



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse License § AGREED
Number 518481 and Vocational Nurse License §
Number 93860 issued to JEFFREY F. VOGEL § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the E considered the matter of JEFFREY F. VOGEL, Registered Nurse License Number 51848 Vocational Nurse License Number 93860, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(8) and (10), Texas Occupations Code. Texas Occupations Code Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on December 17, 2010, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas. Respondent holds a vocational nursing license in the State of Texas, which is in delinquent status at this time.
4. Respondent received a Certificate in Vocational Nursing from McLennan Community College, Waco, Texas, on August 26, 1981 and an Associate Degree in Nursing from McLennan Community College, Waco, Texas, on May 1, 1984. Respondent was licensed to practice vocational nursing in the State of Texas on December 11, 1981 and Respondent was licensed to practice professional nursing in the State of Texas on August 24, 1984.
5. Respondent's nursing employment history is unknown.

6. On or about May 24, 1984, Respondent submitted an application for his Registered Nursing License to the Texas Board of Nurse Examiners in which he failed to disclose that he had been convicted of Driving While Intoxicated on or about March 18, 1976.
7. On or about August 12, 1997, Respondent's license to practice professional nursing in the State of Texas was SUSPENDED for a period of two (2) years with the suspension STAYED and Respondent was placed on probation for a period of two (2) years with STIPULATIONS. A copy of the Findings of Fact, Conclusions of Law, and Agreed Order dated August 12, 1997, is attached and incorporated, by reference, as part of this Order.
8. On or about November 10, 2008, Respondent submitted a License Renewal Form (Inactive Status) to the Texas Board of Nursing in which he answered "Yes" to the question:

"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

- A. been convicted of a misdemeanor?
- B. been convicted of a felony?
- C. pled nolo contendere, no contest, or guilty?
- D. received deferred adjudication?
- E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
- F. been sentenced to serve jail or prison time? court-ordered confinement?
- G. been granted pre-trial diversion?
- H. been arrested or have any pending criminal charges?
- I. been cited or charged with any violation of the law?
- J. been subject of a court-martial; Article 15 violation; or received any form of military judgement/punishment/action?"

Respondent disclosed the following criminal offenses that occurred in the State of California:

- A. On September 1, 1994, Respondent pled No Contest to a charge exhibiting a firearm, a misdemeanor. The Court sentenced him to three (3) years probation and ordered him to attend a domestic violence counseling program, attend AA meetings, perform fifty (50) hours of community service, and submit to random chemical testing and field sobriety testing.
- B. On October 10, 2000, Respondent entered a plea of Nolo Contendere to misdemeanor Driving While Under the Influence. The Court ordered him to serve four (4) days of jail time, three (3) years of probation, pay a fine, and attend a first offender DUI program.
- C. On February 24, 2003, Respondent entered a plea of Nolo Contendere to misdemeanor Driving While Under the Influence. The Court ordered him to serve

twelve consecutive weeks of weekend jail time, three (3) years of probation, pay a fine, and attend a second offender DUI program.

- D. On April 12, 2005, Respondent pled Nolo Contendere to misdemeanor Public Intoxication. The court sentenced him to two (2) days of jail time.
 - E. On October 12, 2005, Respondent pled Nolo Contendere to a charge of criminal threats, a misdemeanor. The Court sentenced him to three (3) years of probation, pay a fine, abstain from the use of drugs or alcohol, and continue his treatment for alcohol abuse.
9. On or about November 10, 2008, Respondent submitted a License Renewal Form (inactive status) to the Texas Board of Nursing in which he answered "yes" to the question: "Has any licensing authority refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, suspended, placed on probation, refused to renew a nursing license, certificate, or multi-state privilege held by you now or previously, or ever fined, censured, reprimanded, or otherwise disciplined you?"
- A. On or about March 23, 1997, Respondent's license to practice professional nursing in the State of California was REVOKED, with the revocation STAYED, and Respondent was placed on PROBATION with STIPULATIONS for three (3) years by the State of California Board of Registered Nursing, Sacramento, California. A copy of the Findings of Fact, Determination of Issues, and Order effective March 23, 1997, is attached and incorporated, by reference, as part of this Order.
 - B. On or about March 24, 2008, Respondent's license to practice professional nursing in the State of California was VOLUNTARILY SURRENDERED under a Consent Order entered into between Respondent and the State of California Board of Registered Nursing, Sacramento, California. A copy of the Decision and Order effective March 24, 2008 is attached and incorporated, by reference, as part of this Order.
10. In response to Finding of Fact Number Eight (8), Respondent states the disciplinary action taken by the California Board was in response to formal charges filed by the California Board seeking to discipline his nursing license on the basis of several criminal convictions and Respondent's use of alcohol.
11. On or about November 10, 2008, Respondent submitted a License Renewal Form (Inactive Status) to the Texas Board of Nursing in which he answered "Yes" to the question:
- "In the past 5 years, have you been addicted or treated for the use of alcohol or any other drug?"

12. In response to Finding of Fact Number Ten (10), Respondent states that because of his criminal history, he was ordered to seek treatment for alcoholism, and attend regular AA meetings. Respondent has complied with these requirements.
13. A letter from Heyward L. Green, Psy. D., Clinical Psychologist, dated July 15, 2005, states that Respondent has been under his care since June 7, 2005 for depressive disorder, anxiety disorder, and alcohol abuse. The letter goes on to state that Respondent has expressed the stressful nature of his job at Atascadero State Hospital, which seems reasonable to conclude that the stressful circumstances in his work environment contributed to his difficulties. Additionally, the letter states that Respondent is participating in AA meetings and has been prescribed antidepressant medication. Heyward L. Green, Psy. D. states that Respondent's prognosis is good but will require continued treatment.
14. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of alcohol.
15. Formal Charges were filed on September 10, 2010 .
16. Formal Charges were mailed to Respondent on September 14, 2010.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation of Section 301.452(b)(8)&(10) (effective September 1, 2007), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(13) (effective September 28, 2004).
4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 93860 and Registered Nurse License Number 518481, heretofore issued to JEFFREY F. VOGEL, including revocation of Respondent's licenses to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Registered Nurse License Number 518481 and Vocational Nurse License Number 93860, previously issued to JEFFREY F. VOGEL, to practice professional nursing and vocational nursing in Texas is hereby SUSPENDED for a period of three (3) years with the suspension STAYED and Respondent is hereby placed on PROBATION for three (3) with the following agreed terms of probation:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this order the Respondent may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

