

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 187101
ISSUED TO
SEAN ERIC HENDER

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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 R. Thomas
Executive Director of the Board

ORDER OF THE BOARD

TO: Sean Eric Hender
1529 Lacy Ln
Redding, CA 96003

During open meeting held in Austin, Texas, on August 17, 2010, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case. This case was heard, and 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 vocational 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 § 213.2(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 187101, previously issued to SEAN ERIC HENDER, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 187101, previously issued to SEAN ERIC HENDER, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

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

Entered this 17th day of August, 2010.

TEXAS BOARD OF NURSING

BY:



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

Re: Permanent Certificate Number 187101
Issued to SEAN ERIC HENDER
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 19 day of August, 2010, 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):

Sean Eric Hender
1529 Lacy Ln
Redding, CA 96003

BY:

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

**In the Matter of Permanent License
Number 187101, Issued to
SEAN ERIC HENDER, Respondent**

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§

**BEFORE THE TEXAS
BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, SEAN ERIC HENDER, is a Vocational Nurse holding license number 187101, 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 December 16, 2009, Respondent surrendered his license to practice vocational nursing in the State of California to the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs for the State of California, Sacramento, California. A copy of the Stipulated Surrender of License and Order, dated December 16, 2009, is attached and incorporated by reference as part of this pleading.

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 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 § 301.461, TEX. OCC. CODE ANN. 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).

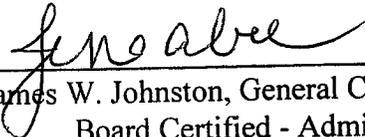
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.state.tx.us.

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.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Stipulated Surrender of License and Order, dated December 16, 2009, issued by the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs for the State of California, Sacramento, California.

Filed this 19th day of March, 2010.

TEXAS BOARD OF NURSING


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

Jena Renee Koslan Abel, Assistant General Counsel
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel
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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: Stipulated Surrender of License and Order, dated December 16, 2009, issued by the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs for the State of California, Sacramento, California.

0999/D

1 EDMUND G. BROWN JR.
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2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
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5 P.O. Box 944255
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6 Telephone: (916) 324-6292
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. VN-2006-1597

12 **SEAN ERIC HENDER**
13 **19569-A Lake California Drive**
Cottonwood, CA 96022

OAH No. 2009-050008

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **Vocational Nurse License No. VN 208219**

15 Respondent.

16
17 PARTIES

18 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) is the Executive Officer of the
19 Board of Vocational Nursing and Psychiatric Technicians. She brought this action solely in her
20 official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of
21 the State of California, by Jeffrey M. Phillips, Deputy Attorney General.

22 2. Sean Eric Hender (Respondent) is representing himself in this proceeding and has
23 chosen not to exercise his right to be represented by counsel.

24 3. On or about February 26, 2004, the Board of Vocational Nursing and Psychiatric
25 Technicians issued Vocational Nurse License No. VN 208219 to Sean Eric Hender (Respondent).
26 The Vocational Nurse License was in full force and effect at all times relevant to the charges
27 brought in Amended Accusation No. VN-2006-1597; expired on June 30, 2009, and has not been
28 renewed.

1 the effective date of the present stipulation, that he will have no right to practice as a licensed
2 vocational nurse in California.

3 **ORDER**

4 IT IS HEREBY ORDERED that Vocational Nurse License No. VN 208219, issued to
5 Respondent Sean Eric Hender is surrendered and accepted by the Board of Vocational Nursing
6 and Psychiatric Technicians.

7 7. The surrender of Respondent's Vocational Nurse License and the acceptance of the
8 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
9 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
10 license history with the Board.

11 8. Respondent shall lose all rights and privileges as a licensed vocational nurse in
12 California as of the effective date of the Board's Decision and Order.

13 9. Respondent shall cause to be delivered to the Board both his wall license certificate
14 and, if one was issued, pocket license on or before the effective date of the Decision and Order.

