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

In the Matter of the Statement of Issues Against: DAWN ALISON TAYLOR 601 SOUTH SAN PEDRO STREET LOS ANGELES, CA 90014 Respondent.	Case No. 2008-277 OAH No. L2008050785

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 November 16, 2008.

IT IS SO ORDERED October 16, 2008.

LaFrancine W Tate

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 Statement of Issues Against: DAWN ALISON TAYLOR Registered Nurse Application by Endorsement Respondent.	Case No. 2008-277 OAH No. 2008050785

PROPOSED DECISION

The hearing in the above-captioned matter took place on August 6, 2008, before Joseph D. Montoya, Administrative Law Judge (ALJ), Office of Administrative Hearings. Complainant was represented by Gregory J. Salute, Supervising Deputy Attorney General. Respondent appeared and represented herself.

In this case, Respondent applied for a license to practice as a registered nurse in California, which the Board of Registered Nursing denied, citing Respondent's failure to disclose two criminal convictions, her overall criminal record, and the fact that New Mexico had disciplined the nursing license she held in that state. At hearing, the Board offered documentary proof of its allegations, and Respondent presented evidence of her rehabilitation. Thereafter, the case was argued, and the matter submitted for decision on the hearing date.

FACTUAL FINDINGS

1. Complainant Ruth Ann Terry, M.P.H., R.N., filed the Statement of Issues in the above-captioned matter while acting in her official capacity as Executive Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs.

2. (A) Respondent Dawn Alison Taylor filed an application with the Board for a Registered Nurse's license in July 2004. Her license application contained various statements and representations which Respondent certified, under penalty of perjury, to be true. On November 18, 2005, the Board issued a temporary license to Respondent, which expired on May 18, 2006.

(B) Thereafter, Respondent applied for a permanent registered nurse's license, which application was denied by the Board on June 28, 2007. Respondent requested a hearing on the denial of her application, and this proceeding ensued.

3. When Respondent filed her 2004 license application, she denied that she had ever been convicted of "any" crime, other than a minor traffic violation.[1] Her denial was in response to a question in the application asking if she had ever been convicted. Respondent's response, made under penalty of perjury, was false because she had been convicted of crimes in 1991 and 1993, as further described in Factual Finding 4.

4. (A) In January 1991, Respondent was convicted in New York of operating a vehicle while under the influence of a drug or alcohol. The court fined Respondent and suspended her driver's license.

(B) In November 1993 Respondent was convicted in New Mexico of driving while intoxicated, in the case *City of Farmington v. Dawn Allison* (sic) *Taylor*, in Municipal Court case number 52644167727. Respondent was sentenced to 30 days in jail, with 27 days suspended on terms and conditions of probation. The facts of the case are that Respondent was stopped at 2:00 a.m. on November 7, 1993, while driving her car over the speed limit, and in an erratic and unsafe manner. She could not perform the field sobriety tests. Later, her blood alcohol level was found to be .17 by a breathalyzer test.[2]

5. On January 11, 2005, after she filed her license application, Respondent was convicted in Amarillo, Texas of public intoxication. The facts and circumstances of the matter are that, on January 5, 2005, at approximately 8:00 a.m., Respondent was found unconscious in a rented car that was parked in a supermarket parking lot. She could not explain to the police what she was doing there, other than a repeated claim that she was meeting someone there. However, she could not identify the person she was to meet. The scant court record indicates that she was sentenced to time served, but the amount of incarceration is set forth. By inference, it could not have been longer than six days, the amount of time between her arrest and conviction.

6. (A) On January 3, 2006, Respondent was convicted in California for the first time. The conviction was for a violation of Penal Code section 647,

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[1] The application makes it clear that both misdemeanors and felonies must be disclosed, whether resulting from verdicts, guilty pleas, or pleas of nolo contendere.

[2] By way of reference, that amount is more than twice the level allowed in California.

subdivision (a), disorderly conduct by a lewd act, a misdemeanor. The conviction was entered in the County of Los Angeles, in case number 6CA03563, based on Respondent's plea of nolo contendere.

(B) The facts and circumstances of the crime are that Respondent was observed by vice-squad officers standing on a corner, waving to cars occupied by lone men. She crossed a street to speak to one man, got in his car, and drove a few blocks with him, until they parked. When the police, who had followed Respondent and the man, approached the car, they found the two were engaged in a lewd sexual act inside that car.

(C) The court suspended sentence and placed Respondent on summary probation for one year, on the condition that she serve 15 days in jail, with credit for 7 days then served. She was ordered to pay fines, penalties, and assessments of approximately $300. Other terms, standard to probation grants, were imposed as well. On May 26, 2006, she was found to be in violation of her probation, and sentenced to an additional 15 days in jail; the court record indicates that the probation violation resulted from the conviction described in Factual Finding 7.

