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BEFORE THE
BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

DONNA ELIZABETH REDCROSS
353 Carmelita Drive
Mt. View, CA 94040

Vocational Nurse License
Number VN 124629

Respondent.

Case No. VN-1999-350

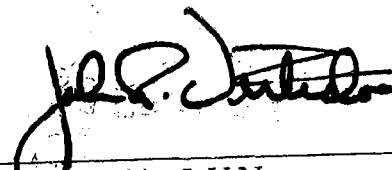
OAH No. N2007030255

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Vocational Nursing and Psychiatric Technicians as the Final Decision in the above entitled matter.

This Decision shall become effective on October 4, 2007.

IT IS SO ORDERED this 4TH day of September, 2007.



John P. Vertido, L.V.N.
President

BEFORE THE
BOARD OF VOCATIONAL NURSING AND
PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DONNA ELIZABETH REDCROSS
353 Carmelita Drive
Mountain View, California 94040

Vocational Nurse License No. VN 124629

Respondent.

Case No. VN-1999-350

OAH No. N2007030255

PROPOSED DECISION

Administrative Law Judge Cheryl R. Tompkin, State of California, Office of Administrative Hearings heard this matter on June 15, 2007, in Oakland, California.

Kim M. Settles, Deputy Attorney General, represented the complainant, Teresa Bello-Jones.

Edgardo Gonzalez, Attorney at Law, 1300 Clay Street, Suite 600, Oakland, California 94612, represented respondent Donna Elizabeth Redcross, who was present at hearing.

The matter was submitted on June 15, 2007.

FACTUAL FINDINGS

1. Complainant Teresa Bello-Jones, J.D., M.S.N., R.N., made the Accusation in her official capacity as Executive Officer, Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs.
2. On November 19, 1984, the Board issued vocational nurse license number VN 124629 to Donna Elizabeth Redcross (respondent). The license was in full force and effect at all times relevant to the subject proceeding. The license will expire on September 30, 2008, unless renewed.
3. On January 18, 2001, in the Superior Court of the State of California for the County of Alameda, respondent was convicted of violating Penal Code section 23152,

subdivision (b) (driving with a blood alcohol content of .08 percent or higher), a misdemeanor. Respondent was ordered to attend a first offender's drunk driving program, which she successfully completed on July 9, 2001.

The circumstances of the conviction are that on August 14, 2000, respondent drove a vehicle on a public roadway while under the influence of alcohol

4. On September 14, 1999, in the Superior Court of the State of California for the County of Santa Clara, respondent was convicted, on a plea of nolo contendere, of violating Penal Code section 666 (petty theft with priors - imprisonment as a condition of probation), a felony that bears a substantial relationship to the qualifications, functions and duties of a licensed vocational nurse (LVN). Respondent was sentenced to two years of formal probation on terms and conditions that included serving 90 days in jail and payment of fines and fees totaling \$370.50.

The circumstances of the conviction are that on March 15, 1999, respondent stole liquor and makeup from a Rite-Aid store in Mountain View, California.

5. On March 25, 1999, in the Municipal Court of the State of California for the County of Santa Clara, respondent was convicted, on a plea of nolo contendere, of violating Health and Safety Code section 11377, subdivision (a) (possession of a controlled substance), a misdemeanor that bears a substantial relationship to the qualifications, functions and duties of a LVN. Respondent was sentenced to two years of probation on terms and conditions that included serving 60 days in jail, random drug testing twice a month, completion of a drug rehabilitation program and payment of fines. Respondent represents she completed the drug program and otherwise complied with the conditions of her probation.

The circumstances of the conviction are that on November 27, 1996, respondent unlawfully possessed a controlled substance, methamphetamine.

6. On December 19, 1996, in the Municipal Court of the State of California for the County of Santa Clara, respondent was convicted, on a plea of nolo contendere, of violating Penal Code section 666 (petty theft with a prior), a misdemeanor that bears a substantial relationship to the qualifications, functions and duties of a LVN. Respondent was sentenced to three years of probation on terms and conditions that included serving 25 days in jail, performing 60 hours of volunteer work, participation in a "theft awareness" program and payment of fines and penalties totaling \$405.

The circumstances of the conviction are that on November 27, 1996, respondent stole retail merchandise from a Target store.

