



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

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of
SARAH ELIZABETH BROOKS,
Registered Nurse License Number 943943

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ORDER OF THE BOARD

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of SARAH ELIZABETH BROOKS, Registered Nurse License Number 943943, hereinafter referred to as Respondent.

This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Order.

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

FINDINGS OF FACT

1. Respondent's license to practice as a professional nurse in the State of Texas is in current status.
2. Respondent waived notice and hearing, and agreed to the entry of this Order.
3. Respondent received an Associate Degree in Nursing from Regents College-Bs, Albany, New York, on September 1, 1994. Respondent was licensed to practice professional nursing in the State of Texas on May 24, 2018.
4. Respondent's nursing employment history is unknown.

5. On or about May 11, 2018, Respondent was issued an Eligibility Agreed Order through an Order of the Board. A copy of the May 11, 2018, Order is attached and incorporated herein by reference as part of this Order.
6. On August 27, 2019, the Board received a notarized statement from Respondent voluntarily surrendering the right to practice nursing in Texas in lieu of completing her Order of Agreed Eligibility. A copy of Respondent's statement, dated August 19, 2019, is attached and incorporated herein by reference as part of this Order.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451 - 301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.12 (11)(B)
4. The evidence received is sufficient cause pursuant to Section 301.452(b) (1)&(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 943943, heretofore issued to SARAH ELIZABETH BROOKS, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

TERMS OF ORDER

NOW, THEREFORE, IT IS ORDERED that the VOLUNTARY SURRENDER of Registered Nurse License Number 943943 is accepted by the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional/registered nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying herself/himself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until at least one (1) year has elapsed from the date of this Order.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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.

Effective this 27th day of August, 2019



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

Sarah Brooks
697 Owl Drive
Vacaville, CA 95687

August 19, 2019

Ms. Diane Burell
Compliance Supervisor
Texas Board of Nursing
333 Guadalupe St, Suite 3-460
Austin, TX 78701

Dear Ms. Burell,

After 25 years of being a registered nurse, I have decided to retire. Since I no longer work or live in Texas, I respectfully surrender my Texas RN license 943943. Per your instruction, I have had this letter notarized. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah Brooks', with a long, sweeping flourish extending to the right.

Sarah Brooks

**See Attached
Notary**

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Solano)

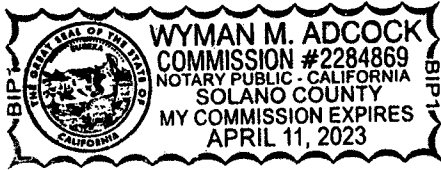
On 19 August 2019 before me, Wyman M. Adcock Notary Public.
Date Here Insert Name and Title of the Officer

Personally appeared Sarah Brooks
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer - Title(s): _____
 Partner - Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other _____
Signer is representing: _____

Signer's Name: _____
 Corporate Officer Title(s): _____
 Partner - Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other _____
Signer is representing: _____

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § AGREED
SARAH ELIZABETH BROOKS, §
PETITIONER for Eligibility for Licensure § ELIGIBILITY ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, considered the Endorsement Application, which has been processed as a Petition for Declaratory Order, hereinafter referred to as the Petition, pursuant to 22 TEX. ADMIN. CODE §217.5(f) and §213.30, and supporting documents filed by SARAH ELIZABETH BROOKS, hereinafter referred to as PETITIONER, requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.257, and 301.260, Texas Occupations Code, and the Board's Rules at 22.TEX. ADMIN. CODE §217.5(f) and §213.30, together with any documents and information gathered by staff and Petitioner's Certification contained herein.

Information received by the Board produced evidence that PETITIONER may be ineligible for licensure pursuant to Sections 301.452(b)(8)&(10) and 301.453, Texas Occupations Code.

PETITIONER waived notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on March 21, 2018.

FINDINGS OF FACT

1. On or about December 19, 2017, Petitioner submitted the Petition requesting a determination of eligibility for licensure.
2. Petitioner received an Associate Degree in Nursing from Regents College, Albany, New York, on June 1, 1994.