7. (A) On May 26, 2006, Respondent was convicted in the Los Angeles Superior Court of one count of violating section 472 of the Penal Code, forging an official seal, a misdemeanor. Her conviction was entered in case number 6CA19299 based on her plea of nolo contendere.

(B) The facts and circumstances of the crime are that Respondent was found in possession of a fake California driver's license when a car she was riding in was stopped by police. Because the state seal was forged on the license, she was found guilty of violating section 472.

(C) The court placed Respondent on summary probation for two years, on the condition that she serve 30 days in jail, and pay fines, penalties, and assessments of approximately $220. Other terms, standard to probation grants, were imposed as well.

(D) Respondent's probation was terminated by court order on November 16, 2007.

8. (A) On May 26, 2006, Respondent was convicted of disorderly conduct, prostitution, in violation of Penal Code section 647, subdivision (b), a misdemeanor. Her conviction was entered against her in the Los Angeles Superior Court, in case number 6HY00971, based on her plea of nolo contendere.

(B) The facts and circumstances of the crime are that on March 10, 2006, Respondent was seen standing on a sidewalk on Sunset Boulevard in the Hollywood area, occasionally speaking to male motorists. She approached a parked

car which was occupied by an undercover police officer. She got into the car and then offered to perform a sex act for $50. She was arrested before she could complete the act.

(C) The court placed Respondent on two years summary probation, on the condition that she pay various fines, fees, and assessments totaling $191, and that she have an HIV blood test. She was barred from hitchhiking, engaging drivers of passing cars in conversation, and other activities indicative of street walking. Other terms, standard to probation grants, were imposed as well.

9. Each of Respondent's convictions was for a crime that is substantially related to the duties, functions, and qualifications of a registered nurse. Furthermore, her three convictions in California were for crimes of moral turpitude.

10. On August 23, 2006, Respondent's license to act as a nurse in New Mexico was disciplined by the Nursing Board of the State of New Mexico, in that Board's case number R36620. The discipline was a letter of reprimand, issued pursuant to a stipulation between Respondent and the New Mexico Board. Furthermore, her license was placed on probation for a period of one year. Her license was disciplined because she had engaged in the practice of nursing at a hospital in New Mexico while her judgment or physical ability were impaired by alcohol, drugs, or a controlled substance.

11. Respondent began to turn her life around in the fall of 2006, after her last conviction. In September of that year, she began to get help from the Downtown Mental Health Center, which provided treatment for Generalized Anxiety Disorder. She also began alcohol rehabilitation counseling with the Women's Renaissance program.

12. In early January 2007, Respondent became a resident at the Weingart Center (Weingart) in Los Angeles. That organization provides residence and treatment for those who are homeless, and suffering from abuse of alcohol or drugs. Respondent testified that she was homeless for some two years before going to Weingart.

13. Respondent attested that she stopped drinking on March 10, 2007. She attends both Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) meetings three to six times per week. She has a sponsor, through NA. She acknowledged years of alcohol abuse, but also admitted that she had abused prescription drugs at times, and that motivated her to attend NA meetings. Her attestation of sobriety is corroborated by a letter from her case manager at Weingart, who states that Respondent has been taking random drug tests, and has passed them all. Respondent has also been attending religious services on a regular basis.

14. Respondent has been working for a program known as "Hope for the Homeless" since February 2008. Her supervisor there confirmed her employment in a letter, which praised her work ethic.

15. Respondent has been a nurse for 25 years, and was licensed in a number of states besides California and New Mexico. She was also licensed to work in Texas, under her New Mexico license, and was licensed in New York, Kansas, South Carolina, Michigan, and Colorado. She acknowledged that the stress of her work—she was an obstetrics and delivery nurse—helped fuel her addictions, but she believes she is ready to return to nursing.

16. Respondent attested that she has completed her probation terms in all cases, and obtained expungements of her convictions in May 2008. This could not be verified from the dockets, which had been obtained by Complainant in February 2008. It should be noted that motions for expungement in the California cases had been set for late January 2008, but denied, apparently because there was no appearance at the hearing on Respondent's part. However, the motions may have been renewed.

LEGAL CONCLUSIONS

1. The Board has established jurisdiction to proceed in this matter, pursuant to sections 2742 and 2761 of the Business and Professions Code,[3] based on Factual Findings 1 and 2.