(1) RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

(2) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500). RESPONDENT SHALL pay this fine within forty-five (45) days of entry of the suspension being stayed. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(3) RESPONDENT SHALL, within one (1) year of entry of the suspension being stayed, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT

SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT

REQUIRE THE USE OF A REGISTERED NURSE (RN) AND VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD:

(4) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the probation conditions on RESPONDENT'S license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the probation conditions on RESPONDENT'S license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(5) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(6) For the first year of employment as a Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse. Direct supervision requires another professional nurse to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). The RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(7) For the remainder of the probationary period, RESPONDENT SHALL be supervised by a Registered Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(8) RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a nurse.

(9) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT'S capability to practice nursing. These reports shall be completed by the Registered Nurse supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for three (3) years of employment as a nurse.

(10) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the

office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry.** The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.

(11) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the probation period, random screens shall be performed at least once every three (3) months. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the RESPONDENT'S place of employment at any time during the probation period and require RESPONDENT to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the probation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

(12) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. RESPONDENT SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by RESPONDENT. RESPONDENT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) month period. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's

license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

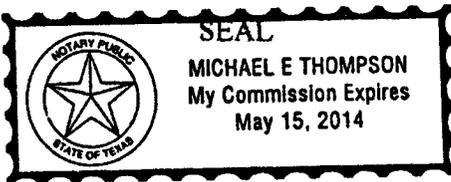
RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 18 day of Dec, 2010.

Jeffrey F Vogel
JEFFREY F. VOGEL, Respondent

Sworn to and subscribed before me this 18 day of DECEMBER, 2010.



[Signature]
Notary Public in and for the State of TEXAS

Approved as to form and substance.
[Signature]
DAN LYPE, Attorney for Respondent

Signed this 21 day of December, 2010.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 18th day of December, 2010, by JEFFREY F. VOGEL, Registered Nurse License Number 518481 and Vocational Nurse License Number 93860, and said Order is final.

Effective this 27th day of January, 2011.



Katherine A. Thomas

Katherine A. Thomas, MN, RN
Executive Director on behalf
of said Board

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Permanent Certificate
Number 518481 issued to
JEFFREY F. VOGEL

§
§
§

AGREED ORDER

On this day the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the matter of Jeffrey F. Vogel, license number 518481, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Article 4525(b)(7), Revised Civil Statutes of Texas, as amended. Respondent waived representation by counsel, informal conference, notice, hearing and agreed to the entry of this Order offered on May 2, 1997, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Respondent waived representation by counsel, informal conference, notice and hearing, and consented to the entry of this order.
3. Respondent is currently licensed to practice professional nursing in Texas.
4. Respondent received an Associate Degree in Nursing from McLennan Community College, Waco, Texas on May 5, 1984.
5. Respondent's professional employment history is unknown
6. On or about March 23, 1997, Respondent's license to practice professional nursing in the State of California was revoked, with the revocation stayed, and Respondent was placed on probation for three (3) years by the State of California Board of Registered Nursing, Sacramento, California.

CONCLUSIONS OF LAW

1. Pursuant to Article 4525, Revised Civil Statutes of Texas, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation of Article 4525(b)(7), TEX. REV. CIV. STAT. ANN.
4. The evidence received is sufficient cause pursuant to Article 4525(b), TEX. REV. CIV. STAT. ANN., to take disciplinary action against license number 518481, heretofore issued to JEFFREY F. VOGEL.

AGREED SANCTIONS

IT IS THEREFORE AGREED, subject to ratification by the Board of Nurse Examiners, that License Number 518481, previously issued to JEFFREY F. VOGEL, to practice professional nursing in Texas is hereby suspended for a period of two (2) years with the said suspension stayed and Respondent is hereby placed on probation for two (2) years with the following agreed terms of probation:

(1) RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Art. 4513 et. seq., the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 et. seq. and this order.

(2) RESPONDENT SHALL deliver the wallet-size license issued to JEFFREY F. VOGEL, to the office of the Board of Nurse Examiners within ten (10) days of the date of this order for appropriate notation.

(3) RESPONDENT SHALL comply with the terms of the Decision After Nonadoption issued by the State of California Board of Registered Nursing on March 23, 1997. RESPONDENT SHALL CAUSE the California Board of Registered Nursing to submit proof of his compliance with that Order to the Board of Nurse Examiners. Successful compliance with the terms of the California Order will be considered as compliance with the terms of this Order issued by the Board of Nurse Examiners.

THE FOLLOWING TERMS OF THIS PROBATION MAY ONLY BE SERVED WHILE RESPONDENT IS EMPLOYED AS A REGISTERED NURSE IN THE STATE OF TEXAS AND PRACTICING IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL PRACTICE SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH FOR TWELVE (12) CONSECUTIVE MONTHS DURING THE TWO (2) YEAR PERIOD OF PROBATION. THE LENGTH OF PROBATION WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED.

(4) RESPONDENT SHALL notify each present employer in professional nursing of this order of the Board and the probation conditions on RESPONDENT's license. RESPONDENT SHALL present a copy of this order to each present employer within five (5) days of notification of this order. RESPONDENT SHALL notify all potential employers in professional nursing of this order of the Board and the probation conditions on RESPONDENT's license. RESPONDENT SHALL present a copy of this order to each potential employer prior to employment.

