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Attorneys for Complainant

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

In the Matter of the Accusation/Petition to Revoke Probation Against: LAURA ANN WINDELL AKA LAURA ANN DIVINI AKA LARA ANN WAGONER P.O. Box 788 Bridgeport, CA 93517 Registered Nurse License No. 459001 Respondent.	Case No. 2004-59 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 27, 2007, Complainant Ruth Ann Terry, M.P.H, R.N, in her official capacity as the Executive Officer of the Board of Registered Nursing, filed Accusation/Petition to Revoke Probation No. 2004-59 against Laura Ann Windell aka Laura Ann Divini aka Lara Ann Wagoner ("Respondent") before the Board of Registered Nursing ("Board").

2. On or about August 31, 1990, the Board issued Registered Nurse License No. 459001 to Respondent. The Registered Nurse License expired on May 31, 2006, and has not been renewed.

3. On or about March 19, 2007, Louise Steinberg, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation/Petition

to Revoke Probation No. 2004-59, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is P.O. Box 788, Bridgeport, CA 93517. A copy of the Accusation/Petition to Revoke Probation, the related documents, and Declaration of Service are attached as exhibit A, and are incorporated herein by reference.

4. Service of the Accusation/Petition to Revoke Probation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

5. On or about April 5, 2007, a certified mail receipt was received by this office. A copy certified mail receipt returned by the post office is attached as exhibit B, and is incorporated herein by reference.

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

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

7. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation/Petition to Revoke Probation, and therefore waived her right to a hearing on the merits of Accusation/Petition to Revoke Probation No. 2004-59. To date, no Notice of Defense has been filed by Respondent.

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

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

9. Pursuant to its authority under Government Code section 11520, the Board of Registered Nursing finds Respondent is in default. The Board of Registered Nursing will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in the supporting exhibits finds that the allegations in

Accusation/Petition to Revoke Probation No. 2004-59 are true.

10. The total costs for investigation and enforcement are $7,749.00. A copy of the Certification of Costs/Declaration of Ruth Ann Terry are attached as exhibit C, and are incorporated herein by reference.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Laura Ann Windell aka Laura Ann Divini aka Lara Ann Wagoner has subjected her Registered Nurse License No. 459001 to discipline.

2. A copy of the Accusation/Petition to Revoke Probation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation/Petition to Revoke Probation:

a. Business and Professions Code Section 2761(a) - Unprofessional Conduct as Grounds for Disciplinary Action.

b. Probation Term No. 15 - Failed to keep license status current.

c. Probation Term No. 18 - Failed to submit written reports.

d. Probation Term No. 27 - Failed to submit report on physical examination.

e. Probation Term No. 28 - Failed to complete Treatment/Rehabilitation Program for Chemical Dependence.

f. Probation Term No. 30 - Failed to participate in random drug-screening program.

g. Probation Term No. 32 - Failed to participate in ongoing mental health treatment.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 459001, heretofore issued to Respondent Laura Ann Windell aka Laura Ann Divini aka Lara Ann Wagoner, is revoked.

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

This Decision shall become effective on November 3, 2007.

It is so ORDERED October 4, 2007

LaFrancene W Tate

FOR THE BOARD OF REGISTERED NURSING

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DOJ docket number:LA2006601421

Attachments:

Exhibit A: Accusation/Petition to Revoke Probation No. 2004-59, and Declaration of Service

Exhibit B: Copy of Returned Certified Mail Receipt

Exhibit C: Certification of Costs: Declaration of Ruth Ann Terry

Exhibit A

Accusation/Petition to Revoke Probation No. 2004-59,
Related Documents and Declaration of Service

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Attorneys for Complainant

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

In the Matter of the Accusation/Petition to Revoke Probation Against: LAURA WINDELL a.k.a. LAURA ANN VANWAGNER P.O. Box 788 Bridgeport, CA 93517 Registered Nurse License No. 459001 Respondent.	Case No. 2004-59 **ACCUSATION AND PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

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

2. On or about August 31, 1990, Board of Registered Nursing issued Registered Nurse License No. 459001 to Laura Windell a.k.a. Laura Ann Vanwagner (Respondent). Effective December 8, 2004, the Registered Nursing License was revoked. However revocation was stayed and Respondent was placed on probation with terms and conditions. The Registered Nurse License expired on May 31, 2006, and has not been renewed.

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JURISDICTION

3. This Accusation and Petition to Revoke Probation 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.

STATUTORY PROVISIONS

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

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

6. 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;

. . . .

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it."

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

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

8. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and (d) of the Code on the grounds of unprofessional conduct in that Respondent failed to comply with the terms of her probation, as more fully set forth herein.

PETITION TO REVOKE PROBATION

9. In a disciplinary action entitled "In the Matter of the Accusation Against Laura Windell, a.k.a. Laura Ann Davini, a.k.a. Laura Ann Wagoner," Case No. 2004-59, the Board of Registered Nursing issued a decision, effective December 8, 2004, in which Respondent's Registered Nursing License was revoked. However, revocation was stayed and Respondent's license was placed on probation for a period of three (3) years with term and conditions. Thereby, probation on Respondent's license is to expire on December 8, 2007. A copy of the decision is attached as Exhibit A and is incorporated herein as if fully set forth.