2. Cause exists to deny Respondent's application pursuant to sections 2761, subdivision (e) and 480, subdivision (c), based on her submission of a false license application, which contained false statements of material facts. This Conclusion is based on Factual Findings 3 and 4.

3. Cause exists to deny Respondent's application pursuant to sections 480, subdivision (a)(1) and 2761, subdivisions (a) and (f), due to her convictions for crimes that are substantially related to the duties, qualifications, and functions of a registered nurse, based on Factual Findings 2 through 9.

4. Cause exists to deny Respondent's application pursuant to sections 480, subdivision (a)(3) and 2761, subdivision (a)(4), because her license to act as a nurse in another state was disciplined by that state, based on Factual Finding 10.

5. The Board has published criteria for use in considering the application of a person who has committed acts that would otherwise bar licensure. Those criteria can

[3] All statutory citations shall be to the Business and Professions Code unless otherwise noted.

be found at California Code of Regulations (CCR), title 16, section 1445. Among the criteria to consider are: (1) the nature and severity of the act in question; (2) additional subsequent acts; (3) recency of the acts; (4) compliance with terms of parole, probation, restitution, or other sanctions; (5) evidence of rehabilitation provided by the applicant.

6. (A) The record establishes that the wrongful acts are very serious, in that they indicated a long-rooted pattern of alcohol abuse. Further, Respondent admitted that she had abused drugs, and she was disciplined in New Mexico for practicing while her skills and judgment were diminished by alcohol or drugs. Plainly, the public is endangered by any medical practitioner who is addicted to alcohol or drugs, and does not have that addiction under control. And, other practitioners and medical institutions are endangered by such nurses, who expose them to significant liability.

(B) Respondent's convictions for acts of prostitution are most serious, as it is common knowledge that prostitutes are exposed to some of the most serious communicable diseases, such as HIV and Hepatitis, to name a few.

(C) Respondent's conviction for having a forged seal is serious, as it indicates dishonesty. As a nurse's records must be trustworthy to have currency, her honesty and integrity must be assured.

(D) In terms of recency, some of the most serious convictions occurred within the past 24 to 30 months, and they are part of a pattern going back more than a decade.

(E) Respondent has completed her probation, but had violated probation orders when she was convicted in May 2006.

(F) Respondent has provided evidence of rehabilitation, in that she has been actively engaged in attacking her addiction, and has been sober for approximately 16 months. Importantly, she has been involved in various jobs and community programs of a positive nature, and has been involved in religious activities.

7. The purpose of proceedings of this type is to protect the public and not to punish the applicant. (E.g., *Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164.) By statute, the Board's highest priority protection of the public, a policy which is to take precedence over all others, including a policy favoring, where possible, the rehabilitation of nurses with substance abuse or alcohol problems. (Compare § 2708.1 with § 2770.) In this case Respondent has had serious problems with alcohol and drugs, for a period of years, but she can claim sobriety for less than one and one-half years. It is well-known that registered nurses, especially those serving in obstetrics and gynecology, are subjected to manifold pressures, while acting as the

back bone of the health care system. Given the nature and extent of Respondent's problems, a longer period of sobriety and a sustained lifestyle of law-abiding and otherwise rehabilitated activity must be required of her, so that the public can be protected. This conclusion is not meant to denigrate Respondent's efforts so far; it appears that she has taken great strides forward in the past two years, and she is to be commended for that. However, given how far she had fallen behind, prudence dictates that she be required to take further steps forward before she can be licensed as a registered nurse.

ORDER

The application of Dawn Alison Taylor for a registered nurse's license is denied.

September 3, 2008

Joseph D. Montoya
Administrative Law Judge
Office of Administrative Hearings

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

In the Matter of the Statement of Issues Against: DAWN ALISON TAYLOR 601 South San Pedro Street, Los Angeles, Ca. 90014 Registered Nurse License Application by Endorsement Respondent.	Case No. 2008-277 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about July 22, 2004, the Board of Registered Nursing, Department of Consumer Affairs received an application for a Registered Nurse License Application by Endorsement from Dawn Alison Taylor (Respondent). On or about July 22, 2004, Dawn Alison Taylor certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. On or about November 18, 2005, a temporary license was issued to Respondent which expired on May 18, 2006. On or about November 9, 2005,

Respondent requested a second temporary license which was denied by the Board. On or about June 28, 2007 the Board denied Respondent's application for a permanent registered nursing license.

JURISDICTION

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

4. Section 2761 of the Code states:

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

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

. . . .

"(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state 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.

. . . .

"(e) Making or giving any false statement or information in connection with the application for issuance of a certificate or license.