(5) RESPONDENT SHALL CAUSE each present employer in professional nursing to submit the Notification of Employment form to the Board's office within ten (10) days of notification of this order. RESPONDENT SHALL CAUSE each potential employer to submit the Notification of Employment form to the Board's office within five (5) days of employment as a professional nurse.

(6) For the first year of employment as a Registered Nurse, RESPONDENT SHALL be directly supervised by a registered nurse. Direct supervision requires another professional nurse to be working on the same unit as RESPONDENT and readily available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). The RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(7) For the remainder of the stipulation period, RESPONDENT SHALL be supervised by a registered nurse who is on the premises. The supervising RN is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency or home health agency. RESPONDENT SHALL NOT be self employed or contract for services. Multiple employers are prohibited.

(8) RESPONDENT SHALL NOT practice as a professional nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the assigned unit(s) for one (1) year of employment as a professional nurse.

(9) RESPONDENT SHALL NOT practice as a professional nurse in any critical care area for one (1) year of employment as a professional nurse. Critical care areas include, but are not limited to, intensive care unit, emergency room, operating room, telemetry, recovery room, and labor and delivery units.

(10) RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan or other synthetic opiates for one (1) year of employment as a professional nurse.

(11) RESPONDENT SHALL CAUSE each employer to submit, on forms provided by the Board, periodic reports as to RESPONDENT's capability to practice professional nursing. These reports shall be completed by the registered nurse who supervises the RESPONDENT. These reports shall be submitted to the office of the Board at the end of each three (3) months for two (2) years of employment as a professional nurse.

(12) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription.

(13) RESPONDENT SHALL submit to random periodic screens for controlled substances and alcohol.

For the first three (3) month period, random screens shall be performed at least once per week.

For the second three (3) month period, random screens shall be performed at least once per month.

For the remainder of the stipulation/probation period, random screens shall be performed at least once every three (3) months.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cocaine Metabolites	Opiates
Ethanol	Phencyclidine
Hydrocodone	Propoxyphene
Marijuana Metabolites	

A Board representative may appear at the Respondent's place of employment at any time during the stipulation period and collect a specimen for screening. That specimen will be screened for all of the above substances as well as Butorphanol Tartrate (Stadol), Dezocine (Dalgan), and Nalbuphine Hydrochloride (Nubain).

All screens shall be properly monitored and production of specimen personally observed by the employer's designee. A complete chain of custody shall be maintained for each specimen obtained and analyzed.

RESPONDENT SHALL CAUSE the employer/laboratory to send the written results of each random screen to the Office of the Board within five (5) days of the date that the screen is analyzed. If any screen tests positive for alcohol and/or controlled substances Nubain, Stadol, Dalgan or other synthetic opiates, for which the RESPONDENT does not have a valid prescription, the employer/laboratory shall report such results to the Board Office on the day that the results are received by calling (512) 305-6834 and reporting the positive results to the Monitoring Investigator.

(14) RESPONDENT SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. RESPONDENT SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT's progress in therapy, rehabilitation and capability to safely practice professional nursing. The report must indicate whether or not the RESPONDENT's stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the probation period, or until RESPONDENT is dismissed from therapy:

(15) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and RESPONDENT SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least; the date of each meeting, the name of each group attended, and the signature and printed name of the chairperson of each group attended by RESPONDENT. RESPONDENT SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) months. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

(16) RESPONDENT SHALL CAUSE his probation officer. to submit written reports. on forms provided by the Board. The reports shall indicate the RESPONDENT's compliance with the court ordered probation. The reports shall be furnished each and every three (3) month period until RESPONDENT is released from probation.

IT IS FURTHER AGREED, that upon full compliance with the terms of this order,
RESPONDENT SHALL be issued an unencumbered license to practice professional nursing in
the State of Texas.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK

CONTINUED ON NEXT PAGE

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this order. I neither admit nor deny the violations alleged. By my signature on this order, I agree to the Findings of Fact, Conclusions of Law, Agreed Sanctions, and any stipulations of this order to avoid further disciplinary action in this matter. I consent to the issuance of the Agreed Sanctions. I waive judicial review of this order. I understand that this order is subject to ratification by the Board. When the order is ratified, the terms of this order become effective, and a copy will be mailed to me.

Signed this 17 day of June, 1997.

Jeffrey F. Vogel
JEFFREY F. VOGEL

State of California
County of San Luis Obispo

Sworn to and subscribed before me this 17th day of June, 1997.

SEAL

Tamara J. Baldwin
Notary Public in and for the State of California



WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 17th day of June, 1997, by JEFFREY F. VOGEL, license number 518481, and said order is final.

Effective this 12th day of August, 1997.



Katherine A. Thomas, MN, RN
Executive Director on behalf
of said Board

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

In the Matter of the Accusation)
Against:)
) Case No. 96-79
)
JEFFREY F. VOGEL, aka)
JEFFREY FLOYCE VOGEL, aka) OAH No. L-9602148
JEFF VOGEL)
4590 Arizona Street)
Atascadero, CA 93422)
)
License No. 405920)
)
Respondent.)
)

DECISION AFTER NONADOPTION

This matter was heard by Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, at San Luis Obispo, California, on July 2, 1996.

Complainant was represented by Stephen S. Handin, Deputy Attorney General. Respondent was represented by Chris Casciola, Attorney at Law.

Oral and documentary evidence, and evidence by oral stipulation on the record, was received and the matter was thereafter submitted.

The proposed decision of the administrative law judge was submitted to the Board of Registered Nursing (hereinafter "the board") on July 22, 1996. After due consideration thereof, the board declined to adopt said proposed decision and thereafter on September 20, 1996 issued an Order of Nonadoption and subsequently issued an Order Fixing Date for Submission of Written Argument. On November 27, 1996, the board issued an Order Extending Date for Submission of Argument. On January 23, 1997, the board issued an

Order Delaying Decision for a period not to exceed thirty days. The time for filing written argument in this matter having expired, written argument having been filed by respondent, the entire record, including the transcript of said hearing, having been read and considered, pursuant to Government Code Section 11517, the board hereby makes the following decision and order:

FINDINGS OF FACT

1. The accusation was filed by Ruth Ann Terry, R.N., M.P.H., solely in her official capacity as Executive Officer, Board of Registered Nursing ("Board"), Department of Consumer Affairs.

