

1 the charges brought in Accusation No, 1002539201 and will expire on March 31, 2018, unless
2 renewed.

3 3. On or about April 25, 2017, Respondent was served by Certified and First Class Mail
4 copies of the Accusation No, 1002539201, Statement to Respondent, Notice of Defense, Request
5 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
6 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
7 section 136, is required to be reported and maintained with the Board, Respondent's address of
8 record was and is:

9 1407 W. Joy Court
10 Exeter, CA 93221.

11 4. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 5. None of the above mailings were returned as undeliverable.

15 6. Government Code section 11506(c) states, in pertinent part:

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

19 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
20 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No.
21 1002539201.

22 8. California Government Code section 11520(a) states, in pertinent part:

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

26 9. The Board takes official notice of its records and the fact that Respondent failed to
27 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore
28 waived her right to a hearing on the merits of Accusation No. 1002539201.

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ii. Respondent failed to comply with physician orders by failing to administer prescribed medications, as more particularly set forth below in subsection (b).

iii. Respondent failed to document treatments provided to patients, as more particularly set forth below in subsection (c).;

b) Respondent is subject to discipline for falsifying, making incorrect or inconsistent entries in hospital or patient records under Code section 2878(a), on the grounds of unprofessional conduct as defined in Code section 2878.5(e), in that while employed as a licensed vocational nurse at Delta Nursing & Rehabilitation Center, located in Visalia, California, Respondent falsified, or made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital or patient records in the following respects:

Patient 2312:

i. Respondent falsified the patient's medical record, in that on or about June 30, 2012, at 1600 hours, Respondent documented the administration of 4.5 mg. of Coumadin on the patient's MAR when, in fact, Respondent did not administer that medication.

ii. Respondent falsified the patient's medical record in that, on or about June 30, 2012, at 0900 hours, Respondent documented the administration of 20 mg. of Propranolol on the patient's MAR when, in fact, Respondent did not administer that medication.

Patient 2391:

iii. Respondent falsified the patient's medication record, in that on or about June 20, 2012, and June 21, 2012, at 0900 and 1700 hours respectively, Respondent documented the administration of 40 mg. of Megace on the patient's MAR when, in fact, Respondent did not administer that medication.

1 c) Respondent is subject to discipline for unprofessional conduct under Code section
2 2878(a), on the grounds of unprofessional conduct, in that while employed as a
3 licensed vocational nurse at Delta Nursing & Rehabilitation Center, located in
4 Visalia, California, Respondent demonstrated unprofessional conduct by failing to
5 document treatments provided to the following patients:

6 **Patient 2216:**

- 7 i. On or about June 21, 2012, Respondent applied T-Gel Shampoo
8 (therapeutic shampoo) to the patient's scalp.

9 **Patient 2034:**

- 10 ii. On or about June 20, 2012, and June 21, 2012, Respondent: 1) applied
11 Eucerin lotion to the relevant areas; 2) monitored edema to the lower
12 extremities; 3) monitored the skin tear on the top of the patient's left
13 hand; and 4) monitored the skin tear to the patient's left elbow.

14 **Patient 2382:**

- 15 iii. On or about June 20, 2012, and June 21, 2012, Respondent: 1) monitored
16 the skin tear on the patient's right forearm; 2) cleansed the patient's left
17 great toe and applied wound spray and Betadine; 3) ensured that the foot
18 cradle was on while patient in bed; 4) monitored the left great toe for
19 signs of infection; and 5) checked the WanderGuard¹ function.

20 **Patient 2259:**

- 21 iv. On or about June 20, 2012, and June 21, 2012, Respondent: 1) monitored
22 the patient's oxygen saturation; 2) checked the patient's oxygen via nasal
23 cannula; 3) applied 1% Hydrocortisone cream to the patient's itchy skin;
24 4) applied Aspercream; and 5) ensured the patient had knee high
25 Thrombo-Embolic Deterrent (TED) hose on during waking hours.⁵

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27 ¹ WanderGuard is a monitoring device worn by patients with wandering, flight-risk or
28 aggressive behaviors.

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v. On or about June 20, 2012, Respondent applied T-Gel Shampoo to the patient's scalp.

Patient 2237:

vi. On or about June 20, 2012, and June 21, 2012, Respondent: 1) monitored the patient's oxygen saturation; 2) checked the WanderGuard function; 3) applied NonyX (fungal gel) to the top of the patient's fingernails and toenails; and 4) ensured TED hose were on the patient.

Patient 2308:

vii. On or about June 20, 2012, and June 21, 2012, Respondent cleansed the excoriation under the bilateral breast with normal saline and monitored the excoriation under the bilateral breast.

Patient 2282:

viii. On or about June 20, 2012, and June 21, 2012, Respondent monitored the patient's oxygen saturation and ensured the patient was wearing thigh high TED hose to bilateral lower extremities.

Patient 2286:

ix. On or about June 20, 2012, and June 21, 2012, Respondent: 1) monitored the patient's rash on the inner thighs; 2) monitored Stage 1 and II coccyx for infection; 3) monitored bilateral breast folds for signs of infection; 4) cleansed bilateral breast folds, applied TAO (triple antibiotic ointment) to underneath bilateral folds and applied gauze; 5) monitored open blister to right the medial ankle for signs of infection; 6) cleansed open blister on right ankle with wound spray and Xeroform (petroleum gauze), and wrap with Kerlix (bandage); 7) monitored the open blister to the left medial ankle for signs of infection; 8) cleansed the left medial ankle blister with wound spray, apply Xeroform, and wrap with Kerlix; 9) monitored the open blister to lateral right lower extremity for signs of

1 infection; 10) ensured Geri-Sleeve to bilateral arms were worn at all
2 times; and 11) monitored oxygen saturation.