7. On September 21, 1994, in the Municipal Court of the State of California for the County of Santa Clara, respondent was convicted, on a plea of nolo contendere, of violating Penal Code sections 484/488 (petty theft), a misdemeanor that bears a substantial

relationship to the qualifications, functions and duties of a LVN. Respondent was placed on probation for a period of 18 months on terms and conditions that included serving 10 days in jail (which she was allowed to complete through a weekend work program) and payment of \$595 in fines.

The circumstances of the conviction are that on July 1, 1994, respondent took a shopping cart full of items, valued at \$213.96, from a Safeway store in Mountain View, California, without making any attempt to pay for said items.

8. On December 30, 1992, in the Municipal Court of the State of California for the County of Santa Clara, respondent was convicted, on a plea of guilty, of violating Vehicle Code section 12500, subdivision (a) (driving without a license with priors), a misdemeanor. Respondent was placed on eighteen months of probation on terms and conditions that included payment of fines, fees and assessments totaling \$196.

The circumstances of the conviction are that on September 30, 1992, respondent was cited by a Santa Clara Deputy Sheriff for driving without a license in her possession and for speeding.

8. On July 18, 1991, in the Municipal Court of the State of California for the County of Santa Clara, respondent was convicted, on a plea of guilty, of violating Vehicle Code section 12500 (driving without a license). Respondent was required to pay fines totaling \$93.

9. On May 2, 1990, in the Municipal Court of the State of California for the County of Santa Clara, respondent was convicted, on a plea of guilty, of violating Vehicle Code section 14601.1, subdivision (a) (driving when privileges suspended or revoked). Respondent was placed on three years probation on terms and conditions that included payment of fines, fees and assessments totaling \$355.

10. Respondent was also convicted on November 1, 1995, of disturbing the peace. According to respondent, she got into a fight with a former roommate at a boarding house. The roommate attacked respondent after respondent asked her not to touch her possessions. The police were called but respondent declined to press charges. Respondent testified she thought the matter had been dismissed and was not aware of this conviction prior to hearing.

11. Respondent's multiple convictions demonstrated a pattern of repeated and willful disregard for the law, and therefore collectively bear a substantial relationship to the qualifications, functions, or duties of a LVN. (See *In re Kelley* (1990) 52 Cal.3d 487; *People v. Forster* (1994) 29 Cal.App.4th 1746; *Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394.)

12. On October 8, 2002, the Board sent a letter to respondent, by certified mail, requesting that she submit Live Scan fingerprints. On April 6, 2006, and again on October 16, 2006, the Board sent certified letters to respondent requesting that she submit Live Scan

fingerprints, documentation that she had completed her court ordered drug program, documentation of rehabilitation and a list of her employers from January 2004 to the present. Respondent failed to timely submit the requested fingerprints or documentation. Respondent did not submit Live Scan fingerprints or employment information until June 2007. Other documentation was not submitted until the day of hearing.

13. Respondent does not contest any of the convictions described above. She does not recall the details of her earlier Vehicle Code violations, but acknowledges that she drove without a license and while her license was suspended. With respect to her 2001 drunk driving conviction, respondent represents that it was a one time occurrence and that she successfully completed the first offenders program.

Respondent characterizes the circumstances of her 1994 theft conviction as a "very dumb move." She also testified that she was told her felony theft conviction would be reduced to a misdemeanor after she served her 90 day jail sentence. She is in the process of finding out why the conviction was never reduced. Respondent did not provide an explanation regarding her other theft convictions.

With respect to her conviction for possession of methamphetamine, respondent testified that she was going through a bad period in her life. Her boyfriend at the time repeatedly told her that she was fat, unattractive and worthless. She briefly used methamphetamine in an unsuccessful effort to lose weight. Following her conviction for drug possession, respondent successfully completed the court ordered drug program. The program required her to submit to random drug testing, attend weekly program sessions, and attend Alcoholics Anonymous. She also attended Narcotics Anonymous meetings on her own and continued attending the drug program for about six months after completion of the court ordered portion of program. Respondent represents she never had a "dirty test" during the drug program and that she does not currently use drugs. Respondent acknowledges that she did not provide timely proof of completion of the drug program to the Board, but explains that the notice of completion was sent directly to the court, and despite repeated requests she has not been provided with a copy.