3. Petitioner completed the Petition and answered "yes" to the question which reads as follows: *"Has any licensing authority refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, suspended, placed on probation, refused to renew a professional license, certificate or multi-state privilege held by you now or previously, or ever fined, censured, reprimanded or otherwise disciplined you?"*
4. On or about December 20, 2010, Petitioner's license to practice professional nursing in the State of California was issued PROBATION by the Board of Registered Nursing Department of Consumer Affairs, State of California, Vacaville, California. A copy of the Consent Order is attached and incorporated by reference as part of this Order.
5. On October 23, 2013, Petitioner satisfied all terms and conditions as set forth in the Consent Order issued on December 20, 2010, by the Board of Registered Nursing Department of Consumer Affairs, State of California.
6. After considering the action taken by the Board of Registered Nursing Department of Consumer Affairs, State of California, along with Petitioner's subsequent conduct, the Executive Director is satisfied that Petitioner should be able to meet the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.
7. Petitioner has sworn that, with the exception of matters disclosed in connection with the Petition, her past behavior conforms to the Board's professional character requirements at 22 TEX. ADMIN. CODE §213.27.
8. The Executive Director considered evidence of Petitioner's past behavior in light of the character factors set out in 22 TEX. ADMIN. CODE §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character.
9. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.
10. Petitioner has been advised by the Board that any information found to be incomplete, incorrect or misleading to the Board or a subsequent discovery of a basis of ineligibility will be considered by the Board and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through fraud or deceit.
11. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452(b), Texas Occupations Code.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Sections 301.452 and 301.453, Texas Occupations Code.
2. On or about December 19, 2017, Petitioner submitted the Petition requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.257, and 301.260, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §217.5(f) and §213.30.
3. Petitioner's history reflects conduct which may constitute grounds for denial of a license under Section 301.452(b)(8)&(10), Texas Occupations Code.
4. The Board may probate the denial of a license under conditions for a specified term pursuant to Section 301.453, Texas Occupations Code.
5. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 TEX. ADMIN. CODE §213.27, and pursuant to 22 TEX. ADMIN. CODE §213.33, the Board is satisfied that the individual is able to consistently conform her conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.
6. This Order is conditioned upon the accuracy and completeness of Petitioner's disclosures. Any subsequently discovered discrepancies will result in investigation and possible disciplinary action, up to revocation of Petitioner's license(s).

TERMS OF ORDER

I. ELIGIBILITY FOR LICENSURE

IT IS THEREFORE AGREED and ORDERED that the application of PETITIONER is hereby **GRANTED**, and upon payment of any required fees and meeting all other applicable requirements, PETITIONER SHALL be issued the applicable license to practice nursing in the State of Texas in accordance with the terms of this Order.

II. COMPLIANCE WITH LAW AND APPLICABILITY

While under the terms of this Order, PETITIONER agrees to comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Order.

- A. Until successfully completed, any and all licenses issued to Petitioner shall be subject to the terms of this Order.
- B. This Order SHALL be applicable to PETITIONER'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. As a result of this Order, PETITIONER'S license will be designated "single state" and PETITIONER may not work outside the State of Texas in another nurse licensure compact party state.

III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, Petitioner SHALL successfully complete the following remedial education course(s) within one (1) year of licensure, unless otherwise specifically indicated:

- A. A Board-approved course in Texas nursing jurisprudence and ethics that shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. Home study courses and video programs will not be approved.
- B. The course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension.

In order to receive credit for completion of this/these course(s), Petitioner SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. Petitioner SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at www.bon.texas.gov/compliance.*

IV. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Order, all encumbrances will be removed from PETITIONER'S license(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, PETITIONER may be eligible for nurse licensure compact privileges, if any.

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PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past conduct which could constitute grounds for licensure ineligibility, and I have caused a complete and accurate criminal history to be submitted to the Texas Board of Nursing from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. I certify that my past behavior, except as disclosed in my application/petition, has been in conformity with the Board's character rule. I have provided the Board with complete and accurate documentation of my past conduct in violation of the penal law of a jurisdiction which was disposed of through any procedure short of conviction, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

In connection with my application, I acknowledge that I have read and I understand Section 301.157(d), 301.252, 301.253, 301.257, 301.258, 301.260, 301.452, and 301.453, Texas Occupations Code and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and 22 TEX. ADMIN. CODE §§213.2213.28, 213.29, and 213.30. I agree with all terms of this Order, including the Findings of Fact and Conclusions of Law and any stipulations as set out in this Order. I acknowledge that this Order is stipulated and I understand that I am not eligible to receive a Temporary Permit to practice nursing. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to accepting any license from the Texas Board of Nursing.

I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including REVOCATION of my license(s) and nursing licensure compact privileges, if any, to practice nursing in the State of Texas, as a consequence of noncompliance.

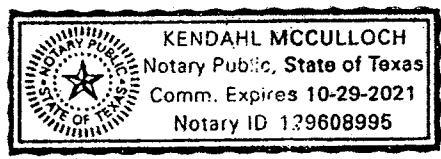
I understand that I can be represented by an attorney in this matter. I waive representation by counsel, notice, administrative hearing, and judicial review of this Order and request that the Texas Board of Nursing ratify this Order.

Signed this 4 day of May, 2018
Sarah Elizabeth Brooks
SARAH ELIZABETH BROOKS, PETITIONER

Sworn to and subscribed before me this 4th day of May, 2018.

SEAL

Notary Public in and for the State of Texas



WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Agreed Eligibility Order that was signed on the 4th day of May, 2018, by SARAH ELIZABETH BROOKS, PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this 11th day of May, 2018.



