

**FILED**

MAR 29 2007

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

Board of Vocational Nursing  
and Psychiatric Technicians

In the Matter of the Accusation  
Against:

Case No. 6856

Inette Schwam Linstead  
210 Indio Drive  
Shell Beach, CA 93449

OAH No. L2006090665

Vocational Nurse License  
Number VN 163659

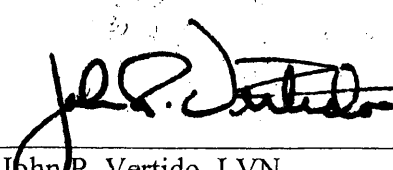
Respondent.

**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 April 28, 2007.

IT IS SO ORDERED this 29<sup>th</sup> day of March 2007.

  
\_\_\_\_\_  
John P. Vertido, LVN  
President

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

In the Matter of the Accusation Against:

INETTE SCHWAM  
AKA INETTE SCHWAN  
AKA INETTE GRAZIA  
AKA INETTE GRAZIA-SCHWAM  
231 N. College Drive, Apt. E7  
Santa Maria, CA 93454

Vocational Nurse License No. VN 163659

Respondent.

Case No. 6856

OAH No. L2006090665

**PROPOSED DECISION**

This matter was heard by Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings, on January 23, 2007, in Santa Maria, California.

Gregory J. Salute, Deputy Attorney General, represented complainant.

Inette Schwam (respondent) appeared personally and was represented by Jay A. Hieatt, Attorney at Law.

Evidence was received and the matter was submitted. The Administrative Law Judge finds as follows:

**FACTUAL FINDINGS**

1. On July 16, 1993, the Board issued vocational nurse license (LVN) number VN 163659 to respondent. Said license is current and active with an expiration date of November 30, 2008.

2. On February 14, 2006, Teresa Bella-Jones, J.D., M.S., R.N., (Complainant) made the Accusation in her official capacity as Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs (Board).

3. In a Default Decision and Order effective May 17, 2006, the Board revoked respondent's LVN license. On August 31, 2006, the Board issued an Order Nunc Pro Tunc vacating the Default Decision and granted respondent a hearing on the merits.

4. On December 18, 2003, in the Superior Court of California, County of San Luis Obispo, Case No. F000349514, respondent entered a plea of no contest and was convicted of violating Health and Safety Code section 11377, subdivision (a), felony possession of a controlled substance – methamphetamine) a crime substantially related to the duties, functions and qualifications of an LVN. The facts of the case were that respondent was arrested after police officers determined that respondent was under the influence of narcotics, and was in possession of numerous baggies containing methamphetamine. Imposition of sentence was suspended and respondent was placed on supervised probation for three years on certain conditions pursuant to Proposition 36, including completion of a counseling program; payment of fines and restitution totaling \$862.50; submit to chemical testing; and registration under Health and Safety Code section 11590.

5. On August 19, 2003, in the Superior Court of California, County of San Luis Obispo, Case No. F000342848, respondent entered a plea of nolo contendere and was convicted of violating Business and Professions Code section 4230.<sup>1</sup> The facts and circumstances underlying the conviction were that, during a search of respondent's purse, arresting officers found three containers, which contained numerous pills later determined to be controlled substances. The offense is substantially related to the duties, functions and qualifications of an LVN. The court placed respondent on probation for two years on certain conditions, which included serving 30 days in the county jail, payment of a fine of \$300, and ordering respondent to submit to chemical testing.

6. On February 4, 2002, in the Superior Court of California, County of San Luis Obispo, Case No. M000321167, respondent entered a plea of nolo contendere and was convicted of violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol or drugs, a misdemeanor that is substantially related to the duties, functions and qualifications of an LVN. Imposition of sentence was suspended and respondent was placed on probation for three years on certain conditions, which included serving eight days in the county jail, payment of a fine of \$1,280, and ordering respondent to complete a first offender drug and alcohol program.

