State Board of Nursing makes the following FINDINGS OF FACT:

1. On September 4, 2002, Respondent was licensed by examination to practice as a Registered Nurse in Louisiana.
2. On November 9, 2015, Respondent entered into a three (3) year confidential Recovering Nurse Program (RNP) Agreement after self-reporting addiction to alcohol.
3. On March 29, 2016, Respondent's license was suspended for non-compliance after relapsing on alcohol and refused to return for inpatient evaluation.
4. On April 28, 2016, Respondent signed a new 4 year agreement with the RNP.
5. On December 8, 2106, Respondent completed required treatment.
6. On January 24, 2017, Respondent signed a new five (5) year RNP agreement.
7. Respondent requested reinstatement of license following six (6) months compliance with RNP, submission of required CE hours, and reinstatement application.

I hereby acknowledge that I have complied with all of the stipulations for reinstatement. I further attest to my intent to comply with all stipulations of this Consent Order.

To facilitate submission of this Consent Order, I do not offer any defense to the FINDINGS OF FACT. I agree that the Board has jurisdiction of this matter pursuant to L.R.S. 37:911 et seq. I admit to the findings of fact and agree that there is sufficient evidence upon which to predicate a finding of violation of the provisions of L.R.S. 37:921. I agree that the Board may treat the allegations of fact and law as true, which finding shall have the same force and effect as if evidence and argument were presented in support of the allegations and, based thereon, the Board found the allegations to be true. I specifically waive my right to contest these findings in any subsequent proceedings before the Board. I understand that this Consent Order shall constitute a public record and is disciplinary action by the Board. This will be reported to National Practitioner Data Bank (NPDB) as 1282 License Restored or Reinstated, Conditional, F2 Unable to Practice Safely by Reason of Alcohol or Other Substance. NPDB Narrative: By Consent Order, Respondent's suspension is stayed and Respondent's license is reinstated with probation for a minimum of five (5) years and continued compliance with the Recovering Nurse Program after RN demonstrated sufficient compliance with the Recovering Nurse Program.

In order to avoid further administrative proceedings, I hereby consent to accept and abide by the following ORDER of the Board: Respondent's suspension is stayed and Respondent's license is reinstated with probation for a minimum of five (5) years contingent upon adherence to the following stipulations:


Initials

RECEIVED

MAY 13 2017

LOUISIANA STATE BOARD OF NURSING

LOUISIANA STATE BOARD OF NURSING
BATON ROUGE, LOUISIANA

IN THE MATTER OF:

BRIAN SCOTT SHEPHERD
1600 UNIVERSITY AVE.
MONROE, LA 71203

*
*
*

RN105596
CONSENT ORDER

Respondent

TERMS AGREED TO BY LICENSEE (Cont'd)