2. On September 30, 1986, the Board issued to respondent registered nurse license number 405920, which license expires on January 31, 1998.

3. a. On September 1, 1994, in the San Luis Obispo Municipal Court, County of San Luis Obispo, respondent was convicted, on his plea of no contest, of violating Penal Code section 417(a)(2) (drawing or exhibiting a firearm), a misdemeanor, and section 273.5(a) (inflicting corporal injury upon a spouse or cohabitant), also a misdemeanor.

b. Imposition of sentence was suspended and respondent was placed on formal supervised probation for three years on terms and conditions which included service of 10 days in county jail, attendance at a thirty-two week domestic violence counseling program, performance of 50 hours of community service, attendance for six months at Alcoholic Anonymous meetings, and submission to random chemical testing and field sobriety testing.

4. The facts and circumstances surrounding the conviction are as follows. Respondent hit Toni Martin, the woman with whom he was living, in the face. He also pointed a gun at Gary Thurston.

5. The crimes for which respondent was convicted are substantially related to the qualifications, functions, and duties

of a registered nurse in that they show a conscious disregard for public health, safety, and welfare within the meaning of Title 16, California Code of Regulations, section 1444.

6. Respondent committed the crimes for which he was convicted while under the influence of alcoholic beverages. Although he did not consume alcohol at work, respondent nevertheless realized after his arrest that consumption of alcoholic beverages had become a problem. He began attending Alcoholics Anonymous meetings after his conviction as mandated by the Court, but continued to do so on a regular basis even after the expiration of the mandated six months. He has not consumed any alcoholic beverages since July 10, 1994.

7. Respondent has complied with the terms of probation, completing the counseling programs and the community service. He continues to comply with the conditions imposed by the Court.

8. Attendance at the domestic violence counseling sessions provided respondent with significant insights and other tools with which to prevent further domestic abuse incidents. He continues to live with his partner and there have been no further incidents.

9. Respondent has been employed at Atascadero State Hospital since 1984. For approximately one and one-half years prior to the conviction he performed one of the most stressful jobs at the Hospital. Respondent's supervisors, who have been very supportive of his rehabilitation efforts, restructured his job, increasing the number of employees who perform it and reducing the level of stress each individual must endure.

10. Respondent has discharged his duties at Atascadero in a competent manner. He has not been accused of violence against any patient. His supervisors have given him above-average written evaluations.

11. Fifteen of respondent's coworkers wrote letters attesting to his character and ability.

12. Absent challenge by respondent to the figures presented at the hearing by complainant, the following are found to be the reasonable costs of investigation and prosecution of this matter:

Investigative services from the Division of Investigation		\$1,628.00
Expert witness costs		223.00
Attorney General's Costs		
Deputy Attorney General	\$367.50	
Paralegal	143.00	<u>510.50</u>
TOTAL		2,361.50

13. Except for those previously addressed in this Decision, all other allegations in the accusation are found to be unproved or surplusage.

* * * * *

Pursuant to the foregoing findings of fact, the board makes the following determination of issues:

DETERMINATION OF ISSUES

1. Grounds exist for the suspension or revocation of respondent's license pursuant to Business and Professions Code sections 490 and 2761(f) in that he was convicted of crimes substantially related to the qualifications, functions, and duties of a registered nurse, by reason of finding of fact numbers 3 through 5.

2. Grounds exist for the suspension or revocation of respondent's license pursuant to Business and Professions Code section 2761(a) in that he engaged in unprofessional conduct, by reason of finding of fact numbers 3 through 5 and determination of issues number 1.

3. Respondent presented significant evidence of mitigation and rehabilitation. The crimes occurred during a period in respondent's life in which he was under very stressful conditions and in which he was abusing alcoholic beverages. Respondent has benefited from counseling and has remained sober. Continued licensure under appropriate conditions is therefore warranted.

4. Conditions addressing substance abuse are necessary in that respondent was under the influence of alcohol when he hit his live-in-partner in the face and pointed a gun at Gary Thurston. Additionally, conditions addressing respondent's mental stability and impulse control difficulties are necessary in light of the above convictions.

5. Respondent's argument that no additional probation should be imposed in light of the continuing monitoring by the San Luis Obispo County Probation Department has been considered. The goal of the licensing scheme administered by the Board is the protection of the consuming public, a goal minimally shared by the criminal system. Moreover, the Board possesses monitoring expertise in the nursing area which surpasses that which can be brought to bear by the criminal system. Accordingly, the order which follows is necessary for the protection of the public.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Registered nurse license number 405920 issued to respondent Jeffrey F. Vogel is revoked; however, the revocation is stayed and respondent is placed on probation for a period of three (3) years on the following terms and conditions:

1. Respondent shall obey all the laws of the United States, the State of California, and all rules, regulations and laws pertaining to the practice of nursing in this State. A full and detailed account of any and all violations of law shall be reported in writing by respondent to the Board within seventy-two (72) hours of the occurrence. To permit monitoring of compliance with this term, respondent shall submit completed fingerprint cards and fees within 45 days of the effective date of the

Decision, unless previously submitted as part of the licensure application process.

2. Respondent shall fully comply with the terms and conditions of the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of respondent's compliance with the program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

3. Respondent shall report in person to such meetings as the Board or its designated representatives may reasonably direct.

4. Periods of residency or practice outside of California will not apply to the reduction of the probationary term. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state.