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<sup>1</sup> Business and Professions Code section 4230, which was repealed in 1997, created a committee for the continuing education of pharmacists. Former section 4230, relating to possession of a drug without a prescription, was repealed in 1996. Business and Professions Code section 4060, enacted in 1996, and amended in 1997, provides in pertinent part, "No person shall possess any controlled substance except that furnished upon the prescription of a physician . . ."

7. On February 4, 2002, in the Superior Court of California, County of San Luis Obispo, Case No. F000320687, respondent entered a plea of no contest and was convicted of violating Business and Professions Code section 4324, subdivision (a), forgery of a prescription, a misdemeanor that is substantially related to the duties, functions and qualifications of an LVN. The facts and circumstances underlying the conviction were that respondent willfully and unlawfully forged two prescriptions to obtain the drug Soma at a pharmacy located in Arroyo Grande, California. Imposition of sentence was suspended and respondent was placed on probation for 18 months on certain conditions, which included serving six days in the county jail, payment of a fine of \$ 250, and ordering respondent to attend 10 sessions of drug and alcohol counseling.

8. On September 28, 1987, in the Municipal Court of the Los Angeles Judicial District, State of California, Case No. 87M25647, respondent entered a plea of nolo contendere and was convicted of violating Penal Code section 470, forgery, a misdemeanor that is substantially related to the duties, functions and qualifications of an LVN. Respondent was placed on probation for 24 months on certain conditions, which included serving 12 days in the county jail, and payment of a fine of \$350.

9. On December 22, 1992, respondent, on her initial application for licensure, knowingly failed to disclose the criminal conviction set forth in Factual Finding 8. Respondent submitted a renewal application for licensure on November 6, 2002. In her renewal application, respondent failed to disclose the convictions set forth in Factual Findings 6 and 7. Respondent admitted that she lied on her initial application because of her belief that she would not be licensed if she disclosed her 1987 conviction, and failed to disclose her February 4, 2002 convictions because she was fearful of losing her LVN license.

10. Respondent's long history of drug abuse was the major factor in her convictions. Respondent began the process of rehabilitation after her felony conviction in December 2003. Respondent's participation in the court ordered Proposition 36 rehabilitation program was a major factor in rehabilitation. Court ordered drug counseling pursuant to Proposition 36 consists of a rigorous program specifically designed to address the problems and behaviors of long-term drug users. The program includes chemical testing. Respondent successfully completed this program, and on November 9, 2005, the court terminated respondent's probation and reduced respondent's felony conviction to a misdemeanor pursuant to Penal Code section 17, subdivision (b).

11. Respondent has continued her rehabilitation by regularly attending Alcoholics Anonymous (AA) meetings. She attends several meetings a week. L. Z., respondent's sponsor, testified that respondent is one of the more committed AA members she has sponsored and believes in respondent's commitment to sobriety. L.Z. has been a sober member of AA for 18 years and has been a sponsor for 17 of those years. During her testimony, L.Z. exhibited a no-nonsense demeanor of a firm yet understanding sponsor who provides outstanding moral support but would not put up with deception. Her vast experience in sponsoring addicted substance abusers lends great weight to her testimony.

12. In addition to the support she receives from AA, respondent enjoys the complete support of her husband, who has also been a long term sober member of AA. A supportive and stable family life is an important factor in the rehabilitation process.

13. The evidence established that respondent is a competent LVN. Numerous colleagues and respondent's supervisor attested to the professional and caring manner in which respondent discharges her duties as an LVN. From December 2004, to July 2006, respondent worked as a charge nurse at Country Care Convalescent Hospital, where she supervised a staff of eight. Her supervisor at Country Care wrote a reference letter attesting to respondent's performance as an LVN, her excellent attendance record, and of her ability to relate to staff and patients. Since July 2006, respondent has worked at Mission View Health Center. Ellen McDonald R.N., respondent's direct supervisor at Mission View, testified that respondent's performance as an LVN has been outstanding, specifically citing respondent's competence and commitment to patient care. It is also noted that respondent disclosed her convictions and past drug abuse to Ms. McDonald when she applied for the job at Mission View.