14. With respect to failing to respond to the letters from the Board, respondent testified that each time she received a letter she contacted the Board by telephone, orally provided information, and was told to ignore the letters. She claims she did not promptly submit fingerprints because she did not know what Live Scan was until very recently. Respondent's testimony on this point was not very credible since each of the Board letters specifically refers to "Live Scan fingerprints."

In September 2006 respondent went to KR Services LLC to obtain Live Scan fingerprints. She could not find her Live Scan form so she obtained one at KR Services. The form she used listed the address for the Board of Registered Nursing rather than the address for the Board of Vocational Nursing and Psychiatric Technicians. Respondent noticed this discrepancy after leaving KR Services and called KR Services shortly thereafter. She left several messages. Rajesh Singh, who had taken her fingerprints, finally returned her call.

He told her to change the address on her copy and mail it to the correct Board. Respondent testified she did as instructed by Singh and also called the Board and told Board staff what had occurred. Respondent never followed up to see if the form or her fingerprints had been received by the Board. She realized the prints had not been received when she received the accusation. Respondent submitted another request for Live Scan on June 4, 2007, and mailed a copy of the Live Scan form to the Board.

15. Rajesh Singh is the owner and operator of KR Services LLC, a business that provides notary, paralegal, legal document assistance and fingerprinting services. Live Scan is one type of fingerprinting that Singh provides. Singh's records reflect that on September 26, 2006, respondent had her fingerprints taken at his business. After she left, she called back and left a message for him. Singh eventually spoke with respondent on October 13, 2006, at which time she advised him that the address on the Live Scan form was incorrect. Singh told her to mail a copy of the form with the correct address to the LVN Board and to call him back if she had any problems. Singh testified that it normally takes about 10 days for the Department of Justice (DOJ) and/or FBI to process fingerprints and mail the results to the requesting agency. However, if the quality of the fingerprints is unacceptable, the address on the Live Scan form is wrong or the DOJ or FBI has to search for records, there can be a delay in processing the fingerprints.

16. Respondent graduated from nursing school in the state of New York and obtained her nursing license shortly thereafter. She worked as a LVN in New York for approximately a year and then moved to California. She worked as a nurse's aide for several years before obtaining her California nursing license in 1984. Upon obtaining her California LVN license respondent began working through an agency. She has worked through nurse placement agencies a majority of her career. Her employing agencies include Professional Health Nurses, Manpower, Infinity and Maxim Health Care Services. Respondent has provided nursing care in a variety of settings, including Sequoia Hospital, Kaiser Hospital, Ronald McDonald House, Stanford Hospital and private patient residences. In 2002 respondent quit working as a nurse in order to care for a handicapped baby. She cared for the baby until 2004, when the baby's parents reconciled. She was not paid during this three year period. Respondent returned to nursing in 2004. On February 23, 2006, respondent quit nursing again to care for a baby girl, who was born under the influence of drugs. Respondent received the baby when the baby was two months old. The baby is now 17 months old. Respondent cares for the child full-time and is not currently employed as a LVN.

17. Respondent is 46 years old. She lives with her common law husband and the 17-month-old girl for whom she provides care. She and the child are supported by respondent's husband. Respondent last worked as an LVN in 2006. She anticipates returning to work as an LVN soon because the baby is now older and respondent wants to help reduce the financial load on her husband. Respondent admits she made a lot of mistakes in the past, including failing to promptly respond to letters from the Board. She maintains that she has learned from her mistake and she represents that in the future she will promptly comply with all Board requests. She also represents that she will not engage in illegal conduct. She notes that it has been over six years since her last conviction.

18. Respondent submitted letters of reference from Estrellita, the mother of the child for whom she currently provides care, and respondent's husband Dennis Ikebe. Estrellita writes that she met respondent through a friend who had a handicapped child for whom respondent provided care. Estrellita was very impressed with the care respondent provided to the child. When Estrellita got in trouble and needed someone to care for her daughter, she had police call respondent. Estrellita describes respondent as caring, knowledgeable and dedicated to caring for others. She writes that she is at peace while undergoing [drug] treatment in the knowledge that respondent is caring for her daughter. Estrellita notes that respondent does not receive any compensation for caring for her daughter.

Ikebe writes that respondent has all of the characteristics one would expect from someone in her occupation. He describes her as thoughtful, caring, knowledgeable and willing to share and apply that knowledge. He opines she is a lady of good moral standing and a very caring individual.