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

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

In the Matter of the Accusation Against:

SARAH ELIZABETH BROOKS
697 Owl Drive
Vacaville, CA 95687

Registered Nurse License No. 507462

Respondent.

Case No. 2010-301

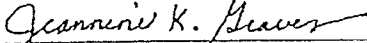
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DECISION

The attached proposed decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on December 20, 2010

IT IS SO ORDERED this 18th day of November, 2010.



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

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

In the Matter of the Accusation Against:

SARAH ELIZABETH BROOKS
Vacaville, California

Registered Nurse License No. 507462,

Respondent.

Case No. 2010-301

OAH No. 2010040269

PROPOSED DECISION

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on August 25 and 30, 2010.

Supervising Deputy Attorney General Diane Sokoloff represented complainant Louise R. Bailey, M.Ed., R.N., Interim Executive Officer of the Board of Registered Nursing.

Respondent Sarah Elizabeth Brooks was present and was self-represented with the assistance of her husband.

The record was left open until August 31, 2010, for respondent to submit proof of completion of a recovery program. Respondent submitted a certificate dated June 6, 2010, which was marked and received in evidence as Exhibit D. The record was closed and the matter was submitted for decision on August 31, 2010.

FACTUAL FINDINGS

1. The Board of Registered Nursing issued registered nurse license number 507462 to respondent Sarah Elizabeth Brooks on December 30, 1994. The license is current to December 30, 2010.

Background

2. From 1983 to 1991, respondent was an active duty medic with the United States Air Force. Respondent went into Air Force Reserve in 1991, retiring in 2004 as an Instructor Flight Nurse at the rank of Captain. Respondent served in many overseas operations, including Desert Shield, Desert Storm, and Operation Enduring Freedom. Her last reserve deployment was from March 2003 to March 2004, during Operation Enduring Freedom.

3. In 1991 respondent started work at Kaiser Permanente Vallejo Medical Center as a licensed vocational nurse. Respondent obtained a registered nurse license in December 30, 1994. Respondent continued to work at Kaiser Permanente. In August 1997 she was promoted to RN Staff Nurse II, and was transferred to the Fairfield Medical Offices.

Termination of Employment by Kaiser Permanente

4. In addition to be employed by Kaiser, respondent was also a Kaiser member and patient.

5. On July 2, 2008, respondent accessed her electronic medical record at Kaiser Permanente by using her employee user identification and password. One of her physicians had placed a Patient Alert in a Specialty Comments section of her electronic medical record. Respondent deleted the Patient Alert, thereby altering and destroying information in her medical record.

Kaiser concluded that respondent had violated two of its policies, HR Policy No. 1.09 (Obligations Regarding Confidentiality) and Code of Conduct/Principles of Responsibility. Following the completion of its investigation, Kaiser terminated respondent's employment immediately, effective October 15, 2008.

6. The Patient Alert was placed on respondent's electronic medical record by respondent's primary physician. When the physician discovered that the alert had been removed, Kaiser conducted an investigation regarding the removal. During the investigation respondent was interviewed, during which time she stated that she had never changed information on her electronic medical record.

7. The exact wording of the Patient Alert was not established by the evidence. It stated something to the effect that narcotics were only to be prescribed by respondent's primary physician. This type of alert is placed on a patient file at Kaiser when a physician has a concern about drug dependency, and the patient potentially seeking narcotics from multiple providers who are not familiar with the patient's history.

OCT 7 2008

OFFICE OF REGISTERED NURSES

Board Investigation

8. Department of Consumer Affairs, Division of Investigations, Senior Investigator Lee Adamson conducted an investigation on referral by the board. The Board opened an investigation following a referral from the board's Diversion Program, which had issued a complaint that respondent had been terminated unsuccessfully from the program effective January 20, 2009, with the status of being a public risk.

9. Diversion records indicate the following: respondent had self-referred to the program on December 17, 2008, and her drugs of choice were alcohol, Oxycontin and Valium. Respondent completed the intake process and had attended the Kaiser Chemical Dependency Recovery Program for only one day, "because she felt she did not fit." The Diversion Evaluation Committee directed respondent to attend an inpatient detox and treatment program, which she refused to do. Respondent called the program on December 31, 2008, and reported that she was sober and did not want to participate in the diversion program.

10. In his investigation, Senior Investigator Adamson obtained medical records for the period from January 2008 to July 2009.

He determined that respondent had seen 23 different providers over a 14-month period. Ten providers had prescribed Oxycontin or refilled Oxycontin prescriptions early. In his experience, this number of providers for the same medication is a red flag for a drug seeker.

He further determined that respondent used her position as a registered nurse to manipulate the normal patient-physician relationship. She solicited medical advice and refills from physicians without making appointments; and she made her own appointments, which she was not authorized to do.