The terms and conditions included:

Condition 15 of Probation:

"15. Comply with the Board's Probation Program. Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. 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."

Condition 18 of Probation:

"18. Submit Written Reports. Respondent, during the period of probation, 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 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.

"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."

Condition 27 of Probation:

"27. 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 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 he Board. 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 Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted."

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Condition 28 of Probation:

"28. 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 firsts 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 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."

Condition 30 of Probation:

"30. 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. 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 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 specific time frame, 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."

Condition 32 of Probation:

"32. Therapy or Counseling Program. Respondent, at her expense, shall participate in an on-going 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."

GROUNDS FOR REVOKING PROBATION

10. Grounds exist for revoking probation and reimposing the Order of revocation of Respondent's Registered Nursing license in that Respondent failed to comply with the following terms of probation:

a. Probation Term No. 15. Comply with the Board's Probation Program. Respondent failed to comply with the terms and conditions of her probation by failing to maintain a current license status with the Board, and as further stated herein.

b. Probation Term No. 18. Submit Written Reports. Respondent failed to

submit or have submitted the Physical Health Exam form due March 30, 2005, the form which indicated that she had signed up with a lab for drug screening, and the On-Going Treatment form due March 30, 2005.

c. Probation Term No. 27. Physical Examination. Respondent failed to have submitted the Physical Health Exam report due March 30, 2005.

d. Probation Term No. 28. Participate in Treatment/Rehabilitation Program for Chemical Dependence. Respondent failed to complete a Treatment/Rehabilitation Program within the first nine (9) months of her probation and failing to submit evidence of her attendance at the required 12-step and nurse support group meetings.

e. Probation Term No. 30. Submit to Tests and Samples. Respondent failed to participate in the required random drug-screening program by failing to sign up with a program and submit evidence of having done so.

f. Probation Term No. 32. Therapy or Counseling Program. Respondent failed to participate in on-going treatment as recommended by the Mental Health Examiner.

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 the probation that was granted by the Board of Registered Nursing in Case No. 2004-59 and imposing the disciplinary order that was stayed thereby revoking Registered Nurse License No. 459001 issued to Laura Windell, a.k.a. Laura Ann Vanwagner.

2. Revoking or suspending Registered Nurse License No. 459001, issued to Laura Windell a.k.a. Laura Ann Wagoner.

3. Ordering Laura Ann Windell 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;

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

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DATED: 2/27/07

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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CML (09/26/2006)

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

In the Matter of the Accusation Against: LAURA WINDELL aka LAURA ANN DIVINI aka LARA ANN WAGONER Post Office Box 788 Bridgeport, CA 93517 Registered Nurse License No. 459001 Respondent	Case No. 2004-59

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on December 8, 2004.

IT IS SO ORDERED November 8, 2004.

Sandra K. Erickson

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

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of the State of California
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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **LAURA WINDELL** **aka LAURA ANN DIVINI** **aka LARA ANN WAGONER** Post Office Box 788 Bridgeport, CA. 93517 Registered Nursing License No. 459001 Respondent.	Case No. 2004-59 OAH No. L-2003100482 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER** Hearing Dates: August 19-20, 2004 Time: 1:30 PM Place: Old Municipal Court Courtroom Mono County Courthouse Bridgeport, CA

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

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the Board of Registered Nursing. She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Earl R. Plowman, Deputy Attorney General.

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2. Respondent Laura Windell, (aka Laura Ann Davini; Laura Ann Wagoner and hereinafter referred to as "Respondndent") is represented in this proceeding by attorney Edgardo Gonzales, whose address is 1300 Clay Street Suite 600 Oakland, CA. 94612.

3. On or about August 31, 1990, the Board of Registered Nursing issued Registered Nursing License No. 459001 to Laura Windell, aka Laura Ann Divini and Laura Ann Wanoner (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2004-59. Said License expired on May 31, 2002 and has not been renewed.

JURISDICTION

4. Accusation No. 2004-59 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 7, 2003. Respondent timely filed her Notice of Defense on or about September 23, 2003, contesting the Accusation. A copy of Accusation No. 2004-59 is attached as exhibit A and incorporated herein by reference. A hearing on the charges and allegations in the Accusation is pending.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2004-59. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2004-59.

9. Respondent agrees that her Registered Nursing License is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Registered Nursing or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

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

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nursing License No. 459001 issued to Respondent Laura Windell, RN is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. 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.

14. **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 seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

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

15. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. 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.

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

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

17. **Residency, Practice, or Licensure Outside of State.** Periods of residency or practice as a registered nurse outside of California shall not apply toward a 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.

18. **Submit Written Reports.** Respondent, during the period of probation, 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 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.

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.

19. **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.

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For purposes of compliance with the section, "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, 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 shall apply.

20. **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 seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (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.

