|] | | |
|----|--|----------------------------|
| 1 | EDMUND G. BROWN JR., Attorney General | |
| 2 | of the State of California GLORIA A. BARRIOS | |
| 3 | Supervising Deputy Attorney General LINDA L. SUN, State Bar No. 207108 | |
| 4 | Deputy Attorney General 300 So. Spring Street, Suite 1702 | |
| 5 | Los Angeles, CA 90013 Telephone: (213) 897-6375 | |
| 6 | Facsimile: (213) 897-2804 | · |
| 7 | Attorneys for Complainant BEFORE THE | |
| 8 | BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS | |
| 9 | STATE OF CALIFORNIA | |
| 10 | In the Matter of the Acquestion Against: | Case No. 2009-281 |
| 11 | In the Matter of the Accusation Against: | Cubo 110. 2007 201 |
| 12 | LARGEST INSTANTE II A C'ANT | DEFAULT DECISION AND ORDER |
| | JAMEY DWAYNE HAGAN 370 Oakley Dr., Apt. 816 | DEFAULT DECISION AND ONDER |
| 13 | Nashville, TN 37211 | [Gov. Code, §11520] |
| 14 | Registered Nurse License No. 650764 | |
| 15 | | |
| 16 | Respondent. | |
| 17 | | |
| 18 | ETAIDIAIC | COFFACT |
| 19 | FINDINGS OF FACT | |
| 20 | 1. On or about May 11, 2009, Complainant Ruth Ann Terry, M.P.H., R.N., in her | |
| 21 | official capacity as the Executive Officer of the Board of Registered Nursing, Department of | |
| 22 | Consumer Affairs, filed Accusation No. 2009-281 against Jamey Dwayne Hagan (Respondent) | |
| 23 | before the Board of Registered Nursing (Board). | |
| 24 | 2. On or about January 11, 2005, the Board issued Registered Nurse License No. | |
| 25 | 650764 to Respondent. The Registered Nurse License expired on August 31, 2006, and has not | |
| 26 | been renewed. | |
| 27 | <i>///</i> | |
| 28 | /// · | |
| | | 1 |

DEFAULT DECISION AND ORDER (Case No. 2009-281)

3. On or about May 19, 2009, Thurman Peden, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 2009-281, Statement to Respondent, Notice of Defense, Request for Discovery, Recommended Guidelines for Disciplinary Orders and Conditions of Probation, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is:

370 Oakley Dr., Apt. 816

Nashville, TN 37211.

A copy of the Accusation is attached as Exhibit A, and is 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 June 3, 2009, the aforementioned documents were returned by the U.S. Postal Service marked "Attempted Not Known."
 - 6. Business and Professions Code section 118 states, in perfinent part:
- (b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the license on any such ground.
 - 7. 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.
- 8. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 2009-281.

ORDER

IT IS SO ORDERED that Registered Nurse License No. 650764, heretofore issued to Respondent Jamey Dwayne Hagan, 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 <u>December 30, 2009</u>
It is so ORDERED <u>November 30, 2009</u>

Om & Bayretar

FOR THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS

60429230.doc LA2008601151

Attachment:

Exhibit A: Accusation No.2009-281

| İ | | |
|----|---|--|
| 1 | EDMUND G. BROWN JR., Attorney General of the State of California | |
| 2 | GLORIA A. BARRIOS | |
| 3 | Supervising Deputy Attorney General LINDA L. SUN, State Bar No. 207108 | |
| 4 | Deputy Attorney General 300 So. Spring Street, Suite 1702 | |
| 5 | Los Angeles, CA 90013 Telephone: (213) 897-6375 Facsimile: (213) 897-2804 | |
| 6 | Attorneys for Complainant | |
| 7 | BEFORE THE | |
| 8 | BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA | |
| 9 | | |
| 10 | In the Matter of the Accusation Against: . Case No. 2009-28/ | |
| 11 | JAMEY DWAYNE HAGAN | |
| 12 | 370 Oakley Dr., Apt. 816 Nashville, TN 37211 ACCUSATION | |
| 13 | Registered Nurse License No. 650764 | |
| 14 | | |
| 15 | Respondent. | |
| 16 | | |
| 17 | Complainant alleges: | |
| 18 | <u>PARTIES</u> | |
| 19 | 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation | |
| 20 | solely in her official capacity as the Executive Officer of the Board of Registered Nursing | |
| 21 | ("Board"), Department of Consumer Affairs. | |
| 22 | 2. On or about January 11, 2005, the Board issued Registered Nurse License | |
| 23 | No. 650764 to Jamey Dwayne Hagan ("Respondent"). The Registered Nurse License expired on | |
| 24 | August 31, 2006, and has not been renewed. | |
| 25 | <u>JURISDICTION</u> | |
| 26 | 3. This Accusation is brought before the Board under the authority of the | |
| 27 | following laws. All section references are to the Business and Professions Code ("Code") unless | |
| 28 | otherwise indicated. | |

STATUTORY PROVISIONS

- 4. Section 2750 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 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, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
 - 6. Section 2761 states, in pertinent part:
- "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 . . ."
 - 7. Section 2762 states, in pertinent part:
- "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.