5. Respondent shall submit such written reports and verification of actions as are reasonably required by the Board. These declarations shall contain statements relative to respondent's compliance with all the terms and conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

6. Respondent shall engage in the practice of professional nursing in California for a minimum of 24 hours per week (or any other number of hours approved by the Board) for six consecutive months. In accordance with Business and Professions Code section 2732, no person shall engage in the practice of registered nursing without holding a license which is in an active status.

7. The Board shall be informed of and approve of each agency for which respondent provides nursing services prior to respondent's commencement of work. Respondent shall inform his employer of the reason for and the terms and conditions of probation and shall provide a copy of the Board's decision and

order to his employer and immediate supervisor. The employer shall submit performance evaluations and other reports as requested by the Board. Respondent is also required to notify the Board in writing within seventy-two (72) hours after termination of any nursing employment. Any notification of termination shall contain a full explanation of the circumstances surrounding it.

8. The Board shall be informed of and approve of the level of supervision provided to the respondent while he is functioning as a registered nurse. The appropriate level of supervision must be approved by the Board prior to commencement of work. Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing.

9. Respondent may not work for a nurse registry, a temporary nurse agency, a home care agency, an in-house nursing pool, as a nursing supervisor, as a faculty member in an approved school of nursing, or as an instructor in a Board-approved continuing education program. Respondent must work only on regularly-assigned, identified and predetermined worksite(s) with appropriate supervision as approved by the Board.

10. Respondent at his expense shall begin and successfully complete a course in nursing as directed by the Board within one year from the effective date of this decision. Respondent must submit written proof of successful completion to the Board. Transcripts or certificates of completion must be mailed directly to the Board by the agency or entity instructing respondent. Home study or correspondence courses are not acceptable and will not be approved.

11. Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$2,361.50. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

12. If respondent violates the terms and conditions of probation, the Board may, after giving respondent notice and an opportunity to be heard, set aside the stay order and reinstate

the revocation or take such other action as the Board deems just and reasonable in its discretion. The period of probation shall automatically be extended and shall not expire until any accusation relating to such violation has been acted upon by the Board.

13. Respondent shall within 45 days of the effective date of this decision, have a chemical dependency evaluation performed by a alcohol and chemical dependency counselor approved by the board. The examining counselor shall submit a written report of his or her assessment and recommendations to the Board. All costs are the responsibility of the respondent. Recommendations for treatment, recovery, or counseling made as a result of the examination shall be instituted, followed, and completed by respondent.

14. Respondent, at his expense, shall participate in a random, biological fluid testing or a drug screening program that the Board approves. The length of time and frequency will be subject to approval by the Board. Respondent is responsible for keeping the Board informed of respondent's current telephone number at all times and for ensuring that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program, and respondent shall be considered in violation of probation.

15. Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate and to determine his capacity to perform the duties of a registered nurse. The examination shall be performed by a psychiatrist, psychologist, or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations, to the Board. Additionally, the report must specifically address respondent's violent conduct towards Ms. Toni Martin. All costs are the responsibility of respondent. Recommendations for treatment, therapy, or counseling made as a result of the mental health examination shall be instituted and followed by respondent.

16. Should respondent comply with all of the above terms and conditions, respondent's license shall be fully restored at the end of probation.

This Decision becomes effective on March 23, 1997.

DATED: February 21, 1997 .



Mary Jo Moreno-Gorney, PhD, RN
President
Board of Registered Nursing

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JENNIFER S. CADY
Supervising Deputy Attorney General
3 SHAWN P. COOK, State Bar No. 117851
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-9954
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 JEFFREY F. VOGEL
a.k.a. JEFFREY FLOYCE VOGEL
13 a.k.a. JEFF VOGEL
PO Box 8422
14 Waco, TX 76714

15 Registered Nurse License No. 405920

16 Respondent.

Case No. 2008-42

O.A.H. No.

ACCUSATION

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about September 30, 1986, the Board issued Registered Nurse
24 License No. 405920 to Jeffrey F. Vogel a.k.a. Jeffrey Floyce Vogel a.k.a. Jeff Vogel
25 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
26 the charges brought herein and will expire on January 31, 2008, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board, under the authority of the

1 following laws. All Section references are to the Business and Professions Code unless
2 otherwise indicated.

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

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

11 6. Section 2761 states, in pertinent part:

12 "The board may take disciplinary action against a certified or licensed nurse or
13 deny an application for a certificate or license for any of the following:

14 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

15

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

19

20 "(f) Conviction of a felony or of any offense substantially related to the
21 qualifications, functions, and duties of a registered nurse, in which event the record of the
22 conviction shall be conclusive evidence thereof. . . ."

23 7. Section 2762 states, in pertinent part:

24 "In addition to other acts constituting unprofessional conduct within the meaning
25 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
26 under this chapter to do any of the following:

27

28 "(b) Use any controlled substance as defined in Division 10 (commencing with

1 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
2 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
3 injurious to himself or herself, any other person, or the public or to the extent that such use
4 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
5 license.

6 (c) Be convicted of a criminal offense involving the prescription, consumption,
7 or self-administration of any of the substances described in subdivisions (a) and (b) of this
8 section, or the possession of, or falsification of a record pertaining to, the substances described in
9 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
10 thereof.

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

15 8. Section 490 states:

16 "A board may suspend or revoke a license on the ground that the licensee has been
17 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
18 of the business or profession for which the license was issued. A conviction within the meaning
19 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
20 contendere. Any action which a board is permitted to take following the establishment of a
21 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
22 been affirmed on appeal, or when an order granting probation is made suspending the imposition
23 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
24 Penal Code."

25 9. California Code of Regulations, title 16, section 1444, states, in pertinent
26 part:

27 "A conviction or act shall be considered to be substantially related to the
28 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the

1 present or potential unfitness of a registered nurse to practice in a manner consistent with the
2 public health, safety, or welfare. Such convictions or acts shall include but not be limited to the
3 following:

4 "(a) Assaultive or abusive conduct"

5 10. Section 118, subdivision (b), provides that the suspension / expiration /
6 surrender / cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
7 disciplinary action during the period within which the license may be renewed, restored, reissued
8 or reinstated.