15 10. If Respondent ever files an application for licensure or a petition for reinstatement in
16 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
17 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
18 effect at the time the petition is filed, and all of the charges and allegations contained in
19 Accusation No. VN-2006-1597 shall be deemed to be true, correct and admitted by Respondent
20 when the Board determines whether to grant or deny the petition.

21 11. Upon reinstatement of the license, Respondent shall pay to the Board costs associated
22 with its investigation and enforcement pursuant to Business and Professions Code section 125.3
23 in the amount of Four Thousand Eighty-Seven Dollars and Twenty-Five Cents (\$4,087.25).
24 Respondent shall be permitted to pay these costs in a payment plan approved by the Board.

25 12. Should Respondent ever apply or reapply for a new license or certification, or petition
26 for reinstatement of a license, by any other health care licensing agency in the State of California,
27 all of the charges and allegations contained in Accusation, No. VN-2006-1597 shall be deemed to

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1 be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
2 other proceeding seeking to deny or restrict licensure.

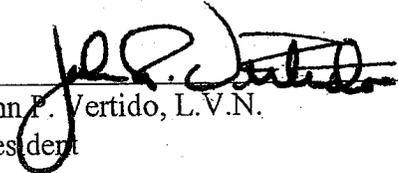
3 13. Respondent shall not apply for licensure or petition for reinstatement for three (3)
4 years from the effective date of the Board of Vocational Nursing and Psychiatric Technician's
5 Decision and Order.

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7 This Decision shall become effective on December 16, 2009.

8 IT IS SO ORDERED this 16th day of November, 2009.

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

FILED

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Board of Vocational Nursing
and Psychiatric Technicians

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. VN-2006-1597

12 **SEAN HENDER,**
13 **a.k.a. SEAN ERIC HENDER**
14 19569 Lake California Drive
Cottonwood, CA 96022

AMENDED ACCUSATION

15 Vocational Nurse License No. VN 208219

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about February 26, 2004, the Bureau issued Vocational Nurse
23 License Number VN 208219 to Sean Hender, also known as Sean Eric Hender ("Respondent").
24 Respondent's license will expire on June 30, 2009, unless renewed.

25 **BOARD SUNSET**

26 3. The parties understand and agree that, pursuant to Business and
27 Professions Code sections 101.1 (b) and 150, if the Board becomes inoperative or is repealed, the
28 Department of Consumer Affairs shall succeed to and is vested with all the duties, powers,

1 purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that
2 board and its executive officer; that the department is under the control of the Director of
3 Consumer Affairs; and that any reference to the inoperative or repealed Board in this stipulation
4 and disciplinary order shall be understood to mean the Director of Consumer Affairs.

5 **STATUTORY PROVISIONS**

6 4. Business and Professions Code ("Code") section 2875 provides, in
7 pertinent part, that the Bureau may discipline the holder of a vocational nurse license for any
8 reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice
9 Act.

10 5. Code section 118, subdivision (b), provides, in pertinent part, that the
11 expiration of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary
12 action during the period within which the license may be renewed, restored, reissued or
13 reinstated. Under Code section 2892.1, the Bureau may renew an expired license at any time
14 within four years after the expiration.

15 6. Code section 2878 states, in pertinent part:

16 The Board may suspend or revoke a license issued under this chapter [the
17 Vocational Nursing Practice Act (Bus. & Prof. Code § 2840, et seq.)] for any of
the following:

18 (a) Unprofessional conduct. . . .

19

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

22 7. Code section 2878.5 states, in pertinent part:

23 In addition to other acts constituting unprofessional conduct within the
24 meaning of this chapter, it is unprofessional conduct for a person licensed under
this chapter to do any of the following:

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

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1 COST RECOVERY

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

6 CONTROLLED SUBSTANCES AT ISSUE

7 9. "Methadone" is a Schedule II controlled substance as designated by
8 Health and Safety Code section 11055, subdivision (c)(14).