19. Pursuant to Business and Professions Code section 125.3, the Board may request that "a licentiate found to have committed a violation or violations of the licensing act [be required] to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case." The Board certifies that the following costs were incurred in connection with the investigation and prosecution of the accusation through June 8, 2007:

Attorney General's costs:

2006-2007	28.75 hours at \$158/hour	\$ 4,542.50
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Legal Assistant costs:

2006-2007	2 hours at \$101/hour	<u>\$ 202.00</u>
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TOTAL COSTS INCURRED:		\$4,744.50
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20. Respondent requests a reduction in costs stating that it would be a financial hardship for her to pay all of the costs since she is currently unemployed.

LEGAL CONCLUSIONS

1. Cause for license discipline exists under Business and Professions Code section 2878, subdivision (f), in that respondent has been convicted of crimes that are substantially related to the qualifications, functions and duties of a licensed vocational nurse, as set forth in Findings 3 through 11.

2. Cause for license discipline exists under Business and Professions Code section 2878, subdivision (j), in that respondent has committed acts involving dishonesty that are related to the duties and functions of a licensed vocational nurse, as set forth in Findings 4, 6 and 7.

3. Cause for license discipline exists under Business and Professions Code section 2878, subdivision (a), for unprofessional conduct, as defined in section 2878.5, subdivision (a), in that respondent possessed a controlled substance in violation of the law, as set forth in Finding 5.

4. Cause for license discipline exists under Business and Professions Code section 2878, subdivision (a), for unprofessional conduct, as defined in section 2878.5, subdivision (c), in that respondent was convicted of a criminal offense involving possession of a narcotic or dangerous drug, as set forth in Finding 5.

5. Cause for license discipline exists under Business and Professions Code section 2878, subdivision (a), for unprofessional conduct, in that respondent failed or refused to timely respond to repeated Board requests for Live Scan fingerprints and other employment related documentation, as set forth in Finding 12.

6. Respondent has taken positive steps toward her rehabilitation, as demonstrated by the fact that she admits her past mistakes and accepts responsibility for her actions. However, it is of concern that respondent has suffered multiple criminal convictions while licensed as a nurse, including convictions related to alcohol and drug use, and petty theft. In mitigation, all of the convictions are over six years old and there is no evidence that respondent ever performed less than satisfactorily in any of her assignments as a LVN. She has successfully completed both a drug program and a first offender's driving under the influence program. And despite past failures to promptly respond to Board requests for information, respondent expresses a current willingness to do whatever is necessary to retain her license. Discipline is clearly warranted for respondent's past illegal conduct. However, it is determined that the public interest can be adequately protected by placing respondent's license on probation for a period of time so that the Board can closely monitor her practice.

7. The reasonable costs of investigating and enforcing this matter under Business and Professions Code section 125.3 are \$4,744.50 by reason of the matters set forth in Finding 19. Respondent requests a reduction in costs due to financial hardship. After due consideration of respondent's ability to pay, it is determined that the costs should be reduced somewhat to \$3,744.50. Such consideration is mandated by the recent case of *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32¹ which requires the Board to determine

¹ *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 sets forth the factors to be considered in determining the reasonableness of costs. Factors to be considered include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge

that the licensee will be financially able to make later payments. Respondent shall be permitted to pay this sum through monthly, semi-annual or annual payments, as determined by the Board or its designee.

ORDER

Vocational Nurse License Number VN 124629 issued to respondent Donna Elizabeth Redcross is revoked; provided, however, that the revocation is stayed and respondent is placed on probation to the Board for three (3) years upon the following terms and conditions:

1. Obey All Laws - Respondent shall obey all federal, state and local laws, including all statutes and regulations governing the license. Respondent shall submit, in writing, a full and detailed account of any and all violations of the law to the Board within five (5) days of occurrence. To ensure compliance with this term, respondent shall submit two (2) completed fingerprint cards and the applicable fingerprint processing fees to the Board within thirty (30) days of the effective date of the decision, unless the Board determines that fingerprint cards were already submitted by respondent as part of her licensure application process effective July 1, 1996. Respondent shall also submit a recent 2" x 2" photograph of himself/herself within thirty (30) days of the effective date of the decision.
2. Compliance with Probation Program and Quarterly Report Requirements - Respondent shall fully comply with terms and conditions of the probation established by the Board and shall cooperate with the representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Probation Program.