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

5. Section 2762 states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [chapter 6, commencing with section 2700], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(b) Use any controlled substance as defined in Division 10 (commencing with

Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

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

6. Section 480 of the Code states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

. . . .

"(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

"The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

. . . .

"(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for

such license."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Criminal Conviction(s))

7. Respondent's application is subject to denial under sections 480(1), and 2761 (a) and (f) in that on Respondent has been convicted of the following convictions substantially related to the qualifications, functions, and duties of a registered nurse:

a. On or about January 29, 1991, in a criminal proceeding entitled *People of the State of New York* v. *Dawn Allison Taylor*, Case Number 65862, Respondent was convicted of operating a vehicle under the influence of a drug or alcohol.

b. On or about November 10, 1993, in a criminal proceeding entitled *State of New Mexico* v. *Dawn Allison Taylor*, Case Number 52644/167727, Respondent was convicted of driving while intoxicated (DWI).

1. The circumstances surrounding the conviction are as follows: On or about November 7, 1993, Respondent was observed driving 45 miles per hour in a 30 mile per hour zone. The vehicle was also observed weaving and crossing the painted lane divider three separate times.

c. On or about January 11, 2005, in a criminal proceeding entitled *People of the State of Texas v. Dawn Allison Taylor*, Case Number 2005CRM000069, Respondent was convicted of public intoxication.

1. The circumstances surrounding the conviction are as follows: On or about January 5, 2005, Respondent was found unconscious in a parked vehicle located in a supermarket parking lot.

d. On or about January 3, 2006, in a criminal proceeding entitled *People of the State of California v. Dawn Allison Taylor*, Case Number 6CA03563, Respondent was convicted of violating Penal Code section 647(a) (disorderly conduct, lewd act), a misdemeanor.

1. The circumstances surrounding the conviction are as follows: On or about December 30, 2005, police officers observed Respondent and a male subject engaged in a lewd sexual act inside the vehicle of the male subject.

e. On or about May 26, 2006, in a criminal proceeding entitled *People of the State of California v. Dawn Allison Taylor*, Case Number 6CA19299, Respondent was convicted of violating Penal Code section 472 (forging of an official seal), a misdemeanor.

1. The circumstances surrounding the conviction are as follows: On or about May 24, 2006, Respondent was found by to be in possession of a fake California driver's license.

f. On or about May 26, 2006, in a criminal proceeding entitled *People of the State of California v. Dawn Allison Taylor*, Case Number 6HY00971, Respondent was convicted of violating Penal Code section 647(b) (disorderly conduct, prostitution), a misdemeanor.

1. The circumstances surrounding the conviction are as follows: On or about March 10, 2006, Respondent approached an undercover police vehicle and once inside the vehicle offered to perform a sexual act for money.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Discipline by Another State Agency)

8. Respondent is subject to disciplinary action pursuant to section 480(3), and 2761(a)(4) of the Code on the grounds of unprofessional conduct in that on or about August 23, 2006, in a Settlement Agreement, in the Matter of Dawn Taylor, Respondent, Case No. R36620, the Board of Nursing for the State of New Mexico issued a letter of reprimand and placed Respondent's nurse license on probation for one year. The circumstances surrounding the discipline of Respondent's nurse license were that Respondent committed misconduct and unprofessional conduct as follows:

a. Respondent engaged in the practice of nursing at Cibola General Hospital in New Mexico when her judgment or physical ability were impaired by alcohol, drugs or controlled substances.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Misrepresentation on Application)

9. Grounds exist to deny Respondent's application pursuant to sections 2761(e)

and 480(c), in that on or about July 22, 2004, she misrepresented material facts under oath by submitting a falsified Application for Licensure By Endorsement, as follows:

a. On or about July 22, 2004, Respondent answered "No" to the question on her application for examination that asked, "Have you ever been convicted of any offense other than minor traffic violations? If yes, explain fully as described in the applicant instructions. Convictions must be reported even if they have been expunged under Penal Code section 1203.4 or if a diversion program has been completed under the Penal Code or Article 5 of the Vehicle Code. Traffic violations involving driving under the influence, injury to persons or providing false information must be reported. The definition of conviction includes convictions of following a plea of nolo contender (no contest) as well as please or verdicts of guilty. YOU MUST INCLUDE MISDEMEANOR AS WELL AS FELONY CONVICTIONS ".

b. In truth and fact, Respondent had suffered convictions in January 29, 1991, and November 10, 1993, as further set forth above in paragraph 7 (a) and (b).

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. Denying the application of Dawn Alison Taylor for a Registered Nurse License Application by Endorsement;

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

DATED: 4/3/08

RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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