1. Sign and adhere to a new five (5) year RNP agreement.
2. Prior to beginning to work, inform all nursing employers of these disciplinary measures and of the probationary status of license. Respondent is responsible to submit a copy of all pages of this agreement to each employer and nursing supervisor.
3. Prior to beginning to work, shall cause all employers to submit to the Board, signed Employment Agreement from each employer.
4. Work in a restrictive environment as a member of a treatment team rather than alone or with a few employees. Additionally, not be employed in any unsupervised setting. Must be directly supervised by an on-site registered nurse. Not be employed in agency/pool/staffing, home health services, or nursing homes.
5. Have all immediate nursing supervisors submit a performance evaluation report bimonthly, commencing from the first date of employment. Bi-monthly reports are due on or before the first of January, March, May, July, September, and November.
6. Shall remain free of alcohol and all unprescribed mood altering substances. Any mood altering, addictive, or dependency-inducing substance must be currently prescribed for a bona fide medical condition by a physician (or other qualified treating prescriber(s)) knowledgeable about the individual's history and the information underlying the Board's concerns. All prescribed drugs must be verified in writing to the Board on a specified form by the prescribing physicians/qualified prescriber(s) within five (5) days from the effective date of this agreement/order and within five (5) days from the date(s) of any new prescriptions. The Board reserves the right to have a LSBN recognized addictionologist review and approve the prescriptions for continued nursing practice.
7. Shall maintain complete and total abstinence from any and all potentially addictive chemicals whether over-the-counter, scheduled or unscheduled (including but not limited to alcohol, alcohol containing products, marijuana, tranquilizers, sedatives, stimulants, narcotics, opioids including ultram (tramadol), nubain, soporifics, androgenic steroids, or any other addictive drug) except as prescribed for a bona fide medical condition by a healthcare provider who is knowledgeable in, and aware of Respondent's history with the Board.
8. Shall voluntarily submit to random and observed drug screens, for a minimum of 24 times a year, inclusive of bodily fluids, breath analysis, hair analysis, or any other procedure as may be directed by the Board and/or employer. If selected for a screen, failure to provide sufficient specimen (bodily fluids, hair, nails etc.) for analysis or failure to test may be considered a positive screen. Random drug screens will be a minimum of 24 times a year. It is the Respondent's responsibility to assure that lab personnel observe all urine specimen collections. If urine specimen collection is not observed the results are invalid. The Respondent agrees to call the toll free number or check the testing notification via computer daily. Compliance with checking daily is monitored and failure to check may result in additional screens. It is the Respondent's responsibility to maintain a current account with testing administrator. If Respondent misses a test due to a suspended account or fails to test on the day of notification it will be considered a positive screen and appropriate action will be taken including but not limited to, further evaluation, additional testing, and suspension of


Initials

RECEIVED

AUG 10 2017

LOUISIANA STATE BOARD OF NURSING
BATON ROUGE, LOUISIANA

LOUISIANA STATE
BOARD OF NURSING

IN THE MATTER OF:
BRIAN SCOTT SHEPHERD
1600 UNIVERSITY AVE.
MONROE, LA 71203

*
*
*

RN105596
CONSENT ORDER

Respondent

TERMS AGREED TO BY LICENSEE (Cont'd)

license. The results of any such testing will be reported directly to the Board. Any and all such testing shall be performed at Respondent's expense. Additional screenings may be requested by Board staff. Written reports of same shall be submitted to the Board. After one year of compliance, may request a reduction in the number of drug screens.

9. Shall avoid exposure to anything that will cause a urine drug test to be positive. In that regard, Respondent shall avoid such items as "hemp oil" "coea tea" and poppy seeds (which can be found in curry sauces, breads, salad dressings, and in or on other foods). Respondent agrees to not use ethyl alcohol in any form (including N.A. or alcohol- "free" wine or beer, over-the-counter drugs containing alcohol (cough syrup, Nyquil or other similar OTC drugs or supplements), mouthwash or other hygiene products containing ethanol, foods containing ethanol (desserts, vanilla extract, etc.), communion wine, sanitizing hand or body gels (Purell or other), or any other form of ethyl alcohol). Intentional use of any of these products or medications without a physician's order is a violation of this order.
10. Respondent agrees to execute a written authorization, along with execution of this Consent Order, allowing the Louisiana State Board of Nursing, and any authorized designees thereof, to access prescription monitoring information submitted to, or maintained by, the Louisiana Board of Pharmacy through its Prescription Monitoring Program (PMP) for the purpose of monitoring compliance with this agreement/Order and to determine fitness and ability to practice nursing with reasonable skill and safety. Respondent shall cause to be submitted a completed authorization release form to the Louisiana Board of Pharmacy and shall cause information and reports to be sent to the Louisiana State Board of Nursing, such written authorization to be effective for the duration of this Consent Order. Respondent may also be required during this time period duration to provide to the board/board staff copies of prescription monitoring information maintained by the Board of Pharmacy.
11. Immediately (within 72 hours) inform the Board in writing of any change in address.
12. Immediately inform the Board in writing of all places of employment. If employment changes, the Board shall be immediately (within 72 hours) notified in writing.
13. If unemployed, inform the Board in writing on a quarterly basis.
14. Shall engage in the practice of professional nursing in Louisiana for a minimum of twenty-four (24) hours per week for a minimum of twelve (12) consecutive months.
15. By the first of each month, submit a monthly probation fee of twenty-five dollars (\$25.00) to the Board, beginning September 1, 2017.
16. Within ten (10) months, submit payment of \$200.00 to the Board as cost of this Consent Order at a rate of \$20.00 per month beginning September 1, 2017.
17. Not have any misconduct, criminal violations or convictions, or violations of any health care regulations reported to the Board related to this or any other incidents.
18. Failure to comply with the above orders, receipt of an unfavorable report, or non-receipt of reports on or before the date due shall result in the immediate suspension of this Respondent's license. This suspension can be imposed by action of the staff subject to the discretionary review of the Board.