14. Complainant submitted evidence of enforcement costs totaling \$6,325.75. Since the original decision in this matter was vacated and the matter was rescheduled for hearing, the deputy attorney general and other staff who helped prosecute this case were required to prepare twice for the hearing on the merits. Therefore, the total amount is deemed reasonable under Business and Professions Code section 125.3.

## DISCUSSION

15. This matter presents a set of circumstances where one must consider the entire record to determine the appropriate discipline. First of all, respondent suffered four drug related convictions and one theft conviction, then lied on two separate applications for licensure in that she failed to disclose certain convictions as set forth in Factual Finding 9. There is little doubt that respondent's addiction and her abuse of drugs was the major factor in her actions which resulted in her convictions. However, respondent established substantial rehabilitation over the past three years as set forth in Factual Findings 10 through 13. Respondent was honest in her testimony and did not attempt to rationalize past behavior. She accepted responsibility for her past misconduct. The evidence also proved that respondent has made great strides in her recovery efforts. Respondent is a completely different person when she does not use drugs or alcohol. This is evidenced by respondent's employment record as an LVN over the past three years since she has been clean and sober. Respondent presented substantial evidence which proved that she is a competent and caring LVN who provides excellent care. If punishment were the goal of disciplinary proceedings for professional licensees, then revocation would be the appropriate discipline in this case. But the courts have held otherwise. The California Supreme Court has held that the purpose of licensing statutes and administrative enforcement proceedings is not to punish a licensee, but to protect the public. (*Hughes v. Board of Architectural Examiners*, 17 Cal.4th 763, 784-786.).

16. In this case, there is cause for revocation. But there is also substantial evidence of rehabilitation. One might argue that three years of sobriety is not long enough to establish rehabilitation. However, the concept of rehabilitation does not lend itself to precise calculations of time. Rather, one must look to the effort made by the individual. Here, the evidence was overwhelming that respondent has made a serious effort over the last three years. Her testimony was corroborated by her supervisors, co-workers, character witnesses, and her sponsor at AA. Based on the entire record of this case, including respondent's demeanor, comportment and honesty while testifying, the Board's duty to protect the public would be properly discharged by placing respondent on probation under strict conditions that would address past drug abuse issues.

### **LEGAL CONCLUSIONS**

1. Cause exists to suspend or revoke respondent's LVN license, under Business and Professions Code sections 490, 2878, subdivision (f), and 2878.5, subdivisions (a) through (d), and California Code of Regulations, title 16, section 2521, for the convictions set forth in Factual Findings 4 through 8.

2. Cause exists to suspend or revoke respondent's LVN license, under Business and Professions Code section 2878, subdivisions (a), (b) and (e), for failing to disclose her convictions in her initial and renewal applications for licensure, as set forth in Factual Finding 9.

3. Cause exists to order respondent to pay \$6,325.75 to the Board as costs of enforcement pursuant to Business and Professions Code section 125.3.

### **ORDER**

Licensed Vocational Nurse No. VN 163659 previously issued to respondent Inette Schwam aka Inette Schwan aka Inette Grazia aka Inette Grazia-Schwam aka Inette Schwam Linstead, is revoked. However, said revocation is stayed for a period of five (5) years on 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 the Respondent as part of his licensure application process effective July 1, 1996.

Respondent shall also submit a recent 2" x 2" photograph of 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 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 his 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.

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 TO 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 the Respondent's current health care employer shall occur no later than the effective date of the Decision. The 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 REPRESENTATIVE(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 the 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 shall pay \$6,325.75 as costs of enforcement in this case. Respondent 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.

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**12. VIOLATION OF PROBATION**

If the 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.

