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

In the Matter of the Accusation Against: JANIS LYNN HAMMOND 3448 Tunnel Hill Rd. SW Cleveland, TN 37311 Registered Nurse License No. 551735 Respondent.	Case No. 2007-126 OAH No. **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 8, 2006, Complainant Ruth Ann Terry, M.P.H, R.N, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2007-126 against Janis Lynn Hammond (Respondent) before the Board of Registered Nursing.

2. On or about February 8, 1999, the Board of Registered Nursing (Board) issued Registered Nurse License No. 551735 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2006, unless renewed.

3. On or about December 6, 2006, Lisa M. Daniele, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 2007-126, 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 is3448 Tunnel Hill Rd. SW, Cleveland, TN 37311. A copy of the Accusation, the related documents, and Declaration of Service are attached as Exhibit A, and are incorporated herein by reference.

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

5. On or about February 2, 2007, the aforementioned documents were returned by the U.S. Postal Service marked "Unclaimed." A copy of the postal returned documents are attached hereto as Exhibit B, and are 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, and therefore waived her right to a hearing on the merits of Accusation No. .

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 finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibits A, B and C, finds that the allegations in Accusation No. 2007-126 are true.

10. The total costs for investigation and enforcement are $13,128.00 as of May 8, 2007.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Janis Lynn Hammond has subjected her Registered Nurse License No. 551735 to discipline.

2. A copy of the Accusation 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:

a. Conviction of substantial related crime;

b. Possession of controlled substance;

c. Self-administered of controlled substance; and

d. Disciplinary action by a foreign state agency - State of Tennessee.

ORDER

IT IS SO ORDERED that Registered Nurse License No. 551735, heretofore issued to Respondent Janis Lynn Hammond, 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 September 17, 2007

It is so ORDERED August 15, 2007

LaFrancine W Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

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DOJ docket number:LA2006600373

Attachments:

Exhibit A: Accusation No. 2007-126, Related Documents, and Declaration of Service
Exhibit B: Postal Return Documents

Exhibit A

Accusation No. 2007-126
Related Documents and Declaration of Service

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

In the Matter of the Accusation Against: JANIS LYNN HAMMOND 6762 West Quailwood Way Tuscon, Arizona 85757 Registered Nurse License No. 551735 Respondent.	Case No. 2007-126 **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 February 8, 1999, the Board of Registered Nursing issued Registered Nurse License No. 551735 to Janis Lynn Hammond (Respondent). The Registered Nurse License will expire on June 30, 2008.

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.

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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:

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

. . .

"(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 profession licensing board. A certified copy o the decision or judgment shall be conclusive evidence of that action.

. . .

"(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.

. . .

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"(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.

"(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.

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 provides in pertinent part that : "no person shall prescribe, administer, or furnish a controlled substance for himself."
under the condition and in the manner provided by this division."

11. Health and Safety Code section 11173 states in pertinent part:

"(a) 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 SUBSTANCES

13. Lorazepam, generic for the brand Ativan, a benzodiazepine derivative, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(13).

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

14. Respondent has subjected his license to disciplinary action under sections 2761, subdivision (f) and 490 of the Code, on the grounds of unprofessional conduct, as defined

in California Code of Regulations, title 16, section 1444, in that Respondent was convicted of a crime which is substantially related to the qualifications, functions and duties of a licensed registered nurse, as follows:

a. On or about June 26, 2003, Respondent was convicted by the Court on a plea of nolo contendere to one count of violating Vehicle Code section 23152(b), a misdemeanor, (driving with a blood alcohol level of 0.08% or greater) in the Superior Court of the State of California, County of San Luis Obispo, Case No. M000338746, entitled *The People of the State of California v. Janis Lynn Hammond.*

b. The circumstances surrounding the conviction are that on or about December 28, 2002, during a routine traffic stop by the Pismo Beach Police, Respondent was determined to be under the influence of alcohol. During evidence inventory, the police located a controlled substance (Ativan) with no indication the drug was prescribed to Hammond.

SECOND CAUSE FOR DISCIPLINE

(Possession of Controlled Substance)

16. Respondent is subject to disciplinary action under section 2761, subdivision (a) and 2762, subdivisions (a), on the grounds of unprofessional conduct for violating Health and Safety Code section 11173, in that Respondent was in possession of a controlled substance, as more fully set forth in paragraph 15, above.

THIRD CAUSE FOR DISCIPLINE

(Self-Administered of Controlled Substances)

17. Respondent is subject to disciplinary action under sections 2761, subdivision (a) and 2762, subdivision (b) of the Code, on the grounds of unprofessional conduct for violating Health and Safety Code sections 11170. The circumstances are that on or about October 15, 2004, Gilroy Police officers responded to a 911-Emergency dispatch call from Respondent. Respondent admitted that she had taken Morphine and Vicodin. Respondent was released to her mother.

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FOUTH CAUSE FOR DISCIPLINE

(Disciplinary Action by a Foreign State Agency- State of Tennessee)

18. Respondent is subject to disciplinary action under sections 2761, subdivision (a)(4), on the grounds of unprofessional conduct in that on or about March 1, 2006, the State of Tennessee, Department of Health, Board of Nursing, "In the Matter of Janis Lynn Hammond RN," License No. 87617, Case No. 200501663, issued a Consent Order revoking Respondent's license for a period not less than two years. The circumstances surrounding the revocation of Respondent's Nursing License is that Respondent was convicted of a crime substantially related to the qualifications, functions, and duties of a registered nurse, as more fully set forth paragraph 15, 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. 551735, issued to Janis Lynn Hammond.

2. Ordering Janis Lynn Hammond 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: 11/8/06

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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