Initials

LOUISIANA STATE BOARD OF NURSING
BATON ROUGE, LOUISIANA

IN THE MATTER OF:
BRIAN SCOTT SHEPHERD
1600 UNIVERSITY AVE.
MONROE, LA 71203

*
*
*

RN105596
CONSENT ORDER

Respondent

TERMS AGREED TO BY LICENSEE (Cont'd)

I, BRIAN SCOTT SHEPHERD, understand that this agreement is effective immediately upon signature of the Executive Director. It is also understood that this agreement does not preclude the Board of Nursing from requiring a formal hearing of my case. I further understand that should the Consent Order not be accepted by the Board, I agree that presentation to and consideration of the Consent Order, the documentary evidence and information by the Board shall not unfairly or illegally prejudice the Board or any of its members from participation in hearings or other proceedings pertaining to these or other matters regarding this Respondent.

Dated this 2 day of August, 2017

Brian Scott Shepherd
BRIAN SCOTT SHEPHERD

[Signature]
Witness

[Signature]
Witness

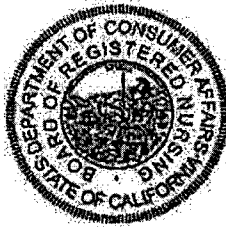
LOUISIANA STATE BOARD OF NURSING

[Signature] 8/14/17
Karen C. Lyon, PhD, APEN, ACNS, NEA
Executive Director

RECEIVED
AUG 10 2017
LOUISIANA STATE
BOARD OF NURSING

[Signature]
Initials

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



1 BOARD OF REGISTERED NURSING

2 *Joseph L. Morris*

3 Joseph L. Morris, PhD, MSN, RN
Executive Officer

4
5
6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2017-474

11 **BRIAN SCOTT SHEPHERD**
12 **2301 E. Armand Street**
13 **Lake Charles, LA 70611**

DEFAULT DECISION AND ORDER

14 **Registered Nurse License No. 664209**

[Gov. Code, §11520]

15 **RESPONDENT**

16
17 **FINDINGS OF FACT**

18 1. On or about December 29, 2016, Complainant Joseph L. Morris, PhD, MSN, RN, in
19 his official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs, filed Accusation No. 2017-474 against Brian Scott Shepherd (Respondent)
21 before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

22 2. On or about August 23, 2005, the Board of Registered Nursing (Board) issued
23 Registered Nurse License No. 664209 to Respondent. The Registered Nurse License expired on
24 December 31, 2006, and has not been renewed.

25 3. On or about December 29, 2016, Respondent was served by Certified and First Class
26 Mail copies of the Accusation No. 2017-474, Statement to Respondent, Notice of Defense,
27 Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to
28 Respondent's address of record which, pursuant to Business and Professions Code section 136

1 and/Title 16, California Code of Regulation, section 1409.1, is required to be reported and
2 maintained with the Board, was and is:

3 2301 E. Armand Street
4 Lake Charles, LA 70611.