21. **Supervision.** Respondent shall obtain prior approval from the Board regarding Respondent's 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 of Registered Nursing, 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 Respondent 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 present.

22. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, 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.

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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.

23. **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.

24. **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 $5280. 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.

25. **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 discipline (revocation/suspension) of Respondent's 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.

26. **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 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:

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

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

27. **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 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 Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

28. **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.

29. **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.

30. **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. 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 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, 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.

31. **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 will 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 Respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by 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 Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

32. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in an on-going 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.

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ACCEPTANCE

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

DATED: July 29th 2004

Laura Windell

LAURA WINDELL, RN
Respondent

SUBMISSION

I have read and fully discussed with Respondent Laura Windell, RN the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: June 29, 2004.

Edgardo Gonzales

EDGARDO GONZALES, Esq
Attorney for Respondent

ENDORSEMENT

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

DATED: July 19, 2004.

BILL LOCKYER, Attorney General of the State of California

EARL R. PLOWMAN
Deputy Attorney General

Attorneys for Complainant

DOJ Docket/Matter ID Number: 03579110-LA2002AD2879
Windellstip.wpd

Exhibit A

Accusation No. 2004-59

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Attorneys for Complainant

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

In the Matter of the Accusation Against: LAURA WINDELL a.k.a., LAURA ANN DAVINI a.k.a., LAURA ANN WAGONER P.O. Box 788 Bridgeport, California 93517 Registered Nurse License No. 459001 Respondent.	Case No. 2004-59 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about August 31, 1990, the Board of Registered Nursing issued Registered Nurse License Number 459001 to Laura Windell, aka Laura Ann Davini, aka Laura Ann Wagoner (Respondent). The Registered Nurse License expired on May 31, 2002, and has not been renewed.

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JURISDICTION

3. This Accusation 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.

STATUTORY PROVISIONS

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

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

6. 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:

. . . .

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

. . . .

"(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."

7. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning

of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, 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.

"(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.

8. Section 490 of the Code states:

"A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. 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."

9. California Code of Regulations, title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare."

10. Health and Safety Code section 11170 states:

"No person shall prescribe, administer, or furnish a controlled substance for himself."

11. Health and Safety Code section 11173(a) (1) (2) states:

"No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation , or subterfuge; or (2) by the concealment of a material fact.

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

CONTROLLED SUBSTANCE

13. "Vicodin," is the trade name for hydrocodone or dihydrocodeinone and is a Schedule III controlled substance, as defined by Health and Safety Code section 11056(e) and is categorized as a "dangerous drug" pursuant to section 4022 of the Business and Professions Code.

FIRST CAUSE FOR DISCIPLINE

(Substantially Related Crimes)

14. Respondent is subject to discipline under section 2761(f) and 490 of the Code, in that Respondent has been convicted for a crime substantially related to the qualifications, functions or duties of a registered nurse, as defined in California Code of Regulations, title 16, section 1444(c), as follows:

A. On or about September 29, 1998, Respondent was convicted on a plea of guilty for violating one count of Penal Code section 484 (a)/488 (petty theft), a misdemeanor and one count of violating Health and Safety Code section 111440 (manufacture, sale, delivery, or holding of mislabeled drug or device), a misdemeanor, in the Municipal Court of California, County of Mono, Mono Judicial District, Case No. AA7651(98-372), entitled *The People of the State of California v. Laura Ann Windell.*

B. The circumstances surrounding the conviction are that on or about the 1st day of February 1998 through the 31st day of July, 1998, Respondent willfully and unlawfully stole, took, and carried away the personal property of another, to wit: the property of Bridgeport Medical Clinic. Furthermore, Respondent willfully and unlawfully manufactured, sold, delivered, held, or offered for sale a drug that was misbranded.

SECOND CAUSE FOR DISCIPLINE

(Possession and Administration of a Controlled Substance)

15. Respondent is subject to discipline under sections 2761(a) and 2761(d) of the Code, for unprofessional conduct, as defined in section 2762(a) and 2762(b), for violating Health and Safety Code sections 11170 and 11173(a)(1)(2) in that on about the 1st day of February 1998 through the 31st day of July, 1998, Respondent, while on duty as a registered nurse at Bridgeport Medical Clinic, in Bridgeport, California, by her own admission, stole Vicodin tablets and full bottles for her own consumption and administration. Respondent further admitted that to cover the theft, she would replace the Vicodin tablets with aspirin. Additionally, Respondent admitted that she would take Tylenol tablets that she had altered, by scratching off the brand name to make it look like a Vicodin tablet and replace it with aspirin or Tylenol.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

16. Respondent is subject to discipline under sections 2761(a) and 2761(d) of the Code, for unprofessional conduct, in that Respondent was convicted for a crime substantially related to the qualifications, functions or duties of a registered nurse, as more fully set forth in paragraph 14 above.

PRAYER

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

1. Revoking or suspending Registered Nurse License No. 459001, issued to Laura Windell;

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2. Ordering Laura Windell 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: 8/7/03

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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