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

13 FIRST CAUSE FOR DISCIPLINE

14 (Convictions of Substantially Related Crimes)

15 12. Respondent is subject to disciplinary action under Sections 490 and 2761,
16 subdivision (f), on the grounds that Respondent was convicted of crimes substantially related to
17 the qualifications, functions, or duties of a registered nurse, as follows:

18 13. Criminal Threats

19 On or about October 12, 2005, in a criminal proceeding entitled *The People of the*
20 *State of California v. Jeffrey Floyce Vogel* in San Luis Obispo Superior Court, Case No.
21 M372359, Respondent was convicted on a plea of *nolo contendere* for violating Penal Code
22 section 422 (criminal threats), a misdemeanor. In addition to fines and 3 years probation, the
23 court ordered Respondent to continue his alcohol treatment, and abstain from use of drugs or
24 alcohol.

25 A. The circumstances of the conviction are that on or about May 9, 2005, San
26 Luis Obispo Police Department officers responded to a call that a man with a rifle was inside a
27 residence. Respondent was a house guest at the residence of Mr. Jones. Respondent, while
28 intoxicated, made verbal threats and threatened bodily harm to Mr. Jones. Respondent

1 repeatedly opened and closed the breech action on a rifle in an adjacent room to where Mr. Jones
2 was. The officers arrested Respondent and confiscated two rifles from the premises.

3 14. Public Intoxication

4 On or about April 12, 2005, in a criminal proceeding entitled *The People of the*
5 *State of California v. Jeffrey Floyce Vogel* in San Luis Obispo Superior Court, Case No.
6 M36836, Respondent was convicted on a plea of *nolo contendere* for violating Penal Code
7 section 647(f) (public intoxication), a misdemeanor. Respondent was denied probation and
8 ordered to serve 2 days jail time.

9 A. The circumstances of the conviction are that on or about January 15, 2005,
10 San Luis Obispo County Sheriff's Department officers assigned to security at the San Luis
11 Obispo Airport had been alerted that a man who was inebriated, or apparently debilitated by a
12 medical condition, was arriving to board a plane. Respondent arrived at a terminal counter and
13 was told that he had missed his flight. Respondent was wobbly on his feet, with glazed eyes and
14 was unable to discern his luggage from others. Respondent reeked of alcohol, slurred his
15 speech, and admitted to police that he had been drinking. The officers arrested Respondent
16 because he presented a safety risk to himself due to his extreme intoxication.

17 15. Second DUI

18 On or about February 24, 2003, in a criminal proceeding entitled *The People of*
19 *the State of California v. Jeffrey Floyce Vogel* in San Luis Obispo Superior Court, Case No.
20 M335096, Respondent was convicted on a plea of *nolo contendere* for violating Vehicle Code
21 section 23152(b) (driving a vehicle while having a greater than 0.08% blood alcohol content
22 level), a misdemeanor. The court ordered Respondent to 12 days consecutive weekend jail time,
23 3 years probation, fines, and to attend a second offender DUI program.

24 A. The circumstances of the conviction are that on or about November 13,
25 2002, California Highway Patrol officers, in Templeton, California, arrested Respondent after
26 observing him sitting on a road's dirt shoulder with minor abrasions to his forehead.
27 Respondent had driven his vehicle over an embankment, where it rolled down the hill and came
28 to rest on its wheels. Police determined that Respondent had been driving his vehicle while

1 intoxicated. When the officers questioned Respondent about abrasions to his forehead, and
2 whether he needed medical treatment, Respondent admitted to the police that he had been
3 unconscious for the past two hours and requested an ambulance. During questioning by police,
4 Respondent was belligerent and threatened the arresting officer. Respondent's breath blood
5 alcohol content level (BAC) was tested at 0.21% and 0.20%, and his subsequent blood BAC was
6 tested at 0.19%.

7 16. First DUI

8 On or about October 10, 2000, in a criminal proceeding entitled *The People of the*
9 *State of California v. Jeffrey Floyce Vogel* in San Luis Obispo Superior Court, Case No.
10 M300114; Respondent was convicted on a plea of *nolo contendere* for violating Vehicle Code
11 section 23152(b) (driving a vehicle while having a greater than 0.08% blood alcohol content
12 level), a misdemeanor, with enhanced sentencing provisions, for having a BAC greater than .15%
13 pursuant to Veh. Code section 23578. The court ordered Respondent to serve 4 days jail time, 3
14 years probation, fines, and attend a first offender driving while intoxicated program.

15 A. The circumstances of the conviction are that on or about July 16, 2000,
16 Atascadero Police Department officers responded to a traffic collision wherein Respondent was
17 arrested for driving under the influence of alcohol and not having proof of insurance.
18 Respondent's BAC was tested at 0.22%.

19 SECOND CAUSE FOR DISCIPLINE

20 (Assaultive and / or Abusive Conduct)

21 17. Respondent is subject to disciplinary action under Section 2761,
22 subdivision (a), on the grounds of unprofessional conduct as defined in California Code of
23 Regulations, title 16, section 1444, subdivision (a), in that on or about May 9, 2005,
24 Respondent's conduct was assaultive and / or abusive based on the allegations of paragraph 13A.

25 THIRD CAUSE FOR DISCIPLINE

26 (Convictions Involving Self-Administration of Alcohol)

27 18. Respondent is subject to disciplinary action under Section 2761,
28 subdivision (a), and 2762, subdivision (c), on the grounds of unprofessional conduct, in that on

1 or about October 10, 2000, February 24, 2003, April 12, 2005, and October 12, 2005,
2 Respondent was convicted based on his conduct that was influenced by his consumption or self-
3 administration of alcohol, as more fully described above in paragraphs 13 A, 14A, 15A and 16A.

4 FOURTH CAUSE FOR DISCIPLINE

5 (Dangerous Use of Alcohol) —

6 19. Respondent is subject to disciplinary action under Section 2761,
7 subdivision (a), and 2762, subdivision (b), on the grounds of unprofessional conduct, in that on
8 or about July 16, 2000, November 13, 2002, and January 15, 2005, and May 9, 2005, Respondent
9 administered alcohol to himself to an extent or in a manner dangerous or injurious to himself,
10 any person, or the public, as more fully described above in paragraphs 13A, 14A, 15A and 16A.

11 FIFTH CAUSE FOR DISCIPLINE

12 (Commitment for Intemperate Use of Alcohol) —

13 20. Respondent is subject to disciplinary action under Section 2761,
14 subdivision (a), and 2762, subdivision (d), on the grounds of unprofessional conduct, in that on
15 or about October 10, 2000, February 24, 2003, April 12, 2005, and October 12, 2005,
16 Respondent was committed or confined by a court of competent jurisdiction for the intemperate
17 use of, or addiction to alcohol.

18 DISCIPLINE CONSIDERATIONS / FACTORS IN AGGRAVATION

19 21. To determine the degree of discipline and as factors in aggravation,
20 Complainant alleges that there was prior discipline of Respondent by the Board in the case
21 entitled *In the Matter of the Accusation Against: Jeffrey F. Vogel, a.k.a. Jeffrey Floyce Vogel,*
22 *a.k.a. Jeff Vogel*, Case No. 96-79, effective March 23, 1997. In the Board's prior decision
23 imposing discipline, it found that Respondent had been abusing alcohol and was in fact under the
24 influence of alcohol at the time he hit his live in partner in the face and pointed a gun at one G.T.,
25 a separate person. Copies of the Decision After Nonadoption and Accusation are attached
26 hereto as Exhibit A, and incorporated herein by reference as though fully set forth.

27 ///

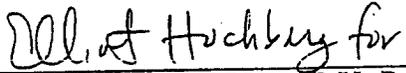
28 ///

1 PRAYER

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

- 4 1. Revoking or suspending Registered Nurse License No. 405920, issued to
5 Jeffrey F. Vogel a.k.a. Jeffrey Floyce Vogel a.k.a. Jeff Vogel.
- 6 2. Ordering Jeffrey Floyce Vogel to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;
- 9 3. Taking such other and further action as deemed necessary and proper.

10
11 DATED: 8/3/07

12
13 
14 RUTH ANN TERRY, M.P.H., R.N
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California

19
20 Complainant

21 LA2006601147
22 60211021.wpd
23 4/3/2006dmm
24
25
26
27
28

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

In the Matter of the Accusation Against:

JEFFREY F. VOGEL A.K.A. JEFFREY
FLOYCE VOGEL A.K.A. JEFF VOGEL
PO Box 8422
Waco, TX 76714
Registered Nurse License No. 405920

Respondent.

Case No. 2008-42

O.A.H. No.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 24, 2008.

It is so ORDERED February 22, 2008

La Trane W Tate
FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 SHAWN P. COOK, State Bar No. 117851
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-9954
Facsimile: (213) 897-2804

6 Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 JEFFREY F. VOGEL A.K.A. JEFFREY
13 FLOYCE VOGEL A.K.A. JEFF VOGEL
PO Box 8422
14 Waco, TX 76714
Registered Nurse License No. 405920

Case No. 2008-42

O.A.H. No.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Respondent.
16

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 PARTIES

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
21 the Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
23 by Shawn P. Cook, Deputy Attorney General.

24 2. Jeffrey F. Vogel a.k.a. Jeffrey Floyce Vogel a.k.a. Jeff Vogel (Respondent)
25 is representing himself in this proceeding and has chosen not to exercise his right to be
26 represented by counsel.

27 3. On or about September 30, 1986, the Board of Registered Nursing issued
28 Registered Nurse License No. 405920 to Jeffrey F. Vogel a.k.a. Jeffrey Floyce Vogel a.k.a. Jeff

1 Vogel (Respondent). The license was in full force and effect at all times relevant to the charges
2 brought in Accusation No. 2008-42 and will expire on January 31, 2008, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2008-42 was filed before the Board of Registered Nursing
5 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
6 Accusation and all other statutorily required documents were properly served on Respondent on
7 August 20, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A
8 copy of Accusation No. 2008-42 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations
11 in Accusation No. 2008-42. Respondent also has carefully read, and understands the effects of
12 this Stipulated Surrender of License and Order.

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

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

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in
24 Accusation No. 2008-42, agrees that cause exists for discipline and hereby surrenders his
25 Registered Nurse License No. 405920 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation he enables the
27 Board to issue an order accepting the surrender of his Registered Nurse License without further
28 process.

1 against Respondent. This stipulation constitutes a record of the discipline and shall become a
2 part of Respondent's license history with the Board.

3 15. Respondent shall lose all rights and privileges as a registered nurse in
4 California as of the effective date of the Board's Decision and Order.

5 16. Respondent shall cause to be delivered to the Board both his wall and
6 pocket license certificate on or before the effective date of the Decision and Order.

7 17. Respondent fully understands and agrees that if he ever files an application
8 for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
9 petition for reinstatement. Respondent must comply with all the laws, regulations and
10 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
11 of the charges and allegations contained in Accusation No. 2008-42 shall be deemed to be true,
12 correct and admitted by Respondent when the Board determines whether to grant or deny the
13 petition.

14 18. Upon reinstatement of the license, Respondent shall pay to the Board costs
15 associated with its investigation and enforcement pursuant to Business and Professions Code
16 section 125.3 in the amount of Five Thousand Ninety Four Dollars and No Cents (\$5,094).
17 Respondent shall be permitted to pay these costs in a payment plan approved by the Board.

18 19. Should Respondent ever apply or reapply for a new license or certification,
19 or petition for reinstatement of a license, by any other health care licensing agency in the State of
20 California, all of the charges and allegations contained in Accusation, No. 2008-42 shall be
21 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
22 Issues or any other proceeding seeking to deny or restrict licensure.

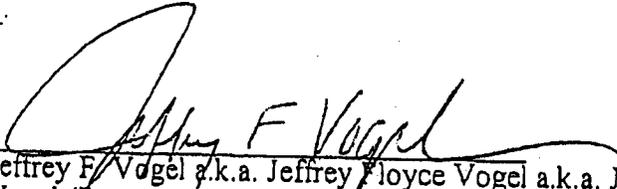
23 20. Respondent shall not apply for licensure or petition for reinstatement for
24 two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

25
26 ACCEPTANCE

27 I have carefully read the Stipulated Surrender of License and Order. I understand
28 the stipulation and the effect it will have on my Registered Nurse License. I enter into this

1 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
2 be bound by the Decision and Order of the Board of Registered Nursing.

3
4 DATED: 11-26-2007

5
6 
7 Jeffrey F. Vogel a.k.a. Jeffrey Floyce Vogel a.k.a. Jeff
8 Vogel (Respondent)
9 Respondent

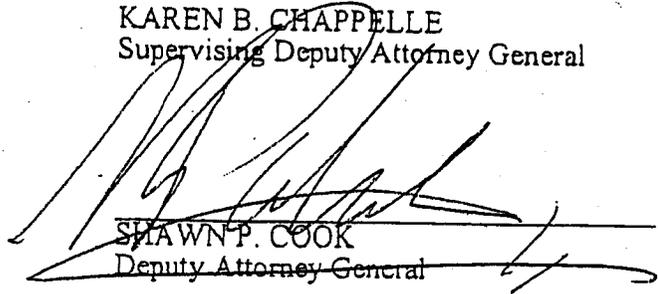
10
11 ENDORSEMENT

12 The foregoing Stipulated Surrender of License and Order is hereby respectfully
13 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
14 Affairs.

15 DATED: 11-27-07

16
17 EDMUND G. BROWN JR., Attorney General
of the State of California

18 KAREN B. CHAPPELLE
19 Supervising Deputy Attorney General

20
21 
22 SHAWN P. COOK
Deputy Attorney General

23 Attorneys for Complainant

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 STEPHEN S. HANDIN, State Bar No. 71100
Deputy Attorney General
3 300 South Spring Street, Suite 500
Los Angeles, California 90013
4 Telephone: (213) 897-2538
5 Attorneys for Complainant

6
7
8 BEFORE THE
9 BOARD OF REGISTERED NURSING
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation) NO. 96-79
Against:)
13)
14 JEFFREY F. VOGEL, also known as) ACCUSATION
JEFFREY FLOYCE VOGEL, also known as)
15 JEFF VOGEL)
4590 Arizona Street)
Atascadero, California 93422)
16 Registered Nurse License No. 405920)
17 Respondent.)
18)

19 Ruth Ann Terry, M.P.H., R.N., as causes for discipline,
20 alleges:
21

22 1. Complainant Ruth Ann Terry, M.P.H., R.N., makes
23 and files this accusation in her official capacity as Executive
24 Officer, Board of Registered Nursing, Department of Consumer
25 Affairs.

26 ///

27 ///

1 2. On September 30, 1986, the Board of Registered
2 Nursing issued registered nurse license number 405920 to Jeffrey
3 F. Vogel, also known as Jeffrey Floyce Vogel, also known as
4 Jeff Vogel (hereinafter referred to as respondent). The license
5 was in full force and effect at all times relevant herein and
6 will expire on January 31, 1996, unless renewed.

7
8 3. Under Business and Professions Code section 2750,
9 the Board of Registered Nursing may discipline any licensee,
10 including a licensee holding a temporary or an inactive license,
11 for any reason provided in Article 3 of the Nursing Practice Act.

12 Under Business and Professions Code section 490, the
13 board may suspend or revoke a license on the ground that the
14 licensee has been convicted of a crime substantially related to
15 the qualifications, functions, or duties of a registered nurse.

16 Under Business and Professions Code section 125.3, the
17 Board may request the administrative law judge to direct a
18 licensee found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs
20 of the investigation and enforcement of the case.

21
22 4. Respondent has subjected his license to discipline
23 under Business and Professions Code section 2761(f) in that on or
24 about September 1, 1994, in the Municipal Court of San Luis
25 Obispo County (*People v. Jeffrey Floyce Vogel*, Case No. F217853),
26 he was convicted by the court on his plea of nolo contendere to
27 violation of Penal Code section 417(A)(2) (drawing or exhibiting

1 a firearm), a misdemeanor, and violation of Penal Code
2 section 273.5(A) (inflicting corporal injury upon a spouse or
3 cohabitant), a misdemeanor. The circumstances of the crimes are
4 that on or about July 10, 1994, in the County of San Luis Obispo,
5 during an altercation between respondent and his girlfriend,
6 respondent pointed a firearm at Gary Thurston, a friend of his
7 girlfriend's son, and hit his girlfriend in the face.

8 These acts are substantially related to the
9 qualifications, functions, or duties of a registered nurse as
10 forth in Title 16, California Code of Regulations, section 1444,
11 in that they show a conscious disregard for public health,
12 safety, and welfare.

13

14 5. Respondent has subjected his license to discipline
15 under Business and Professions Code section 2761(a) on the
16 grounds of unprofessional conduct in that on or about July 10,
17 1994, he drew and exhibited a firearm in a rude, angry, and
18 threatening manner, putting the lives of others at risk. Such
19 conduct evidences a conscious disregard for the health, safety,
20 and welfare of others.

21

22 6. Respondent has subjected his license to discipline
23 under Business and Professions Code section 490 in that on or
24 about September 1, 1994, he was convicted of a crime
25 substantially related to the qualifications, functions, or duties
26 of a registered nurse, as set forth in paragraph 4, above.

27 ///