. . . .

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

COST RECOVERY

8. Section 125.3 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 / DANGEROUS DRUGS

- 9. **Hydromorphone**, generic name for Dilaudid, is an Opium derivative, which is classified as a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(k), and is a dangerous drug within the meaning of Business and Professions Code section 4022.
- 10. Morphine/Morphine Sulfate, a narcotic substance, is a Schedule II controlled substance pursuant to Health and Safety Code Section 11055(b)(1)(M), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.
- Fentanyl is a Schedule II controlled substance pursuant to Health and Safety Code section 11055(c)(8), and is a dangerous drug pursuant to Business and Professions Code section 4022.

ST. JOHN'S HOSPITAL

- 12. Or on between February 17, 2005 to March 15, 2005, Respondent was employed as a traveling registered nurse at Saint John's Health Center in the city of Santa Monica, California ("St. John's").
- 13. At all times relevant to the charges brought herein, St. John's used a drug dispensing system called the "Omnicell". The Omnicell is a computerized single dose medication dispensing machine. The user enters a unique user identified, password and/or thumbprint scan in order to access and dispense medication from the machine. The machine

1. "MAR" is an abbreviation for Medication Administration Record.

28

| 1 | 0844 p.m. Respondent removed 1 Morphine 8mg/1ml 1ml syringe; no waste recorded; no documentation of medication administration to patient in MAR or |
|-----|--|
| 2 | Nursing Notes |
| 3 | 0946 p.m. Respondent removed 1 Hydromorphone 2mg/1ml 1ml syringe; no physician order; no documentation of medication administration to patient in MAR or Nursing Notes |
| | |
| 5 | <u>Unaccounted Drugs for this Patient</u> |
| 6 | Hydromorphone (2 syringes or 4mg); Morphine Sulphate (3 syringes or 24mg) |
| 7 8 | b. <u>Patient MP, MR #M0700247</u> |
| | <u>Physician's Orders</u> |
| 9 | 02/22/05 Hydromorphone 1mg IVP every 6 hours as needed for pain |
| 10 | Omnicell Record/MAR/Nursing Notes |
| 11 | 02/24/05 |
| 12 | 0615 a.m. Respondent removed 1 Hydromorphone 2mg/1ml 1ml syringe; no |
| 13 | waste recorded; no documentation of medication administration to patient in MAR or Nursing Notes |
| 14 | 0707 a.m. Respondent removed 1 Hydromorphone 2mg/1ml 1ml syringe; no |
| 15 | waste recorded; no documentation of medication administration to patient in MAR or Nursing Notes |
| 16 | 02/25/05 |
| 17 | 0314 a.m. Respondent removed 1 Hydromorphone 2mg/1ml 1ml syringe; no waste recorded; no documentation of medication administration to patient in MAR or Nursing Notes |
| 18 | |
| 19 | <u>Unaccounted Drugs for this Patient</u> |
| | Hydromorphone (3 syringes or 6mg) |
| 20 | c. Patient RJC, MR #M0825573 |
| 21 | |
| 22 | <u>Physician's Orders</u> |
| 23 | 03/10/05 Morphine Sulphate 2mg IV every 2 hours as needed for pain Morphine Sulphate 3mg IV every 2 hours as needed for severe |
| 24 | pain |
| | Omnicell Record/MAR/Nursing Notes |
| 25 | 03/1 <u>0/05</u> |
| 26 | 0715 p.m. Respondent removed 1 Hydromorphone 2mg/1ml 1ml syringe; no physician order; no documentation of medication administration to patient in |
| 27 | MAR or Nursing Notes |
| 28 | /// |