5 On or about December 29, 2016, Respondent was also served by Certified and First Class
6 Mail copies of the Accusation No. 2017-474, Statement to Respondent, Notice of Defense,
7 Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to
8 Respondent's alternate addresses retrieved from LexisNexis as follows:

9 1912 N 7th St Apt 129
10 West Monroe, LA 71291.

11 And

12 1330 W McNeese St. Apt 9206
13 Lake Charles, LA 70605.

14 4. Service of the Accusation was effective as a matter of law under the provisions of
15 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
16 124.

17 5. As of January 25, 2017, nothing was returned to the Board by the U. S. Postal Service
18 for documents served to Respondent's address of record. USPS Tracking confirms that as of
19 January 3, 2017, the item is currently in transit to the destination. As of January 25, 2017, nothing
20 was returned to the Board by the U. S. Postal Service for documents served to 1912 N 7th St Apt
21 129, West Monroe, LA 71291. USPS Tracking confirms that on or about January 12, 2017, the
22 item was delivered at 2:18 pm in West Monroe, LA 71291. As of January 25, 2017, nothing was
23 returned to the Board by the U. S. Postal Service for documents served to 1330 W McNeese St.
24 Apt 9206, Lake Charles, LA 70605. USPS Tracking confirms that as of January 3, 2017, the item
25 is currently in transit to the destination. The address on the documents was the same as the
26 address on file with the Board. Respondent failed to maintain an updated address with the Board
27 and the Board has made attempts to serve the Respondent at the address on file and other known
28 addresses retrieved from LexisNexis. Respondent has not made himself available for service and

1 therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

2 6. Business and Professions Code section 2764 states:

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

7 7. Government Code section 11506 states, in pertinent part:

8 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
9 notice of defense, and the notice shall be deemed a specific denial of all parts of the Accusation
10 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
11 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

12 8. Respondent failed to file a Notice of Defense within 15 days after service of the
13 Accusation upon him, and therefore waived his right to a hearing on the merits of Accusation No.
14 2017-474.

15 9. California Government Code section 11520 states, in pertinent part:

16 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
17 agency may take action based upon the respondent's express admissions or upon other evidence
18 and affidavits may be used as evidence without any notice to respondent.

19 10. Pursuant to its authority under Government Code section 11520, the Board after
20 having reviewed the proofs of service dated December 29, 2016, signed by Tram Hoang, finds
21 Respondent is in default. The Board will take action without further hearing and, based on
22 Accusation No. 2017-474 and the documents contained in Default Decision Investigatory
23 Evidence Packet in this matter which includes:

24 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation Case No. 2017-
25 474, Statement to Respondent, Notice of Defense (two blank copies),
26 Request for Discovery and Discovery Statutes (Government Code sections
27 11507.5, 11507.6 and 11507.7), proofs of service and USPS Tracking
28 Forms;

- 1 Exhibit 2: License History Certification for Brian Scott Shepherd, Registered Nurse
2 License No. 664209;
3 Exhibit 3: Out of State Discipline Louisiana State Board of Nursing);
4 Exhibit 4: Proof of alternate addresses retrieved from LexisNexis.

5 The Board finds that the charges and allegations in Accusation No. 2017-474 are separately and
6 severally true and correct by clear and convincing evidence.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Brian Scott Shepherd has
9 subjected his following license(s) to discipline:

10 a. Registered Nurse License No. 664209

11 2. The agency has jurisdiction to adjudicate this case by default.

12 3. The Board of Registered Nursing is authorized to revoke Respondent's license(s)

13 based upon the following violations alleged in the Accusation, which are supported by the
14 evidence contained in the Default Decision Investigatory Evidence Packet in this case.

15 a. Violation of Business and Professions Code section 2761(a)(4) - Disciplinary
16 action by another State Board of Nursing.