11. Adamson interviewed respondent in person on May 18, 2009, and over the telephone the next day. During these interviews, respondent made numerous admissions and statements. Respondent admitted to removing the Patient Alert from her electronic medical record. Respondent stated that she had done so in order to "correct" and "update" her medical record as she had changed her primary physician. Respondent did not think she had done anything wrong.

Adamson asked respondent how many physicians she has seen over a 14-month period. She answered she had seen 10 and was surprised that she had seen 23. She stated that she "kept switching doctors until she found someone she was comfortable with."

Respondent admitted to being dependent on oxycodone and to be working with a pain management physician to "wean herself" off. She agreed to submit to a urine test and tested positive for oxycodone and oxymorphone.

Respondent's Evidence

12. Respondent has been certified in Advanced Cardiac Life Support for many years. This was not required by her employment, but something that she used in her military career.

13. Respondent received positive evaluations while employed at Kaiser. She also received letters from satisfied patients. At no time did any Kaiser physician or nurse report that she was impaired as a nurse.

14. During her last deployment, respondent sustained a neck injury while attending to five mostly critical patients during a combat landing in Kuwait on a C-130 medical transport. Respondent was unable to properly secure herself before being thrown backward and hitting her neck on the plane. She continued her duty, expecting the neck condition to improve over time. It did not. After ten months she reported the injury to the flight surgeon, who treated her with muscle relaxants, pain killers and a Tens Unit. This treatment provided minimal relief, and she decided to retire and return to civilian life.

15. Respondent tried various treatments through her physicians at Kaiser Permanente, including physical therapy, acupuncture, trigger point injections, and various narcotic and non-narcotic types of medications. She had consults by various types of physicians, including neurologists and neurosurgeons. In early 2006, she started using Oxycontin, which provided her with relief from the pain. She took up to 7 pills per day, but never exceeded her physician orders. All medications she took were prescribed by physicians, and dispensed by the Kaiser Pharmacy. Respondent knew she was Oxycontin dependent by early 2008, and she sought assistance through the Chronic Pain program.

16. Following her termination from Kaiser, respondent experienced great stress. She met with a new physician, who prescribed medication for depression, anxiety and insomnia. She also began to increase her use of alcohol, and lost a great deal of weight.

Respondent self-referred to Division in December 2008. She was advised that she could either complete a detox and treatment program or a chronic pain treatment program, and she elected to do chronic pain treatment. She did not understand that she had been formally enrolled in or formally terminated from the diversion program.

17. Respondent has sought assistance through the Chronic Pain Departments of Kaiser Vallejo and Kaiser South Sacramento. She presented evidence of some progress notes from the South Sacramento program, with a treatment plan, and completion of steps in the plan, including the Essential Skills program and the Advanced Skills program in May and June 2009. These progress notes are of little value in determining either the nature of the program or respondent's level of success.

18. Respondent testified that although she is still in pain she has not taken any Oxycontin since March 2010.

19. She presented evidence that she completed Chemical Dependency, Day Treatment Program, at Kaiser Permanente, Vallejo, on July 6, 2010.

20. Respondent believed at the time that as a registered nurse she had the authority to change her personal medical record at Kaiser and to keep it "accurate." She filed a grievance with Kaiser asserting that position. She asserts that she had poor training at Kaiser with respect to a nurse's ability to delete information in a patient's chart. She stated that had she known her conduct was inappropriate, she never would have done it.

21. Respondent is married to an airline pilot. They have one child, a teenage boy. Respondent's husband is very supportive of her. Respondent has not worked as a nurse since she lost her position at Kaiser. She feels she has paid a heavy price for her conduct, and she seeks to retain her nursing license.

Other Matters

22. Oxycodone is a Schedule II controlled substance (Health & Saf. Code, § 110555, subd. (b)(1)(N)), and a dangerous drug in that it can only be dispensed by prescription (Bus. & Prof. Code, § 4022).

23. No expert testimony was presented in this matter.

24. It was established that respondent altered and falsified her medical record. This conduct amounted to general unprofessional conduct.

25. It was not established by clear and convincing evidence that respondent's conduct amount to incompetence or an extreme departure from the standard of care of a registered nurse.

26. It was not established by clear and convincing evidence that respondent obtained controlled substances in violation of law.

27. It was not established by clear and convincing evidence that respondent obtained Oxycontin other than by a physician's prescription.

Cost Recovery

28. The actual costs of investigation and prosecution in this matter are \$9,649.50. This represents \$5,749.50 for charges from the Department of Investigation and in charges from the Department of Justice. The Department of Justice charges are \$3,570 for 21 hours of attorney time, and \$330 for 2.75 hours of paralegal time as of August 19, 2010. The tasks

undertaken and the amount of time spent per task were set forth in a billing summary. In the absence of any evidence or argument to the contrary, these costs are found to be reasonable.