Respondent shall submit quarterly reports, under penalty of perjury, in a form required by the Board. The reports shall certify and document compliance with all the conditions of probation.
3. Notification of Address and Telephone Number Change(s) - Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of her new address and any change in her work and/or home telephone numbers.
4. Notification of Residency or Practice Outside of State - Respondent shall notify the Board, in writing, within five (5) days, if she leaves California to reside or practice in another state.

to the proposed discipline, the financial ability of the licensee to pay and whether the scope of the investigation was appropriate to the alleged misconduct.

Respondent shall notify the Board, in writing, within five (5) days, upon her return to California.

The period of probation shall not run during the time respondent is residing or practicing outside California.

5. Notification of Employer(s) - When currently employed or applying for employment in any capacity in any health care profession, respondent shall notify her employer of the probationary status of respondent's license. This notification to respondent's current health care employer shall occur no later than the effective date of the Decision. Respondent shall notify any prospective health care employer of her probationary status with the Board prior to accepting such employment. This notification shall be by providing the employer or prospective employer with a copy of the Board's Accusation and Disciplinary Decision.

The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical health care positions.

Respondent shall cause each health care employer to submit quarterly reports to the Board. The reports shall be on a form provided by the Board, shall include a performance evaluation and such other information as may be required by the Board.

Respondent shall notify the Board, in writing, within five (5) days of any change in employment status. Respondent shall notify the Board, in writing, if she is terminated from any nursing or health care related employment with a full explanation of the circumstances surrounding the termination.

6. Interviews/Meetings with Board Representatives(s) - Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board, or its designated representatives.
7. Employment Requirements and Limitations - During probation, respondent shall work in her licensed capacity in the State of California. This practice shall consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

While on probation, respondent shall not work for a nurses' registry or in any private duty position, a temporary nurse placement agency, as a faculty member in an accredited or approved school of nursing, or as an instructor in a Board approved continuing education course except as approved, in writing, by the Board. Respondent shall work only on a regularly assigned, identified and predetermined work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

8. Supervision Requirements - Respondent shall obtain prior approval from the Board, before commencing any employment, regarding the level of supervision provided to respondent while employed as a licensed vocational nurse or psychiatric technician.

Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians, certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during the period of probation except as approved, in writing, by the Board.

9. Completion of Educational Course(s) - Respondent, at her own expense, shall enroll and successfully complete a course(s) substantially related to the violation(s) no later than the end of the first year of probation; or respondent shall be suspended from practice, until she has enrolled in and has successfully completed the specified coursework.

The coursework shall be in addition to that required for license renewal. The Board shall notify respondent of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of assigned coursework, respondent shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study.

Upon successful completion of the course, respondent shall cause the instructor to furnish proof to the Board within thirty (30) days of course completion.

10. Maintenance of Valid License - Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

Should respondent's license, by operation of law or otherwise, expire, upon renewal or reinstatement respondent's license shall be subject to any and all terms of this probation not previously satisfied.

11. **Cost Recovery Requirements -** Respondent owes \$3,744.50 in cost recovery. She shall make timely payment as directed in the Board's Decision pursuant to Business and Professions Code Section 125.3. Failure to make payments in accordance with any formal agreement entered into with the Board or pursuant to any Decision by the Board shall be considered a violation of probation.

The Board may conditionally renew or reinstate, for a maximum of one year, the license of any respondent who demonstrates financial hardship.


Respondent shall enter into a formal agreement with the Board to reimburse the unpaid costs within that one year period.

Except as provided above, the Board shall not renew or reinstate the license of any Respondent who has failed to pay all the costs as directed in a Decision.

12. **Chemical Dependency Support/Recovery Groups –** Within five (5) days of the effective date of the Decision, petitioner shall begin attendance at a chemical dependency support group (e.g. Alcoholics Anonymous, Narcotics Anonymous, Nurse Support Group). Verified documentation of attendance shall be submitted by petitioner with each quarterly report. Petitioner shall continue attendance in such a group for the duration of probation.
13. **Abstain from Controlled Substances –** Petitioner shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in sections 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness.
14. **Abstain from Use of Alcohol –** Petitioner shall completely abstain from the use of alcoholic beverages during the period of probation.
15. **Submit Biological Fluid Samples –** Petitioner shall immediately submit to biological fluid testing, at petitioner's cost, upon request by the Board or its designee. There will be no confidentiality in test results; positive test results will be immediately reported to the Board and petitioner's current employer.
16. **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 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. Upon successful completion of probation, respondent's license will be fully restored.