**13. REHABILITATION PROGRAM**

Within thirty (30) days of the effective date of the Decision, Respondent shall enter a rehabilitation and monitoring program specified by the Board. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board.

Components of the treatment contract shall be relevant to the violation and to Respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random bodily fluid testing, abstention from drugs and alcohol, use of work site monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations and other appropriate rehabilitation or monitoring programs. The cost for participation in this program shall be paid by Respondent.

**14. CHEMICAL DEPENDENCY SUPPORT/RECOVERY GROUPS**

Within five (5) days of the effective date of the Decision, Respondent 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 Respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation.

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**15. ABSTAIN FROM CONTROLLED SUBSTANCES**

Respondent 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 Section 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness.

**16. ABSTAIN FROM USE OF ALCOHOL**

Respondent shall completely abstain from the use of alcoholic beverages during the period of probation.

**17. SUBMIT BIOLOGICAL FLUID SAMPLES**

Respondent shall immediately submit to biological fluid testing, at Respondent'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 the Respondent's current employer.

DATED: February 22, 2007

  
HUMBERTO FLORES  
Administrative Law Judge  
Office of Administrative Hearings

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

In the Matter of the Default Decision	)	
Against:	)	
	)	<b>Case No. 6856</b>
INETTE SCHWAM	)	
a.k.a INETTE SCHWAN	)	<b>ORDER NUNC PRO TUNC</b>
a.k.a. INETTE GRAZIA	)	
a.k.a. INETTE GRAZIA-SCHWAM	)	
210 Indio Drive	)	
Shell Beach, CA 93449	)	
	)	
Vocational Nurse License Number	)	
VN 163659	)	
	)	
Respondent.	)	
_____	)	

Good cause appearing, the Default Decision in the above-entitled matter dated May 17, 2006, is hereby vacated nunc pro tunc and a hearing on the merits of this matter is granted pursuant to Government Code Section 11520.

IT IS SO ORDERED this 31st day of August, 2006.

  
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**Sister Marie de Porres Taylor**  
**President**

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

In the Matter of the Accusation Against:

NO. 6856

**INETTE SCHWAM**  
**a.k.a. INETTE SCHWAN**  
**a.k.a. INETTE GRAZIA**  
**a.k.a. INETTE GRAZIA-SCHWAM**  
231 N. College Drive, Apt. E7  
Santa Maria, CA 93454  
  
Vocational Nurse License  
Number VN 163659

**DEFAULT DECISION  
AND ORDER**

Respondent.

Inette Schwam ("Respondent") was served with the Accusation No. 6856; Statement to Respondent; Notice of Defense form; copies of Government Code sections 11507.5, 11507.6 and 11507.7; and Request for Discovery by both first class and certified mail on February 14, 2006, at her address of record, as provided in sections 11503 and 11505 of the Government Code of the State of California.

Respondent failed to file a Notice of Defense within the time specified in Government Code section 11506.

Consequently, Respondent is in default. The Board of Vocational Nursing and Psychiatric Technicians ("Board") has determined that Respondent has waived her rights to a hearing to contest the merits of the Accusation and that the Board will take action on the Accusation without a hearing, pursuant to Government Code section 11520.

The Board makes the following findings of fact:

**FINDINGS OF FACT**

1. Teresa Bello-Jones, J.D., M.S.N., R.N., made and filed the Accusation solely in her capacity as the Board's Executive Officer.
2. On July 16, 1993, the Board issued Vocational Nurse License Number VN 163659 to Respondent. Said license will expire on November 30, 2006.

1                   3.       Under Business and Professions Code section 2875, the Board may  
2 discipline any licensed vocational nurse for any reason provided in Article 3 of the Vocational  
3 Nursing Practice Act.

4                   4.       Under Business and Professions Code section 118(b), the expiration of a  
5 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the  
6 period within which the license may be renewed, restored, reissued, or reinstated. Under  
7 Business and Professions Code section 2892.1, the Board may renew an expired license at any  
8 time within four years after the expiration.