29. On August 19, 2010, the Deputy Attorney General gave a good faith estimate that the Board would be billed an additional \$3,145 for 18.5 hours of attorney preparation of the case after August 19, 2010. No evidence was presented with respect to what tasks were expected to be performed in that additional 18.5 hours. No evidence was presented to explain why the actual cost information was not available by the time of hearing. These additional costs are not found to be reasonable.

LEGAL CONCLUSIONS

First Cause for Discipline – General Unprofessional Conduct

1. Pursuant to Business and Professions Code section 2761, subdivision (a),¹ the Board of Registered Nursing may take disciplinary action against a licensee who has committed general unprofessional conduct. By reason of the matters set forth in Factual Findings 6 to 8 and 24, it is concluded that respondent committed general unprofessional conduct by using her position as a registered nurse to alter and falsify her own medical record. Cause for disciplinary action exists pursuant to section 2761, subdivision (a).

Second Cause for Discipline – Incompetence or Gross Negligence

2. Pursuant to section 2761, subdivision (a)(1), the Board may take disciplinary action against a registered nurse for incompetence or gross negligence in carrying out usual certified or licensed nursing functions. As set forth in Findings 23 and 25, complainant did not establish by clear and convincing evidence that respondent's conduct amounted to either incompetence or gross negligence. Cause for disciplinary action for incompetence or gross negligence was not established.

Third Cause for Discipline – Obtain Controlled Substance in Violation of Law

3. Section 2762, subdivision (a), provides that it is unprofessional conduct for a registered nurse to obtain, possess, or self-administer in violation of law, or except as directed by a licensed physician, any controlled substance or dangerous drug. By reason of the matters set forth in Findings 15, 22, 23 and 27, it was not established that respondent obtained Oxycontin in violation of this provision. Cause for disciplinary action for unprofessional conduct by reason of a violation of section 2762, subdivision (a), was not established.

¹ All subsequent statutory references are to the Business and Professions Code unless otherwise indicated.

Fourth Cause for Discipline – Falsify or Make Grossly Incorrect Entries in Medical Record

4. Section 2762, subdivision (e), provides that it is unprofessional conduct for a registered nurse to falsify or make grossly incorrect entries in “any . . . patient, or other record” pertaining to controlled substances. By reason of the matters set forth in Findings 6 to 8 and 24, respondent violated this section when she altered her electronic medical record. Cause for disciplinary action for unprofessional conduct exists pursuant to section 2761, subdivision (a).

Fifth Cause for Discipline – Alter Medical Record

5. Penal Code section 471.5 provides: “Any person who alters or modifies the medical record of any person, with a fraudulent intent, or who, with a fraudulent intent, creates any false medical record, is guilty of a misdemeanor.” By reason of the matters set forth in Findings 6 to 8 and 24, respondent violated this criminal provision when she fraudulently altered/modified her electronic medical record. Cause for disciplinary action for unprofessional conduct exists pursuant to section 2761, subdivision (a).

Costs

6. Section 125.3 provides that a licensee found to have violated licensing laws may be ordered to pay the Board “a sum not to exceed the reasonable costs of the investigation and enforcement of the case.” As set forth in Finding 28, the Board has incurred \$9,649.50 in costs in connection with its investigation and enforcement of this matter. Respondent shall be ordered to reimburse the Board for this sum.

7. By reason of the matters set forth in Factual Finding 29, respondent is not order to reimburse the Board for the sum reflected in the good faith estimate of the deputy attorney general. This estimate fails to meet the minimum requirements set forth in California Code of Regulations, title 1, section 1042, to support a determination of actual costs incurred by an agency. Because the reasonableness of these costs cannot be determined, these costs may not be awarded.

Discipline Determination

8. The protection of the public is the Board’s highest priority when exercising its disciplinary functions. (§ 2708.1.) Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public “shall be paramount.” (*Ibid.*)

This is a complicated case of an impaired nurse with chronic pain and Oxycontin dependence. She used extremely poor judgment to alter her personal medical record to remove a Physician Alert. This conduct led to her termination by Kaiser Permanente in October 2008 following 17 years of employment. By her own testimony, respondent has yet to develop

clear insight into the wrongfulness of her behavior. The Diversion Evaluation Committee determined in January 2009 that respondent posed a risk to the public by reason of her chemical dependency.

Respondent's Oxycontin dependency stems from a disabling neck injury she suffered while serving as a nurse in combat, a condition that has never resolved. Respondent's misconduct at Kaiser stems from her dependence on Oxycontin for treatment of pain. Respondent has been attempting to address her chronic pain and addiction problems through Kaiser, and to her credit she very recently completed its Day Treatment Program for Chemical Dependency. This is a promising start to her rehabilitation. The ultimate question is whether allowing respondent to retain her licensure under a period of probation will put the public at risk. The absence of any prior issues with nursing practice must be given great weight. All things considered, it is determined that respondent has shown sufficient rehabilitation to warrant continued licensure, on a lengthy period of probation, with conditions that respondent undergo physical and mental health examinations, participate in therapy, and complete the board's requirements for chemical dependence.