DATED: 7/9/07


CHERYL R. TOMPKIN
Administrative Law Judge
Office of Administrative Hearings

FILED

FEB 15 2007

**Board of Vocational Nursing
and Psychiatric Technicians**

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 WILBERT E. BENNETT
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7
8 Attorneys for Complainant

9
10 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. VN-1999-350

14 **DONNA ELIZABETH REDCROSS**
15 **353 Carmelita Drive**
Mt. View, CA 94040

A C C U S A T I O N

16 **Vocational Nurse License No. VN 124629**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
21 Accusation solely in her official capacity as the Executive Officer of the Board of Vocational
22 Nursing and Psychiatric Technicians, Department of Consumer Affairs.

23 2. On or about November 19, 1984, the Board of Vocational Nursing and
24 Psychiatric Technicians issued Vocational Nurse License Number VN 124629 to DONNA
25 ELIZABETH REDCROSS (Respondent). The Vocational Nurse License was in full force and
26 effect at all times relevant to the charges brought herein and will expire on September 30, 2008,
27 unless renewed.

28 //

JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians, 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 2878 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may suspend or revoke a license issued under this chapter for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, certain enumerated categories.

(d) Violating or attempting to violate, directly or indirectly any provision or term of this chapter.

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

(j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee.

5. Section 2878.5 of the Code further defines unprofessional conduct, in pertinent part, as follows:

(a) Obtain or possess in violation of law, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Code section 4022.

(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous drug, in which event the record of the conviction is conclusive evidence thereof.

6. Title 16, California Code of Regulations section 2521 provides, in pertinent part, that a crime or act shall be considered to be substantially related to the qualifications, functions, or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness to perform the functions authorized by the license in a

1 | manner consistent with the public health, safety, or welfare.

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

DRUGS

7 8. Methamphetamine is a Schedule II controlled substance as designated by
8 Health and Safety Code section 11055(d)(2), and a dangerous drug as defined in Code section
9 4022.

FIRST CAUSE FOR DISCIPLINE

(Criminal Convictions)

12 9. Respondent is subject to disciplinary action under Code sections 2878(f) in
13 that she was convicted of crimes substantially related to the qualifications, functions or duties of
14 a licensed vocational nurse, as follows:

15 a. On or about September 14, 1999, in the Superior Court of
16 California, County of Santa Clara, Case No. C9617867, entitled, *People v. Donna*
17 *Elizabeth Redcross*, Respondent was convicted on her plea of nolo contendere of
18 violating Penal Code section 666 (petty theft with specified prior - imprisonment
19 as a condition of probation), a felony. On or about October 14, 1999, pursuant to
20 said conviction, Respondent was sentenced as follows: Respondent was placed
21 on probation for two years, under terms and conditions, which included, but were
22 not limited to ninety days imprisonment, and payment of fines.

23 The factual circumstances of said conviction are that on or about March 15, 1999,
24 respondent unlawfully took liquor and makeup from Rite-Aid in Mountain View, California.

b. On or about December 19, 1996, in Municipal Court, County of Santa Clara, Case No. C9617867, entitled *The People of the State of California v. Donna Elizabeth Redcross*, Respondent was convicted on her plea of nolo contendere of violating Penal Code section 666 (petty theft with prior), a

1 misdemeanor. On or about December 19, 1996, pursuant to said conviction,
2 Respondent was sentenced as follows: Respondent was placed on three years
3 probation, twenty-five days imprisonment, sixty hours volunteer work,
4 participation in "theft awareness", and payment of fines.

5 The factual circumstances of said conviction are that on or about November 27,
6 1996, respondent unlawfully took and carried away retail merchandise from Target.

7 c. On or about March 25, 1999, in the Municipal Court of California,
8 County of Santa Clara, Case No. C9617867, entitled *The People of the State of*
9 *California vs. Donna Elizabeth Redcross*, Respondent was convicted on her plea
10 of nolo contendere of violating Health and Safety Code section 11377(a)
11 (possession of a controlled substance), a misdemeanor. On or about March 25,
12 1999, pursuant to said conviction, Respondent was sentenced as follows:
13 Respondent was placed on probation for two years, under terms and conditions,
14 which included, but was not limited to: sixty days imprisonment, random drug
15 testing twice per month, completion of a drug rehabilitation program, and
16 payment of fines.