9                   5.       Under Business and Professions Code section 125.3, the Board may  
10 request the administrative law judge to direct a licensee found to have committed a violation or  
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
12 and enforcement of the case.

13                  6.       Respondent has subjected her license to discipline under Business and  
14 Professions Code sections 2878(f), and 2878.5(a), (b), (c), (d), in that, Respondent was convicted  
15 of possession of a controlled substance, to wit, methamphetamine; possession of controlled  
16 substance, to wit, Codeine, Klonopin, Soma (Generic), and Prednisone; driving under the  
17 influence of alcohol or drugs; forgery of prescription; and forgery. The circumstances  
18 surrounding these convictions are more particularly described in the Accusation Number 6856, a  
19 copy of which is attached as Exhibit "1" and incorporated by reference.

20                  7.       Respondent has subjected her license to discipline under Business and  
21 Professions Code sections 2878(a), (b), and (e), for unprofessional conduct in that Respondent  
22 procured her Vocational Nurse license and renewal license by fraud or mistake, as more  
23 particularly described in the Accusation Number 6856, a copy of which is attached as Exhibit "1"  
24 and incorporated by reference.

25                  8.       Respondent has subjected her license to discipline under Business and  
26 Professions Code sections 2878(a), (d), and (j), in that, Respondent committed dishonest acts, as  
27 more particularly described in the Accusation Number 6856, a copy of which is attached as  
28 Exhibit "1" and incorporated by reference.

1                   9.       Respondent has subjected her license to discipline under Business and  
2 Professions Code sections 2878(a), in conjunction with Title 16, California Code of Regulations,  
3 section 2518.6(b), in that, Respondent failed to adhere to standards of the profession and ethical  
4 and behavioral standards of professional practice, as more particularly described in the  
5 Accusation Number 6856, a copy of which is attached as Exhibit "1" and incorporated by  
6 reference.

7  
8                                   **DETERMINATION OF ISSUES**

9                   Based on the foregoing Findings of Fact, respondent has subjected her license to  
10 discipline under Business and Professions Code sections 2878(a), (b), (d), (e), (f) and (j), and  
11 2878.5(a), (b), (c), and (d).

12  
13                                   **LOCATION OF RECORD**

14                   The record on which this Default Decision is based is located at the Sacramento  
15 office of the Board of Vocational Nursing and Psychiatric Technicians.

16  
17                                   **ORDER**

18                   **WHEREFORE**, the Board of Vocational Nursing and Psychiatric Technicians  
19 makes the following order:

20                   Vocational Nurse License Number VN 163659 authorizing respondent to act as  
21 a vocational nurse is hereby revoked.

22                   Respondent shall have the right to petition for reinstatement of the aforesaid  
23 license pursuant to section 2878.7 of the Business and Professions Code.

24                   Respondent shall not be deprived of making any further showing by way of  
25 mitigation; however, such showing must be made directly to the Board of Vocational Nursing  
26 and Psychiatric Technicians, 2535, Capitol Oaks Drive, Suite 205, Sacramento, California,  
27 95833, prior to the effective date of this Decision.

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This Default Decision shall become effective on the 16<sup>TH</sup> day of June, 2006.

Dated and signed this 17<sup>TH</sup> day of May, 2006.

*Sister Marie de Porres Taylor*

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Sister Marie de Porres Taylor  
President



**Exhibit 1**

**Board of Vocational Nursing and Psychiatric Technicians Case No. 6856**

BILL LOCKYER, Attorney General  
of the State of California  
GREGORY J. SALUTE, State Bar No. 164015  
Deputy Attorney General  
California Department of Justice  
300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Telephone: (213) 897-2520  
Facsimile: (213) 897-2804

Attorneys for Complainant

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

In the Matter of the Accusation Against:

Case No. 6856

INETTE SCHWAM  
a.k.a., INETTE SCHWAN  
a.k.a., INETTE GRAZIA  
a.k.a., INETTE GRAZIA-SCHWAM  
231 N College Drive Apt. E7  
Santa Maria, CA 93454

**A C C U S A T I O N**

Vocational Nursing License No. VN 163659

Respondent.