ORDER.

Registered nurse license number 507462 issued to respondent Sarah Elizabeth Brooks is revoked. However the revocation is stayed and respondent shall be placed on probation for a period of five (5) years on the following conditions:

Each condition of probation is separate and distinct. If any condition of this order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this order, and all other applications thereof, shall not be affected. Each condition of this order shall separately be valid and enforceable to the fullest extent permitted by law.

1. OBEY ALL LAWS: Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by respondent to the Board in writing within 72 hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.
2. COMPLY WITH PROBATION PROGRAM: Respondent shall fully comply with the terms and conditions of the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of her compliance. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

-
3. REPORT IN PERSON: During the period of probation, respondent shall appear in person at interviews/meetings as directed by the Board or its designated representatives.
-

4. RESIDENCY, PRACTICE OR LICENSURE OUTSIDE OF STATE: Periods of residency or practice as a registered nurse outside of California shall not apply toward reduction of this probation time period. Respondent's probation is tolled, if and when she resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

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

5. SUBMIT WRITTEN REPORTS: During the period of probation, respondent shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the terms and conditions of the Board's probation program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

PROVIDE DECISION: Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

6. FUNCTION AS A REGISTERED NURSE: Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

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

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

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

7. EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS: Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment-related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care-related employment.

In addition to the above, respondent shall notify the Board in writing within 72 hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within 72 hours after she is terminated or separated, regardless of cause, from any nursing, or other health care-related employment, with a full explanation of the circumstances surrounding the termination or separation.

8. SUPERVISION: Respondent shall obtain prior approval from the Board regarding her level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

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

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

- a. Maximum – The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- b. ~~Moderate – The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.~~
- c. Minimum – The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.
- d. Home Health Care – If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with her as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by respondent with or without respondent being present.

9. EMPLOYMENT LIMITATIONS: Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, for a temporary nurse placement agency, or for an in-house nursing pool.

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

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

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

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

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

10. COMPLETE A NURSING COURSE(S): Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

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

11. COST RECOVERY: Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$9,649.50. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

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

12. VIOLATION OF PROBATION: If respondent violates the conditions of her probation, the Board, after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed revocation of her license.

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

13. LICENSE SURRENDER: During respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender her license to the

OCT - 2 - 2010
BOARD OF REGISTERED NURSES

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

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

- a. Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- b. One year for a license surrendered for a mental or physical illness.

14. PHYSICAL EXAMINATION: Within 45 days of the effective date of this decision, respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of the respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by the respondent, with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

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

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

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

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

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

16. ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS: Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report

to the Board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

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

17. SUBMIT TO TESTS AND SAMPLES: Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The respondent is responsible for keeping the Board informed of respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent shall be considered in violation of probation.

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

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and 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.

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

18. MENTAL HEALTH EXAMINATION: Respondent shall, within 45 days of the effective date of this decision, have a mental health examination, including psychological testing as appropriate, to determine her capability to perform

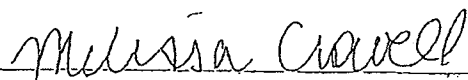
the duties of a registered nurse. The examination must be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

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

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

19. THERAPY OR COUNSELING PROGRAM: Respondent, at her expense, shall participate in an ongoing counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

DATED: October 4, 2010



MELISSA G. CROWELL
Administrative Law Judge
Office of Administrative Hearings

1 EDMUND G. BROWN JR.
Attorney General of California
2 WILBERT E. BENNETT
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6 Telephone: (510) 622-2212
Facsimile: (510) 622-2270
7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12 **SARAH ELIZABETH BROOKS**
13 697 Owl Drive
14 Vacaville, California 95687
15 Registered Nurse License No. 507462
Respondent.

Case No. 2010-301

ACCUSATION

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 Interim Executive Officer of the Board of Registered Nursing, Departm
20 of Consumer Affairs.

21 2. On or about December 30, 1994, the Board of Registered Nursing issued Register
22 Nurse License Number 507462 to Sarah Elizabeth Brooks (Respondent). The Registered Nurs
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on December 31, 2010, 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
28 references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

1
2 4. Section 2761 of the Code states:

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

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

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

8 5. Section 2762 of the Code states:

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

12 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a license
13 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
14 administer to another, any controlled substance as defined in Division 10 (commencing with
15 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
16 defined in Section 4022.

17 ...
18 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in a
19 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
20 section."

21 6. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licensee found to have committed a violation or violation
23 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case.

25 7. Penal Code section 471.5 states:

26 "Any person who alters or modifies the medical record of any person, with a fraudulent
27 intent, or who, with fraudulent intent, creates any false medical record, is guilty of a
28 misdemeanor.