| 1 | 1026 p.m. Respondent removed 1 Morphine 8mg/1ml 1ml syringe; no waste recorded; no documentation of medication administration to patient in MAR or |
|----|--|
| 2 | Nursing Notes |
| 3 | <u>Unaccounted Drugs for this Patient</u> |
| 4 | Hydromorphone (1 syringe or 2mg); Morphine Sulphate (1 syringe or 8mg) |
| 5 | d. Patient BPS, MR #M0388982 |
| 6 | |
| 7 | <u>Physician's Orders</u> |
| 8 | 03/08/05 Morphine Sulphate 2mg IV every 1 hour as needed for pain 03/10/05 Morphine IV drip 1mg every 1 hour for continuous pain mgmt |
| 9 | Omnicell Record/MAR/Nursing Notes |
| 10 | 03/13/05 |
| 11 | 0533 a.m. Respondent removed 1 Morphine 8mg/1ml 1ml syringe; no physician order; no documentation of medication administration to patient in |
| 12 | MAR or Nursing Notes |
| | Unaccounted Drugs for this Patient |
| 13 | Morphine Sulphate (1 syringe or 8mg) |
| 14 | |
| 15 | e. <u>Patient FS, MR #M0388982</u> |
| 16 | <u>Physician's Orders</u> |
| 17 | No order for Hydromorphone |
| 18 | Omnicell Record/MAR/Nursing Notes |
| 19 | 03/14/05 |
| 20 | 0822 p.m. Respondent removed 1 Hydromorphone 2mg/1ml 1ml syringe; no physician order; no documentation of medication administration to patient in MAR or Nursing Notes |
| 21 | |
| 22 | Unaccounted Drugs for this Patient |
| 23 | Hydromorphone (1 syringe or 2mg) |
| 24 | /// |
| 25 | /// |
| 26 | /// |
| 27 | /// |
| 28 | /// |
| | |

f. Patient BBL, MR #M0388982 Physician's Orders Hydromorphone 1mg IM or IV every 3 hours as needed for pain 03/11/05 Omnicell Record/MAR/Nursing Notes 03/14/05 Respondent removed 1 Hydromorphone 2mg/1ml 1ml syringe; no 0925 p.m. waste recorded; no documentation of medication administration to patient in 6 MAR or Nursing Notes Unaccounted Drugs for this Patient 8 Hydromorphone (1 syringe or 2mg) FIRST CAUSE FOR DISCIPLINE 10 (Obtain or Possess Controlled Substances Illegally) 11 Respondent is subject to disciplinary action under Code sections 2761, 17. 12 subdivision (a), and 2762, subdivision (a), on the grounds of unprofessional conduct, in that on 13 or between February 17, 2005 to March 15, 2005, while employed as a traveling registered nurse 14 at St. John's, Respondent unlawfully obtained or possessed controlled substances 15 Hydromorphone and Morphine Sulphate from the hospital's Omnicell system involving seven 16 (7) patients. A total of 16mg Hydromorphone and 40mg Morphine Sulfate were unaccounted for 17 in any hospital records. Complainant refers to and incorporates all the allegations contained in 18 paragraphs 12 - 16, as though set forth fully. 19 SECOND CAUSE FOR DISCIPLINE 20 (Use of Controlled Substances in a Dangerous Manner) 21 Respondent is subject to disciplinary action under Code sections 2761, 22 18. subdivision (a), and 2762, subdivisions (a) and (b), on the grounds of unprofessional conduct, in 23 that on or about March 16, 2005, after discovery of the medication discrepancies, hospital 24 personnel requested Respondent to be screened for the presence of drugs. Respondent tested 25

1

2

3

4

5

7

9

26

27

28

12 - 16, as though set forth fully.

positive for the presence of Opiates, Morphine, Hydromorphone, and Fentanyl without a valid

prescription. Complainant refers to and incorporates all the allegations contained in paragraphs

THIRD CAUSE FOR DISCIPLINE

(Falsified Hospital Records)

19. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and 2762, subdivision (e), on the grounds of unprofessional conduct, in that on or between February 17, 2005 to March 15, 2005, while employed as a traveling registered nurse at St. Johns, Respondent falsified, made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital and patient records pertaining to controlled substances and dangerous drugs. Complainant refers to and incorporates all the allegations contained in paragraphs 12 - 16, as though set forth fully.

PRAYER

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

- Revoking or suspending Registered Nurse License No. 650764, issued to 1. Jamey Dwayne Hagan;
- Ordering Jamey Dwayne Hagan to pay the Board of Registered Nursing 2. the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

Executive Officer

State of California

Complainant

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

Board of Registered Nursing

Department of Consumer Affairs

DATED: 5 11 109

20

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

21

22

23

24

25

26

27

60411057.wpd 28

LA2008601151