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this  
Accusation solely in her official capacity as the Enforcement Analyst of the Board of Vocational  
Nursing and Psychiatric Technicians.

2. On or about July 16, 1993, the issued Vocational Nurse License Number  
VN 163659 to Inette Schwam, also known as, Inette Schwan, Inette Grazia, and Inette Grazia-  
Schwam (Respondent). The Vocational Nursing License was in full force and effect at all times  
relevant to the charges brought herein and will expire on November 30, 2006, unless renewed.

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

4                   ....

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

7                   7.       Business and Professions Code section 2878.5 states, in pertinent part:

8                   "In addition to other acts constituting unprofessional conduct within the meaning  
9 of this chapter [chapter 6.5, commencing with section 2840], it is unprofessional conduct for a  
10 person licensed under this chapter to do any of the following:

11                   "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a  
12 licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or  
13 administer to another, any controlled substance as defined in Division 10 of the Health and  
14 Safety Code, or any dangerous drug as defined in Section 4022.

15                   "(b) Use any controlled substance as defined in Division 10 of the Health and  
16 Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an  
17 extent or in a manner dangerous or injurious to himself or herself, any other person, or the public,  
18 or to the extent that the use impairs his or her ability to conduct with safety to the public the  
19 practice authorized by his or her license.

20                   "(c) Be convicted of a criminal offense involving possession of any narcotic or  
21 dangerous drug, or the prescription, consumption, or self-administration of any of the substances  
22 described in subdivisions (a) and (b) of this section, in which event the record of the conviction is  
23 conclusive evidence thereof.

24                   "(d) Be committed or confined by a court of competent jurisdiction for  
25 intemperate use of or addiction to the use of any of the substances described in subdivisions (a)  
26 and (b) of this section, in which event the court order of commitment or confinement is prima  
27 facie evidence of that commitment or confinement."

28                   8.       Section 490 of the Code provides, in pertinent part, that the Board may

1 suspend or revoke a license when it finds that the licensee has been convicted of a crime  
2 substantially related to the qualifications, functions or duties of a licensed vocational nurse.

3 9. California Code of Regulations, title 16, section 2518.6 states, in pertinent  
4 part:

5 "(a) A licensed vocational nurse shall safeguard patients' clients' health and safety  
6 by actions which include but are not limited to the following:

7 . . . .

8 "(4) Abstaining from chemical/substance abuse.

9 "(c) A violation of this section constitutes unprofessional conduct for purposes of  
10 initiating disciplinary action."

11 10. California Code of Regulations, title 16, section 2521 states:

12 "For the purposes of denial, suspension, or revocation of a license pursuant to  
13 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or  
14 act shall be considered to be substantially related to the qualifications, functions or duties of a  
15 licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a  
16 licensed vocational nurse to perform the functions authorized by his license in a manner  
17 consistent with the public health, safety, or welfare."

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

22 12. DEFINITIONS OF CONTROLLED SUBSTANCE(S)

23 **Methamphetamine** is a dangerous drug according to Business and Professions  
24 Code section 4022 and is a Schedule II controlled substance as defined in Health and Safety  
25 Code section 11055(d)(2). This drug has no legal use and is highly addictive.

26 **Codeine** is a dangerous drug according to Code section 4022. It is a schedule II  
27 controlled substance as defined in Health and Safety Code section 11055 (b)(1)(h) or a schedule  
28 II controlled substance as defined in section 11056 (e)(2). The indicated use for this drug is to

1 || alleviate moderate to severe pain.