9 FIRST CAUSE FOR DISCIPLINE

10 (Criminal Conviction)

11 10. Respondent is subject to disciplinary action pursuant to Code section
12 2878, subdivision (f), in that he was convicted of a crime which is substantially related to the
13 qualifications, functions, and duties of a licensed vocational nurse, as follows: On or about
14 October 19, 2007, in the criminal proceeding titled *People v. Sean Hender* (Super. Ct. Shasta
15 County, Redding Branch, 2007, No. 07-04193), Respondent was convicted by a jury of one
16 misdemeanor count in violation of Penal Code section 243, subdivision (e)(1) (battery on a
17 spouse). The incident upon which the conviction is based occurred on approximately February
18 5, 2007.

19 SECOND CAUSE FOR DISCIPLINE

20 (Self-Administration of a Controlled Substance)

21 11. Respondent is subject to disciplinary action pursuant to Code section
22 2878, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section
23 2878.5, subdivision (a). In or about and between 2005 and 2007, Respondent self-administered
24 the controlled substance Methadone without lawful authority therefore, evidenced as follows:
25 On February 6, 2007, while Respondent was being questioned by Shasta County Sheriff's
26 Deputy M. Wallace about assaulting his wife on or about February 5, 2007, Respondent stated
27 that he had been using his wife's methadone to treat a back injury from a car accident in 2005,
28 that he started using one pill per day and quickly escalated to using many 10 milligram pills per

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, Director of Consumer Affairs issue a decision:

4 1. Revoking or suspending Vocational Nurse License Number VN 208219,
5 issued to Sean Hender, also known as Sean Eric Hender;

6 2. Ordering Sean Hender, also known as Sean Eric Hender, to pay the
7 Bureau of Vocational Nursing and Psychiatric Technicians the reasonable costs of the
8 investigation and enforcement of this case, pursuant to Business and Professions Code section
9 125.3; and

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

11
12 DATED: November 4, 2008

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15 _____
16 TERESA BELLO-JONES, J.D., M.S.N., R.N.
17 Executive Officer
18 Bureau of Vocational Nursing and Psychiatric Technicians
19 Department of Consumer Affairs
20 State of California
21 Complainant
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1 day, that he kept using the medication due to the pain relief and pleasure it gave him, that he was
2 unable to obtain his own prescription for methadone because it was not a medication prescribed
3 by the VA, and that he had become hooked on pain medications while serving in the U.S. Army
4 in Iraq.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct)**

7 12. Respondent is subject to disciplinary action pursuant to Code section 2878
8 on the grounds of unprofessional conduct, in that on March 17, 2008, Respondent violated a
9 Protective Order that was issued on February 8, 2007, by the Shasta County Superior Court as a
10 result of Respondent's criminal matter referenced in paragraph 9 above. On March 17, 2008,
11 investigator Baker from the Tehama County District Attorney's Office, Bureau of Investigations
12 was questioning the passengers of a vehicle during a routine traffic stop. Respondent and his
13 estranged wife, L.H., were both passengers in the vehicle. Following a check with dispatch of
14 Respondent and L.H. for warrants and wants, investigator Baker discovered that Respondent had
15 an active domestic violence restraining order against him and protecting L.H. As a result of
16 Respondent's violation of the domestic violence restraining order, he was taken into custody.

17 **MATTERS IN AGGRAVATION**

18 13. On May 4, 2004, a written complaint was filed with the Bureau alleging
19 that Respondent had smoked marijuana in a patient's home while on duty as a home health
20 nurse. On or about February 24, 2006, following its investigation, the Bureau sent a letter to
21 Respondent. Respondent was informed that the Bureau would not pursue disciplinary action
22 against his license at that time; however, he was advised that future substantiated reports that he
23 had engaged in similar behavior or otherwise violated the laws or regulations governing his
24 practice as a licensed vocational nurse could result in disciplinary action against his license.

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