1 DRUGS

2 8. Oxycodone is a Schedule II controlled substance, as designated by Health and Safe
3 Code section 11055(b)(1)(N), and a dangerous drug pursuant to Business and Professions Code
4 section 4022 in that it can be lawfully dispensed only by prescription. Oxycodone is an opiate
5 analgesic with multiple actions qualitatively similar to those of morphine.

6 FIRST CAUSE FOR DISCIPLINE

7 (General Unprofessional Conduct)

8 9. Respondent is subject to disciplinary action under section 2761(a) (general
9 unprofessional conduct) in that she engaged in unprofessional conduct by altering her own
10 medical record and using her position as an RN to access doctors for the purpose of obtaining
11 prescriptions and refills for pain medications. The circumstances are as follows:

12 10. On or about January 7, 1991, respondent was hired as a Licensed Vocational Nurse
13 Kaiser Permanente Vallejo Medical Center Perinatal Unit. She was promoted to an RN Staff
14 Nurse II, in August, 1997. In August 1997, she sought and received a transfer to the Kaiser
15 Fairfield Medical Offices where she worked until she was terminated on October 15, 2008.

16 11. On or about October 15, 2008, as a result of an internal investigation, respondent was
17 terminated from her employment with Kaiser. Respondent's termination letter stated that she
18 accessed her personal medical record on July 2, 2008, and altered her patient record using
19 Kaiser's electronic assets, in violation of Kaiser's Principles of Responsibility and Code of
20 Conduct.

21 12. Respondent's primary care physician, Dr. Cassandra Whitmore, placed a "drug
22 seeking behavior" alert in respondent's electronic medical record along with a notation that she
23 only be prescribed pain medications from her primary care physician. Dr. Whitmore later learned
24 that the alert was removed from the electronic medical record and, because it had been removed
25 respondent had received refills by two other Kaiser doctors, neither of whom were her primary
26 care physician.

27 13. A Kaiser Permanente internal investigation was initiated to determine who deleted the
28 alert. Respondent was interviewed as part of the investigation and initially denied changing any

1 information in her electronic medical record, but stated that she had accessed her electronic
2 medical record to look at it. However, the information and technology staff from Kaiser
3 determined that the information was removed from respondent's chart using respondent's user
4 and password, and that respondent had maintained control of her user ID and password during
5 time the alert was removed.

6 14. During an interview with a Division of Investigation investigator, on May 18, 200
7 respondent admitted to removing the alert stating that she "wanted to do it," "[did] not think [s
8 did anything wrong," and "was correcting and updating [her] record."

9 15. During that same interview, the investigator asked respondent how many doctors s
10 had seen over the last 14 months. Respondent said "ten" but later was surprised to learn that it
11 had actually been 23. She said that she "kept switching doctors until she found someone that s
12 was comfortable with." She acknowledged that she is dependent on Oxycodone and is workin
13 with a pain management doctor to "wean herself off of" it.

14 16. The medical records reviewed by the Division of Investigation investigator for the
15 period between January 2008 though July 2009 indicate that respondent had been seen by
16 multiple providers for a variety of ailments, and that respondent used her position as an RN to
17 manipulate the normal patient-doctor relationship. Other documents, including e-mails written
18 doctors within the medical offices where respondent worked, indicate that respondent was
19 soliciting medical advice and refills for medications without making an appointment. On more
20 than one occasion, respondent wrote to her doctors asking for early refills for Oxycodone or
21 Ambien and, at times, explained that she had changed the dosing of her medications and had
22 asked for higher quantities or early refills, as she was not taking the medications as prescribed.

23 SECOND CAUSE FOR DISCIPLINE

24 (Incompetence and/or Gross Negligence)

25 17. Paragraphs 9-16 are incorporated by reference as though fully set forth.

26 18. Respondent's conduct, in altering her own medical record and using her position a
27 an RN to access doctors for the purpose of obtaining prescriptions and refills for pain
28 medications, as alleged in paragraphs 9-16 above, constitutes unprofessional conduct within th

1 meaning of Code section 2761(a)(1) (incompetence and or gross negligence), and provides
2 grounds for disciplinary action under Code section 2761(a).

3 THIRD CAUSE FOR DISCIPLINE

4 (Obtain Controlled Substance In Violation of Law)

5 19. Paragraphs 9-16 are incorporated by reference as though fully set forth.

6 20. Respondent's conduct, in altering her own medical record to delete reference to he
7 "drug seeking behavior" for the purpose of obtaining prescriptions and refills for pain
8 medications, as alleged in paragraphs 9-16 above, constitutes unprofessional conduct within th
9 meaning of Code section 2762(a) (unlawful obtaining of controlled substances or dangerous
10 drugs), and provides grounds for disciplinary action under Code section 2761(a).

11 FOURTH CAUSE FOR DISCIPLINE

12 (Falsify or Make Grossly Incorrect Entries In Medical Record)

13 21. Paragraphs 9-16 are incorporated by reference as though fully set forth.