2                   **Klonopin**, a brand name for clonazepam, is an anti-anxiety benzodiazepin, and a  
3   Schedule IV controlled substances as designated by Health and Safety Code section 11057(d) and  
4   is categorized as a dangerous drug pursuant to section 4022 of the Code.

5                   **Soma**, a brand name for carisoprodol, is a centrally acting skeletal muscle relaxant  
6 and is categorized as a dangerous drug pursuant to section 4022 of the Code.

7                   **Prednisone** is a synthetic glucocorticoid used for anti-inflammatory or  
8 immunosuppressant effects. It is categorized as a dangerous drug pursuant to section 4022 of the  
9 Code.

10 FIRST CAUSE FOR DISCIPLINE

11 (Conviction of Drug or Alcohol and/or Substantially Related Crimes)

12                                13.        Respondent is subject to disciplinary action under section 2878,  
13        subdivision (f), section 2878.5, subdivisions (a) through (d), and section 490, in conjunction with  
14        California Code of Regulations, title 16, section 2521, in that Respondent has been convicted of  
15        drug or alcohol related crimes and/or crimes substantially related to the qualifications, functions  
16        or duties of a licensed vocational nurse as follows:

17 A. On or about December 18, 2003, Respondent was convicted by the court  
18 on a plea of nolo contendere for violating one count of Health & Safety Code section 11377(a),  
19 (possession of a controlled substance, to wit, methamphetamine), a misdemeanor, in the Superior  
20 Court of California, County of San Luis Obispo, San Luis Obispo Judicial District, entitled  
21 *People v. Inette Schwam, a.k.a., Inette Schwan, Inette Grazia, and Inette Grazia-Schwam*, Case  
22 No. F349514.

23 B. The circumstances surrounding the conviction are that on or about  
24 November 4, 2003, police officers with the City of Pismo Beach found Respondent to have  
25 hidden in her bra a small plastic bag containing small white crystals which was later determined  
26 by the police to be methamphetamine.

27 C. On or about August 19, 2003, Respondent was convicted by the court on  
28 a plea of no contest for violating one count of Business and Professions Code section 4230

1 (possession of a controlled substance), a misdemeanor, in the Superior Court of California,  
2 County of San Luis Obispo, San Luis Obispo Judicial District, entitled *People v. Inette Schwam*,  
3 *a.k.a., Inette Schwan, Inette Grazia, and Inette Grazia-Schwam*, Case No. F342848.

4 D. The circumstances surrounding the conviction are that on or about  
5 June 6, 2003, Respondent willfully and unlawfully possessed a controlled substance, to wit,  
6 Codeine, Klonopin, Soma (Generic), and Prednisone.

7 E. On or about February 4, 2002, Respondent was convicted by the court on  
8 a plea of no contest for violating one count of Vehicle Code section 23152, subdivision (a)  
9 (driving under the influence of alcohol or drugs), a misdemeanor, in the Superior Court of  
10 California, County of San Luis Obispo, San Luis Obispo Judicial District, entitled *People v.*  
11 *Inette Grazia, a.k.a., Inette Grazia-Schwam*, Case No. M321167.

12 F. The circumstances surrounding the conviction are that on or about  
13 November 30, 2001, Respondent willfully and unlawfully, while under the influence of an  
14 alcoholic beverage and a drug and under their combined influence, drove a vehicle.

15 G. On or about February 4, 2002, Respondent was convicted by the court on  
16 a plea of no contest for violating one count of Business and Professions Code section 4324,  
17 subdivision (a) (forgery of prescription), a misdemeanor, in the Superior Court of California,  
18 County of San Luis Obispo, San Luis Obispo Judicial District, entitled *People v. Inette Schwam*,  
19 *a.k.a., Inette Schwan, Inette Grazia, and Inette Grazia-Schwam*, Case No. F320687.

20 H. The circumstances surrounding the conviction are that on or about  
21 December 12, 2001, Respondent willfully and unlawfully, signed the name of another, and of a  
22 fictitious person, and falsely made, altered, forged, uttered, published, passed, and attempted to  
23 pass as genuine, a prescription for a drug, to wit: Soma.