17 The factual circumstances of said conviction are that on or about November 27,
18 1996, respondent unlawfully possessed a controlled substance, to wit: methamphetamine.

19 d. On or about September 21, 1994, in the Municipal Court of
20 California, County of Santa Clara, Case No. C9482294, entitled *The People of the*
21 *State of California vs. Donna Elizabeth Redcross*, Respondent was convicted on
22 her plea of nolo contendere of violating Penal Code sections 484/488 (petty theft).
23 On or about September 21, 1994, respondent was sentenced as follows:
24 Respondent was placed on probation for eighteen months, under terms and
25 conditions, which included ten days imprisonment.

26 The factual circumstances of said conviction are that on or about July 1, 1994,
27 respondent unlawfully took a full basket of grocery items from Safeway, totaling \$213.00,
28 without making any attempt to pay for said items. Respondent was contacted outside the store by

1 store security and placed under citizen's arrest for petty theft, in Mountain View, California.

2 e. On or about December 30, 1992, in the Municipal Court of
3 California, County of Santa Clara, Case No. E9277469, entitled *The People of the*
4 *State of California vs. Donna Elizabeth Redcross*, Respondent was convicted on
5 her plea of guilty of violating Vehicle Code section 12500(a) (driving without a
6 license). On or about December 30, 1992, respondent was sentenced as follows:
7 Respondent was placed on probation for eighteen months, under terms and
8 conditions which included payment of fines and restitution.

9 The factual circumstances of the conviction are that on September 30, 1992,
10 respondent was stopped by Santa Clara County Sheriff's Deputy Ray, and issued a citation for
11 driving without a California driver's license in her possession, and for driving twenty miles in
12 excess of the posted speed limit.

13 f. On or about July 18, 1991, in the Municipal Court of California,
14 County of Santa Clara, Case No. B9193285, Respondent was convicted on her
15 plea of guilty of violating Vehicle Code section 12500(driving without a license).
16 On or about July 18, 1991, respondent was required to pay fines related to said
17 conviction.

18 g. On or about May 2, 1990, in the Municipal Court of California,
19 County of Santa Clara, Case No. E8957447, entitled *The People of the State of*
20 *California vs. Donna Elizabeth Redcross*, Respondent was convicted on her plea
21 of guilty of violating Vehicle Code section 14601.1(a) (driving when privileges
22 suspended or revoked). On or about May 2, 1990, respondent was sentenced as
23 follows: Respondent was placed on probation for three years, under terms and
24 conditions which included payment of fines and restitution.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Commission of Any Act Involving Dishonesty)**

27 10. Respondent's conduct as set forth in paragraphs 9(a), (b), and (d), above,
28 constitutes commission of acts involving dishonesty, which are related to the duties and functions

1 of the licensee, and is cause for discipline pursuant to Code section 2878(j).

2 **THIRD CAUSE FOR DISCIPLINE**

3 **(Possession of Controlled Substance)**

4 11. Respondent's conduct as set forth in paragraph 9(c) above, constitutes
5 possession of a controlled substance, and is cause for discipline pursuant to Code section
6 2878.5(a).

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Conviction of Drug Related Crime)**

9 12. Respondent's conduct as set fourth in paragraph 8(c) above, constitutes
10 conviction of a criminal offense involving possession of any narcotic or dangerous drug, and is
11 cause for discipline pursuant to Code section 2878.5(c).

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(General Unprofessional Conduct)**

14 13. Respondent is subject to disciplinary action under Code section 2878(a)
15 (general unprofessional conduct), in that she failed and/or refused to comply with the Board's
16 requests dated October 8, 2002, April 5, 2006, and October 16, 2006, and sent by certified mail,
17 that respondent submit "Live Scan fingerprints", documentation that she has completed her court
18 ordered drug program, documentation of rehabilitation, and a list of her employers from January,
19 2004 to the present.

20 **PRAAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein
22 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
23 issue a decision:

24 1. Revoking or suspending Vocational Nurse License No. 124629, issued to
25 DONNA ELIZABETH REDCROSS;

26 2. Ordering DONNA ELIZABETH REDCROSS to pay the Board of Vocational
27 Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of
28 this case, pursuant to Business and Professions Code section 125.3;

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

DATED: February 15, 2007



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant