

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 733942  
ISSUED TO  
DEBORAH LYNN OTT

§  
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§  
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§

BEFORE THE ELIGIBILITY  
AND DISCIPLINARY  
COMMITTEE  
OF THE TEXAS  
BOARD OF NURSING



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.  
*Patricia A. Ramona*  
Executive Director of the Board

**ORDER OF THE BOARD**

TO: Deborah Lynn Ott  
160 Road 3817  
Cleveland, TX 77328

Deborah Lynn Ott  
25946 Martlin Rd.  
Ramona, CA 92065

During open meeting held in Austin, Texas, on May 10, 2011, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee of the Texas Board of Nursing finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's license to practice professional nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Eligibility and Disciplinary Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing [22 TEX. ADMIN.CODE § 213.16(j)]. All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 733942, previously issued to DEBORAH LYNN OTT, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

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

Entered this 10<sup>th</sup> day of May, 2011.

TEXAS BOARD OF NURSING

BY:   
KATHERINE A. THOMAS, MN, RN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Attachment: Formal Charge filed .

Re: Permanent Certificate Number 733942  
Issued to DEBORAH LYNN OTT  
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 12<sup>th</sup> day of May, 2011 a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

Deborah Lynn Ott  
160 Road 3817  
Cleveland, TX 77328

Deborqah Lynn Ott  
25946 Martlin Road  
Ramona, CA 92065



BY:

KATHERINE A. THOMAS, MN, RN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of Permanent License                   §       BEFORE THE TEXAS  
Number 733942, Issued to                               §  
DEBORAH LYNN OTT, Respondent                   §       BOARD OF NURSING

### FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, DEBORAH LYNN OTT, a/k/a DEBORAH LYNN RUSS, is a Registered Nurse holding license number 733942, which is in Delinquent status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

#### CHARGE I.

On or about November 19, 2008, Respondent's license to practice professional nursing in the State of Florida was issued the sanctions of a REPRIMAND and SUSPENSION until she entered and complied with the terms of the Intervention Project for Nurses (IPN), by the Florida Department of Health Tallahassee, Florida. A copy of the Findings of Fact, Conclusions of Law and Order, dated November 19, 2008, issued by the Florida Department of Health, Tallahassee, Florida, is attached and incorporated by reference as part of this hearing.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8), Texas Occupations Code.

#### CHARGE II.

On or about January 17, 2009, Respondent's license to practice professional nursing in the State of California was REVOKED by default, by the Board of Registered Nursing, Department of Consumer Affairs for the State of California, Sacramento, California. A copy of the Findings of Fact, Conclusions of Law and Order, dated January 17, 2009, issued by the Board of Registered Nursing, Department of Consumer Affairs for the State of California, Sacramento, California, is attached and incorporated by reference as part of this hearing.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8), Texas Occupations Code.

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

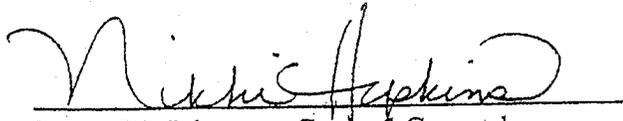
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at [www.bon.state.tx.us/disciplinaryaction/discp-matrix.html](http://www.bon.state.tx.us/disciplinaryaction/discp-matrix.html).

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Orders which are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Final Order dated November 19, 2008, issued by the Florida Department of Health, Tallahassee, Florida, and Default Decision and Order dated January 17, 2009, issued by the Board of Registered Nursing, Department of Consumer Affairs for the State of California, Sacramento, California.

Filed this 17<sup>th</sup> day of February, 2011.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel  
Board Certified - Administrative Law  
Texas Board of Legal Specialization  
State Bar No. 10838300

Jena Abel, Assistant General Counsel  
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel  
State Bar No. 24066924

Robert Kyle Hensley, Assistant General Counsel  
State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel  
State Bar No. 24052269

John F. Legris, Assistant General Counsel  
State Bar No. 00785533

TEXAS BOARD OF NURSING

333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701  
P: (512) 305-6824  
F: (512) 305-8101 or (512)305-7401

Attachments: Final Order dated November 19, 2008, issued by the Florida Department of Health, Tallahassee, Florida, and Default Decision and Order dated January 17, 2009, issued by the Board of Registered Nursing, Department of Consumer Affairs for the State of California, Sacramento, California.



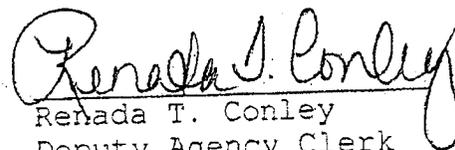
Charlie Crist  
Governor

Ana M. Viamonte Ros, M.D., M.P.H.  
State Surgeon General

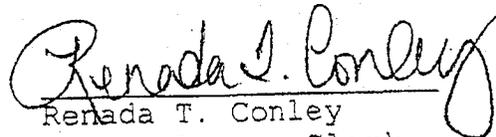
CERTIFICATION

I, Renada T. Conley, Deputy Agency Clerk and Custodian of Records, HEREBY certify the following to be true and correct as on file with the Department of Health.

Attached is a true and correct copy of a Final Order from Case Number 200619209 as maintained by the Department of Health. The attached is a regularly received and retained record of the Board of Nursing vs Deborah Russell, and is received and retained in the ordinary course of business of the Department of Health.

  
Renada T. Conley  
Deputy Agency Clerk

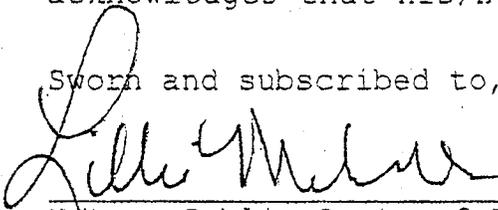
Personally appeared before me, the undersigned authority, **Renada T. Conley**, Deputy Agency Clerk, Department of Health, Division of Medical Quality Assurance, who being sworn, says that this is a true and correct copy from the official file of the Department of Health.

  
Renada T. Conley  
Deputy Agency Clerk

STATE OF FLORIDA  
COUNTY OF LEON

Before me, personally appeared **Renada T. Conley**, whose identity is personally known to me as Deputy Agency Clerk, and who, acknowledges that his/her signature appears above.

Sworn and subscribed to, before me, this 12th day of **March 2009**.



Notary Public State of Florida



Type or Print Name

Final Order No. DOH-06-2831-<sup>Final</sup>-MQA  
FILED DATE - 11/24/06  
Department of Health  
By: Racquel [Signature]  
Deputy Agency Clerk

STATE OF FLORIDA  
BOARD OF NURSING

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2006-19209

License No.: RN 2885102

DEBORAH LYNN RUSS,

Respondent.

FINAL ORDER

This matter appeared before the Board of Nursing at a duly-noticed public meeting on October 8-10, 2008 in Miami, Florida, for a hearing not involving disputed issues of material fact pursuant to Sections 120.569 and 120.57(2), Florida Statutes. Petitioner has filed an Administrative Complaint seeking disciplinary action against the license. A copy of the Administrative Complaint is attached to and made a part of this Final Order. Service of the Administrative Complaint was made upon Respondent by publication. Respondent has not filed an Election of Rights. Petitioner has filed a Motion for Determination of Waiver and Entry of Final Order. Petitioner was represented by William Miller, Assistant General Counsel, Florida Department of Health. Respondent was not present.

### FINDINGS OF FACT

Since the licensee has not replied to the Administrative Complaint nor contested the factual allegations, the prosecuting attorney offered the investigative file to prove the facts as alleged. The investigative file was received into evidence and the Board finds the uncontested facts adequately support the allegations. Therefore, the Board adopts as its finding of facts the facts set forth in of the Administrative Complaint.

### CONCLUSIONS OF LAW

Based upon the Findings of Fact, the Board concludes the licensee has violated Section 464.018(1)(1), Florida Statutes.

The Board is empowered by Sections 464.018(2) and 456.072(2), Florida Statutes, to impose a penalty against the licensee. Therefore it is ORDERED that:

The license of DEBORAH LYNN RUSS is hereby REPRIMANDED.

The licensee must pay an administrative fine of \$250 and investigative costs of \$2,296.54 prior to completion of her IPN contract. Partial payments shall not be accepted. Payment shall be made to the Board of Nursing and mailed to, DOH-Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Nursing Compliance Officer.

The license of DEBORAH LYNN RUSS is suspended and shall remain suspended until such time that she enters into the Intervention Project for Nurses (IPN) and complies with any and

all terms and conditions imposed by IPN. At such time the suspension shall be stayed and remain stayed as long as the licensee participates in the IPN. It is the duty of the licensee to contact the IPN at P.O. Box 49130, Jacksonville Beach, Florida 32249-9130, (904) 270-1620 within 30 days from the date of entry of this order. The licensee shall comply with all conditions of the IPN Advocacy Contract or she will be in violation of the Board Order. Violation of the IPN Advocacy Contract shall result in the immediate lifting of the stay of suspension. Reinstatement will require compliance with all terms and conditions set forth in any previous Board Order, and the licensee's appearance before the Board to demonstrate her present ability to engage in the safe practice of nursing, which shall include a demonstration of two years of documented continuous sobriety. The Board reserves the right to impose reasonable conditions of reinstatement at the time of appearance before the Board.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 19 day of November, 2008.

BOARD OF NURSING



Rick García, MS, RN, CCM  
Executive Director for  
Vicky Stone-Gale, MSN, ARNP  
CHAIR

NOTICE OF APPEAL RIGHTS

Pursuant to Section 120.569, Florida Statutes, the parties are hereby notified that they may appeal this Final Order by filing one copy of a notice of appeal with the clerk of the department and by filing a filing fee and one copy of a notice of appeal with the District Court of Appeal within thirty days of the date this Final Order is filed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to DEBORAH LYNN RUSS, 25946 Martlin Road, Ramona, California 92065 and Jean D'Aprix, IPN P.O. Box 49130, Jacksonville Beach, Florida 32240-9130; by interoffice mail to Lee Ann Gustafson, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; and William Miller, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265 on this 24 day of November, 2008.

  
Dept. Agency Clerk

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

2008 APR 14 PM 4:13

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2006-19209

DEBORAH LYNN RUSS, R.N.,

RESPONDENT.

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**ADMINISTRATIVE COMPLAINT**

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Nursing against Respondent, Deborah Lynn Russ, R.N., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of nursing pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 464, Florida Statutes.
2. At all times material to this Complaint, Respondent was a registered nurse (R.N.) within the state of Florida, having been issued license number 2885102.

01. X.C. 10

3. Respondent's address of record is 6551 Park of Commercial Boulevard, Miami, Florida 33142.

4. At all times subject to this incident, Respondent was a nurse at Lower Keys Medical Center ("LKMC").

5. On or about April 21, 2006, Respondent diverted Demerol from multiple patients at LKMC.

6. Demerol, which contains meperidine hydrochloride, is a Schedule II controlled substance listed in Chapter 893, Florida Statutes, which is indicated for the treatment of moderate to severe pain. Demerol has a high potential for abuse and has a currently accepted, but severely restricted, medical use in treatment in the United States. Abuse of Demerol may lead to severe physical and psychological dependence.

7. Respondent admitted diverting Demerol from patients at LKMC.

8. Section 464.018(1)(i), Florida Statutes (2006), provides that engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in Chapter 893, for any other than legitimate purposes constitutes grounds for discipline.

9. Respondent engaged or attempted to engage in the possession, sale, or distribution of controlled substances when she possessed Demerol without a legitimate purpose.

10. Based on the foregoing, Respondent violated Section 464.018(1)(f), Florida Statutes (2006), by engaging or attempting to engage in the possession of controlled substances as set forth in Chapter 893, for any other than legitimate purposes.

WHEREFORE, the Petitioner respectfully requests that the Board of Nursing enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 25<sup>th</sup> day of January, 2007.

Ana M. Viamonte Ros, M.D., M.P.H.  
State Surgeon General

Shenika L. Harris  
Shenika L. Harris  
Assistant General Counsel  
DOH Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, Florida 32399-3265  
Florida Bar Number: 763241  
(850) 245-4640 Telephone  
(850) 245-4683 Facsimile

**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK: Rachel  
DATE: 1-28-08

PCP: Dec 12, 2007.

PCP Members: C. Horne  
M. Perry

## NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

## NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 LINDA K. SCHNEIDER, State Bar No. 101336  
Supervising Deputy Attorney General  
3 AMANDA DODDS  
Legal Analyst  
4 110 West "A" Street, Suite 1100  
San Diego, CA 92101  
5  
6 P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2141  
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:  
13 DEBORAH LYNN RUSS  
aka DEBORAH LYNN MELHUS  
14 25946 Matlin Road  
Ramona CA 92065-4818  
15  
16 Registered Nurse License No. 595346  
17 Respondent.

Case No. 2008-283  
**DEFAULT DECISION  
AND ORDER**  
[Gov. Code, §11520]

18 FINDINGS OF FACT

- 19 1. On or about April 14, 2008, Complainant Ruth Ann Terry, M.P.H., R.N.,  
20 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department  
21 of Consumer Affairs, filed Accusation No. 2008-283 against Deborah Lynn Russ, also known as  
22 Deborah Lynn Melhus (Respondent) before the Board of Registered Nursing.
- 23 2. On or about February 27, 2002, the Board of Registered Nursing (Board)  
24 issued Registered Nurse License No. 595346 to Respondent. The Registered Nurse License  
25 expired on December 31, 2005, and has not been renewed.
- 26 3. On or about May 22, 2008, Kim Cooney, an employee of the Department  
27 of Justice, served by Certified and First Class Mail a copy of the Accusation No. 2008-283,  
28 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code

1 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which  
2 was and is: 25946 Matlin Road, Ramona, California 92065-4818. A copy of the Accusation is  
3 attached as Exhibit A, and is incorporated herein by reference.

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

6 5. On or about June 12, 2008, the aforementioned documents served by First  
7 Class Mail were returned by the U.S. Postal Service as "Undeliverable as addressed."

8 6. On or about June 12, 2008, the aforementioned documents served by  
9 Certified Mail were returned by the U.S. Postal Service marked "Undeliverable as addressed."

10 7. Business and Professions Code section 118 states, in pertinent part:

11 (b) The suspension, expiration, or forfeiture by operation of law of a  
12 license issued by a board in the department, or its suspension, forfeiture, or  
13 cancellation by order of the board or by order of a court of law, or its surrender  
14 without the written consent of the board, shall not, during any period in which it  
15 may be renewed, restored, reissued, or reinstated, deprive the board of its  
16 authority to institute or continue a disciplinary proceeding against the licensee  
17 upon any ground provided by law or to enter an order suspending or revoking the  
18 license or otherwise taking disciplinary action against the license on any such  
19 ground.

16 8. Government Code section 11506 states, in pertinent part:

17 (c) The respondent shall be entitled to a hearing on the merits if the  
18 respondent files a notice of defense, and the notice shall be deemed a specific  
19 denial of all parts of the accusation not expressly admitted. Failure to file a notice  
20 of defense shall constitute a waiver of respondent's right to a hearing, but the  
21 agency in its discretion may nevertheless grant a hearing.

20 9. Respondent failed to file a Notice of Defense within 15 days after service  
21 upon her of the Accusation, and therefore waived her right to a hearing on the merits of  
22 Accusation No. 2008-283.

23 10. California Government Code section 11520 states, in pertinent part:

24 (a) If the respondent either fails to file a notice of defense or to appear at  
25 the hearing, the agency may take action based upon the respondent's express  
26 admissions or upon other evidence and affidavits may be used as evidence  
27 without any notice to respondent.

27 ///  
28 ///



ORDER

IT IS SO ORDERED that Registered Nurse License No. 595346, heretofore issued to Respondent Deborah Lynn Russ, also known as Deborah Lynn Melhus, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 17, 2009

It is so ORDERED December 18, 2008

*LaFrancine W Tate*

FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

DOJ docket number:SD2007800864

Attachment: Exhibit A: Accusation No. 2008-283

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

2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 BEN E. JOHNSON, State Bar No. 84406  
Deputy Attorney General

4 California Department of Justice  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101

6 P.O. Box 85266  
San Diego, CA 92186-5266  
7 Telephone: (619) 645-2195  
Facsimile: (619) 645-2061

8 Attorneys for Complainant  
9

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

13 In the Matter of the Accusation Against:

Case No. 2008-283

14 **DEBORAH LYNN RUSS, a.k.a.**  
15 **DEBORAH LYNN MELHUS**  
25946 Matlin Road  
Ramona, CA 92065-4818

**ACCUSATION**

16 Registered Nurse License No. 595346,

17 Respondent.  
18

19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about February 27, 2002, the Board of Registered Nursing ("Board")  
25 issued Registered Nurse License Number 595346 to Deborah Lynn Russ, also know as Deborah  
26 Lynn Melhus ("Respondent"). The license expired on December 31, 2005, and has not been  
27 renewed.

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9. Section 4022 of the Code states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

10. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

11. Health and Safety Code section 11173, subdivision (a), states:

(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

**COST RECOVERY**

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

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1 REGULATORY PROVISIONS

2 13. California Code of Regulations, title 16, section 1442, states:

3 As used in Section 2761 of the code, "gross negligence" includes an  
4 extreme departure from the standard of care which, under similar circumstances,  
5 would have ordinarily been exercised by a competent registered nurse. Such an  
6 extreme departure means the repeated failure to provide nursing care as required  
or failure to provide care or to exercise ordinary precaution in a single situation  
which the nurse knew, or should have known, could have jeopardized the client's  
health or life.

7 DRUGS

8 14. "Ativan" is a brand of lorazepam, and is a Schedule IV controlled  
9 substance as designated by Health and Safety Code section 11057, subdivision (d)(16), and  
10 a dangerous drug within the meaning of Code section 4022.

11 15. "Demerol" is a compound containing Meperidine Hydrochloride,  
12 and is a Schedule II controlled substance pursuant to Health and Safety Code section 11055,  
13 subdivision (c)(17), and a dangerous drug within the meaning of Code section 4022.

14 16. "Hydrocodone Bitartrate," also known as dihydrocodeinone, is a  
15 Schedule III controlled substance as designated by Health and Safety Code section 11056,  
16 subdivision (e)(4), and a dangerous drug within the meaning of Code section 4022.

17 17. "Lorazepam" is a Schedule IV controlled substance as designated by  
18 Health and Safety Code section 11057, subdivision (d)(16), and a dangerous drug within the  
19 meaning of Code section 4022.

20 18. "Meperidine Hydrochloride" is a derivative of pethidine, and is a  
21 Schedule II controlled substance as designated by Health and Safety Code section 11055,  
22 subdivision (c)(17), and a dangerous drug within the meaning of Code section 4022.

23 19. "Morphine" is a Schedule II controlled substance as designated by Health  
24 and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug within the meaning  
25 of Code section 4022.

26 ///

27 ///

28 ///

1 **BACKGROUND**

2 20. From on or about September 9, 2002, until her resignation on or  
3 about April 28, 2004, Respondent was employed as a registered nurse at Palomar Pomerado  
4 Health (PPH), located in Escondido, California.

5 21. A Palomar Pomerado Health review of patient and "Pyxis" records for the  
6 period March 28, 2004, through April 21, 2004, disclosed that while employed at PPH,  
7 Respondent obtained controlled substances for patient administration, some without physician  
8 orders to do so, and later failed to document the disposition of those substances in any hospital,  
9 patient, or other record.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(False, Grossly Incorrect, Grossly Inconsistent Record Entries)**

12 22. Respondent's license is subject to discipline for unprofessional conduct  
13 under Code section 2761, subdivision (a) and Code section 2762, subdivision (e), in that during  
14 the period of March 28, 2004, through April 21, 2004, while working as a registered nurse at PPH,  
15 Respondent made false, grossly incorrect, or grossly inconsistent entries in hospital, patient, or  
16 other records pertaining to controlled substances, as follows:

17 a. Patient J. G. On or about March 28, 2004, at approximately  
18 0802 hours and 1021 hours, Respondent obtained 4 mgs of injectable Morphine each time, total of  
19 8 mgs, for administration to Patient J. G. At approximately 1340 hours, Respondent obtained 500  
20 mgs of Hydrocodone for administration to Patient J. G. Respondent failed to account for the  
21 disposition of the 8 mgs of Morphine and the 500 mgs of Hydrocodone in any hospital, patient, or  
22 other record.

23 b. Patient M. T. On or about April 1, 2004, at approximately  
24 1200 hours, Respondent obtained 2 mgs of injectable Morphine for administration to

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25  
26 1. "Pyxis" is a brand name for an automated medication dispensing and supply system manufactured by the  
27 Cardinal Health Company. A personal identification number (PIN) is used to access controlled substances from  
28 the system which automatically logs all transactions involving the removal of controlled substances, identifying  
the name of the person accessing the system, the patient's name for whom the substances have been ordered, and  
the date, time, and dosage being obtained. Controlled substances may also be obtained by using the systems  
override function.

1 Patient M. T. Respondent failed to account for the disposition of the 2 mgs of Morphine in any  
2 hospital, patient, or other record.

3 c. Patient R. B. On or about April 1, 2004, at approximately 1503  
4 hours, Respondent obtained 2 mgs of injectable Lorazepam for administration to Patient R. B.  
5 Respondent failed to account for the disposition of the 2 mgs of Lorazepam in any hospital  
6 patient, or other record.

7 d. Patient D. S. On or about April 7, 2004, at approximately 1732  
8 hours, Respondent obtained 2 mgs of Morphine for administration to Patient D. S. Respondent  
9 was not assigned to provide care for Patient D.S. and another nurse was assigned to do so at this  
10 time. Respondent failed to account for the disposition of the 2 mgs of Morphine in any hospital,  
11 patient, or other record.

12 e. Patient W. S. On or about April 8, 2004, at approximately 1518  
13 hours, without a physician's order to do so, Respondent obtained 50 mgs of Demerol for  
14 administration to Patient W. S. Patient W. S. did not have a physician's order to receive any  
15 Demerol. Respondent failed to account for the disposition of the 50 mgs of Demerol in any  
16 hospital, patient, or other record.

17 f. Patient J. B. On or about April 10, 2004, at approximately  
18 1128 hours, Respondent obtained 4 mgs of injectable Morphine for administration to Patient J. B.  
19 Respondent failed to account for the disposition of the 4 mgs of Morphine in any hospital, patient,  
20 or other record.

21 g. Patient D. W. On or about April 17, 2004, at approximately  
22 1758 hours, Respondent obtained 4 mgs of Morphine for administration to Patient D. W.  
23 Respondent failed to account for the disposition of the 4 mgs of Morphine in any hospital, patient,  
24 or other record.

25 h. Patient C. M. On or about April 17, 2004, at approximately 1839  
26 hours, without a physician's order to do so, Respondent obtained 25 mgs of Meperidine for  
27 administration to Patient C. M. Patient C. M. did not have a physician's order to receive any

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1 Meperidine. Respondent failed to account for the disposition of the 25 mgs of Meperidine in any  
2 hospital, patient, or other record.

3 i. Patient D. S. On or about April 18, 2004, at approximately 1110  
4 hours and 1719 hours, without a physician's order to do so, Respondent obtained 50 mgs of  
5 Demerol each time, total of 100 mgs, for administration to Patient D. S. Patient D. S. did not  
6 have a physician's order to receive any Demerol. Respondent failed to account for the disposition  
7 of the 100 mgs of Demerol in any hospital, patient, or other record.

8 j. Patient L. L. On or about April 20, 2004, at approximately 0934  
9 hours, without a physician's order to do so, Respondent obtained 50 mgs of Meperidine for  
10 administration to Patient L. L. Patient L. L. did not have a physician's order to receive any  
11 Meperidine. Respondent failed to account for the disposition of the 50 mgs of Meperidine in any  
12 hospital, patient, or other record.

13 k. Patient J. R. On or about April 20, 2004, at approximately 1724  
14 hours, Respondent obtained 1 mg of Ativan for administration to Patient J. R. Respondent failed  
15 to account for the disposition of the 1 mg of Ativan in any hospital, patient, or other record.

16 l. Patient C. B. On or about April 21, 2004, at approximately 0815  
17 hours, without a physician's order to do so, Respondent obtained 50 mgs of Demerol for  
18 administration to Patient C. B. Patient C. B. did not have a physician's order to receive any  
19 Demerol. Respondent failed to account for the disposition of the 50 mgs of Demerol in any  
20 hospital, patient, or other record.

## 21 SECOND CAUSE FOR DISCIPLINE

### 22 (Wrongfully Obtaining and Possessing Controlled Substances)

23 23. Respondent's license is subject to discipline for unprofessional conduct  
24 under Code section 2761, subdivision (a) and Code section 2762, subdivision (a), in that during  
25 the period April 8, 2004, through April 21, 2004, while working as a registered nurse at PPH,  
26 Respondent did the following:

27 a. Wrongfully Obtaining Controlled Substances: As set forth under  
28 paragraphs 20(d), 20(e), 20(h), 20(i), 20(j), and 20(l), which are incorporated herein by reference,