17 //

18 //

19 //

20

21

22

23

24

25

26

27

28


ORDER

1
2 IT IS SO ORDERED that Registered Nurse License No. 664209, heretofore issued to
3 Respondent Brian Scott Shepherd, is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
5 written motion requesting that the Decision be vacated and stating the grounds relied on within
6 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
7 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

8 This Decision shall become effective on March 23, 2017.

9 It is so ORDERED February 21, 2017.

10
11
12 
13 Board of Registered Nursing
14 Department of Consumer Affairs
15 State of California

16 Attachment:

17 Exhibit A: Accusation No. 2017-474
18
19
20
21
22
23
24
25
26
27
28

Exhibit A

Accusation No. 2017-474

1 KAMALA D. HARRIS
Attorney General of California
2 ANTONETTE B. CINCOTTA
Supervising Deputy Attorney General
3 SHANNON M. BRUBAKER
Deputy Attorney General
4 State Bar No. 234517
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9078
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11
12 In the Matter of the Accusation Against:

Case No. 2017-474

13 **BRIAN SCOTT SHEPHERD**
2301 E. Armand Street
14 Lake Charles, LA 70611

A C C U S A T I O N

15 Registered Nurse License No. 664209

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Joseph L. Morris, PhD, MSN, RN (Complainant) brings this Accusation solely in his
21 official capacity as the Executive Officer of the Board of Registered Nursing (Board), Department
22 of Consumer Affairs.

23 2. On or about August 23, 2005, the Board of Registered Nursing issued Registered
24 Nurse License Number 664209 to Brian Scott Shepherd (Respondent). The Registered Nurse
25 License expired on December 31, 2006, and has not been renewed.

26 ///

27 ///

28 ///

1 JURISDICTION

2 3. This Accusation is brought before the Board under the authority of the following laws.
3 All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

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

8 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
9 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
10 licensee or to render a decision imposing discipline on the license.

11 STATUTORY PROVISIONS

12 6. Section 2761 of the Code states:

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

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

16
17 (4) Denial of licensure, revocation, suspension, restriction, or any other
18 disciplinary action against a health care professional license or certificate by another state
19 or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision or
judgment shall be conclusive evidence of that action.

20 COSTS

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

27 ///

28 ///

CAUSE FOR DISCIPLINE

(Out-of-State Discipline Against Respondent's Louisiana Nursing License)

8. Respondent has subjected his license to disciplinary action under section 2761(a)(4) of the Code in that his Louisiana registered nurse license was disciplined by the Louisiana State Board of Nursing (Louisiana Board). The circumstances are as follows:

9. On November 19, 2015, Respondent entered into a Program Agreement with the Louisiana Board's Recovering Nurse Program (RNP)¹. Pursuant to the Program Agreement, Respondent was expected to maintain complete and total abstinence from any and all potentially addictive chemicals, including but not limited to alcohol, or alcohol-containing products. On or about March 1, 2016, Respondent informed the Louisiana Board that he relapsed on alcohol and resigned from his position at Lake Area Medical Center in Louisiana. On March 2, 2016, Respondent was notified that he had to submit to an inpatient relapse evaluation within ten days.

10. Respondent failed to comply with the stipulations of the RNP Program Agreement, failed to notify the Louisiana Board of any plans to follow through with the inpatient relapse evaluation, and missed two scheduled drug screens. As a result, effective, March 25, 2016, Respondent's Louisiana registered license was ordered suspended. On April 13, 2016, the Louisiana Board ratified the suspension of Respondent's Louisiana registered nurse license. Respondent must present evidence that the cause for disciplinary action no longer exists and/or no longer affects his ability to practice nursing safely prior to petitioning the Louisiana Board for reinstatement of his registered nurse license.

///

///

///

///

¹ The RNP was developed to protect the consumers of health care in Louisiana while allowing a Registered Nurse recovering from a substance use disorder and/or a medical, mental or physical condition to maintain licensure while being closely monitored by the Board through a structured agreement or order.

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 664209, issued to Brian Scott Shepherd;

2. Ordering Brian Scott Shepherd 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; and,

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

DATED: December 29, 2016


JOSEPH L. MORRIS, PHD, MSN, RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2016703345
81533884.doc