14 22. Respondent's conduct, in altering her own medical record to delete reference to he
15 "drug seeking behavior" for the purpose of obtaining prescriptions and refills for pain
16 medications, as alleged in paragraphs 9-16 above, constitutes unprofessional conduct within th
17 meaning of Code section 2762(e) (falsifying patient record pertaining to controlled substances
18 dangerous drugs), and provides grounds for disciplinary action under Code section 2761(a).

19 FIFTH CAUSE FOR DISCIPLINE

20 (Penal Code section 471.5-Alter Medical Record)

21 23. Paragraphs 9-16 are incorporated by reference as though fully set forth.

22 24. Respondent's conduct, in altering her own medical record, as alleged in paragraph
23 16 above, constitutes violation of Penal Code section 471.5 and provides grounds for disciplin
24 action under Code section 2761(a).

25 MATTERS IN AGGRAVATION OF PENALTY

26 25. Complainant alleges, by way of aggravation of any penalty to be imposed in this
27 matter, that on or about January 20, 2009, respondent was terminated from the Board's Divers
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Program as a public safety risk, after enrolling in the Program on December 17, 2008, and then refusing to enter an in-patient medical detox and treatment program.

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 507462 issued to Sarah Elizabeth Brooks.
2. Ordering Sarah Elizabeth Brooks 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: 12/17/09


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

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

In the Matter of the Petition for Early
Termination of Probation of:

SARAH BROOKS

Registered Nurse License No. 507462

Petitioner.

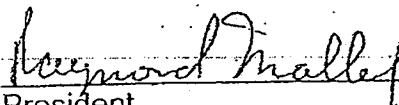
OAH No. 2013071220

DECISION

The attached Decision of the Board of Registered Nursing is hereby adopted by the Board
as its Decision in the above-entitled matter.

This Decision shall become effective on October 23, 2013.

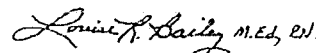
IT IS SO ORDERED this 23rd day of October 2013.



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



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

In the Matter of the Petition for
Termination of Probation of:

SARAH BROOKS,

Petitioner.

OAH No. 2013071220

DECISION

This matter was heard before a quorum of the Board of Registered Nursing in Oakland, California, on September 12, 2013. Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, presided.

The Department of Justice, Office of the Attorney General, was represented by Diann Sokoloff, Supervising Deputy Attorney General.

Petitioner Sarah Brooks represented herself.

FACTUAL FINDINGS

1. Petitioner Sarah Brooks was issued registered nurse license number 507462 on December 30, 1994. In December 2009, an accusation was issued against petitioner alleging five causes for discipline that stemmed from an incident in 2008 when petitioner, who was employed as an RN at Kaiser Permanente, altered her Kaiser patient record to delete an alert that had been placed by her physician concerning possible drug dependency and drug-seeking behavior.

Following an administrative hearing, petitioner's license was revoked effective December 20, 2010, for three of those causes – unprofessional conduct for using her position as a registered nurse to alter and falsify her own medical record, altering a medical record with fraudulent intent, and falsifying or making grossly incorrect entries in a medical record. The revocation was stayed and petitioner was placed on probation for five years upon specified terms and conditions, including that she abstain from the use of drugs and alcohol, participate in a chemical dependence treatment/rehabilitation program, submit to random biological fluid testing, and pay cost recovery of \$9,649.50.

2. Petitioner filed this petition for early termination of probation on January 28, 2013.

3. Petitioner has served two years and nine months of her five-year probationary term. She has satisfactorily complied with the terms of probation except that she has not yet paid full cost recovery. As of the date of her petition, she still owed \$2,600.15.

4. Petitioner has been employed for the past two years as an advice nurse with the Contra Costa Health Plan where she has shown herself to be professional and knowledgeable. Petitioner participates in AA and the Walnut Creek Nurse Support Group. Marshall Alameida, facilitator of that group, attests that petitioner has undertaken "a remarkable recovery program" and "has developed a depth and breadth of understanding regarding the circumstances of her probation and her recovery." He strongly recommends her for early termination of probation.

5. Petitioner believes she is ready to have her probation terminated. She avers that nothing in her recovery plan will change – she will continue to attend AA and Nurse Support Group meetings and will continue to abstain from the use of opioids and alcohol.

LEGAL CONCLUSIONS

Petitioner has established to the satisfaction of the board that cause exists for early termination of her probation upon completion of her cost recovery obligation.

ORDER

The petition of Sarah Brooks for early termination of probation is granted. Upon payment of her outstanding cost recovery balance, petitioner's probation shall be terminated and her license fully restored.

DATED: October 23, 2013



RAYMOND MALLEL

President

Board of Registered Nursing

Department of Consumer Affairs

CALIFORNIA
BOARD OF REGISTERED NURSING
OCT - 1 2013