24 I. On or about September 28, 1987, Respondent was convicted by the court  
25 for violating one count of Penal Code section 470 (forgery), a misdemeanor, in the Municipal  
26 Court of California, County of Los Angeles, Los Angeles Judicial District, entitled *People v.*  
27 *Inette Schwam*, Case No. 87M25647.

28 J. The circumstances surrounding the conviction are that on or about

1 September 5, 1987, Respondent entered a check cashing business, and endorsed and attempted to  
2 cash a check stolen from a person named Betty Ortega.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Procuring A License by Fraud or Mistake)

5 14. Respondent is subject to disciplinary action under section 2878,  
6 subdivisions (a), (b), and (e) for unprofessional conduct, in that Respondent procured her  
7 vocational nursing license and renewal license by fraud or mistake, as follows:

8 A. On or about November 6, 2002, Respondent, on her renewal application  
9 for licensure as a vocational nurse, marked "no" on question "F" which asked, "Since you last  
10 renewed your license, have you been convicted of or pled nolo contendere to any violation of any  
11 law of any state in the United States or a foreign country?" Respondent certified under penalty of  
12 perjury, under the laws of the State of California, that the foregoing was true and correct, when in  
13 fact, Respondent had been convicted of a crime substantially related to the qualifications,  
14 functions or duties of a licensed vocational nurse, as more fully set forth in paragraph 13A-13J  
15 above.

16 B. On or about December 22, 1992, Respondent, on her initial application for  
17 licensure, as a vocational nurse marked "no" on question four (4), which asked, "Have you every  
18 been convicted of any offense, including traffic violations?" Respondent certified under penalty  
19 of perjury, under the laws of the State of California, that the foregoing was true and correct, when  
20 in fact, Respondent had been convicted of a crime substantially related to the qualifications,  
21 functions or duties of a licensed vocational nurse, as more fully set forth in paragraph 13A-13J  
22 above.

23 **THIRD CAUSE FOR DISCIPLINE**

24 (Dishonest Acts)

25 15. Respondent's application is subject to denial under sections 2878,  
26 subdivisions (a), (d), and (j) of the Code, in that Respondent committed dishonest acts by failing  
27 to reveal her prior conviction cases against her, as more fully set forth in paragraphs 13A-13J and  
28 14A-14B above.



1 FOURTH CAUSE FOR DISCIPLINE

2 (Standards of Profession)

3 16. Respondent is subject to disciplinary action pursuant to section 2878(a) on  
4 the grounds of unprofessional conduct in conjunction with Title 16, California Code of  
5 Regulations, section 2518.6(b) in that Respondent failed to adhere to standards of the profession  
6 and ethical and behavioral standards of professional practice when she failed to abstain from  
7 chemical or substance abuse as set forth above in paragraphs 13A-13J above.

8 PRAYER

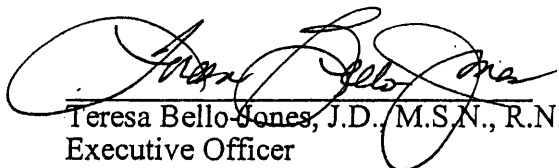
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
10 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric  
11 Technicians issue a decision:

12 1. Revoking or suspending Vocational Nursing License No. VN 163659,  
13 issued to Inette Schwam, also known as, Inette Schwan, Inette Grazia, and Inette Grazia-  
14 Schwam.

15 2. Ordering Inette Schwam to pay the Board of Vocational Nursing and  
16 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,  
17 pursuant to Business and Professions Code section 125.3;

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

19 DATED: February 14, 2006

20  
21   
22 Teresa Bello-Jones, J.D., M.S.N., R.N.

23 Executive Officer  
24 Board of Vocational Nursing and Psychiatric Technicians  
25 State of California  
26 Complainant