- 3 x. On or about June 21, 2012, Respondent: 1) cleansed the open blister to
4 the lateral right lower extremities with wound spray, applied Xeroform,
5 and wrapped with Kerlix; and, 2) cleansed the rash to the patient's inner
6 thighs with wound spray and applied Calmoseptine ointment.

7 **Patient 2341:**

- 8 xi. On or about June 20, 2012, and June 21, 2012, Respondent monitored
9 the patient's oxygen saturation and checked the WanderGuard function.

10 **Patient 2149:**

- 11 xii. On or about June 20, 2012, and June 21, 2012, Respondent monitored
12 the patient's oxygen saturation and ensured the patient's oxygen was
13 flowing at 3 LPM (litre per minute).

14 **Patient 2388:**

- 15 xiii. On or about June 20, 2012, and June 21, 2012, Respondent: 1) monitored
16 the patient's oxygen saturation; 2) ensured the patient's oxygen was
17 flowing at 2 LPM; and 3) monitored the abrasion on the patient's left
18 upper back for signs of infection.

19 **Patient 2391:**

- 20 xiv. On or about June 20, 2012, and June 21, 2012, Respondent cleansed the
21 excoriation to coccyx with DWS and apply Baza (antifungal cream).

22 **Patient 2374:**

- 23 xv. On or about June 20, 2012, and June 21, 2012, Respondent checked the
24 patient's oxygen saturation and stoma site for infection.

25 **Patient 2166:**

- 26 xvi. On or about June 20, 2012, and June 21, 2012, Respondent: 1) washed
27 the patient's left foot with Hibiclens antiseptic and applied Cortisone
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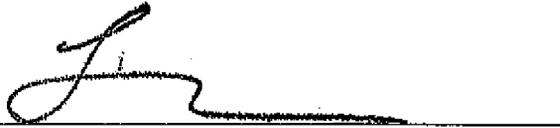
ORDER

IT IS SO ORDERED that Vocational Nurse License No, VN 95872, heretofore issued to Respondent Mary Michelle Denis, 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 AUG 11 2017 .

It is so ORDERED JUN 30 2017



FOR THE BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS

12702790.DOC
DOJ Matter ID:SA2016102848

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(MARY MICHELLE DENIS)

1 XAVIER BECERRA
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STANBORN W. LEE
Deputy Attorney General
4 State Bar No. 203563
1300I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-9921
Facsimile: (916) 324-5567
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. 1002539201

12 **MARY MICHELLE DENIS**
13 **1407 W. Joy Court**
Exeter, CA 93221

ACCUSATION

14 Vocational Nurse License No, VN 95872

15 Respondent.

16
17 Kameka Brown, PhD, MBA, NP ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Executive
20 Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department
21 of Consumer Affairs.

22 2. On or about June 2, 1980, the Board issued Vocational Nurse License Number VN
23 95872 to Mary Michelle Denis ("Respondent"). The license was in full force and effect at all
24 times relevant to the charges brought herein and will expire on March 31, 2018, unless renewed.

25 **JURISDICTION**

26 3. Business and Professions Code ("Code") section 2875 provides, in pertinent part, that
27 the Board may discipline the holder of a vocational nurse license for any reason provided in
28 Article 3 (commencing with Code section 2875) of the Vocational Nursing Practice Act.

1 4. Code section 118(b) provides, in pertinent part, that the expiration of a license shall
2 not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
3 within which the license may be renewed, restored, reissued or reinstated.

4 **STATUTORY PROVISIONS**

5 5. Code section 2878 states, in pertinent part:

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

9 (a) Unprofessional conduct.,

10 (1) Incompetence, or gross negligence in carrying out usual nursing
11 functions,

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

14 6. Code section 2878.5 states, in pertinent part:

15 In addition to other acts constituting unprofessional conduct within the
16 meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional
17 conduct for a person licensed under this chapter to do any of the following:

18 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
19 unintelligible entries in any hospital, patient, or other record pertaining to narcotics or
20 dangerous drugs as specified in subdivision (b).

21 **REGULATORY PROVISIONS**

22 7. California Code of Regulations, title 16, section 2519 states:

23 As set forth in Section 2878 of the Code, gross negligence is deemed
24 unprofessional conduct and is a ground for disciplinary action. As used in Section
25 2878 "gross negligence" means a substantial departure from the standard of care
26 which, under similar circumstances, would have ordinarily been exercised by a
27 competent licensed vocational nurse, and which has or could have resulted in harm to
28 the consumer. An exercise of so slight a degree of care as to justify the belief that
there was a conscious disregard or indifference for the health, safety, or welfare of the
consumer shall be considered a substantial departure from the above standard of care.

8. California Code of Regulations, title 16, section 2520 states:

As set forth in Section 2878 of the Code, incompetence is deemed
unprofessional conduct and is a ground for disciplinary action. As used in Section
2878 "incompetence" means the lack of possession of and the failure to exercise that
degree of learning, skill, care and experience ordinarily possessed and exercised by
responsible licensed vocational nurses,

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1 COST RECOVERY

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

6 **DRUGS**

7 10. "Coumadin" is a dangerous drug within the meaning of Business and Professions
8 Code section 4022 in that it requires a prescription under federal law.

9 11. "Megace" is a dangerous drug within the meaning of Business and Professions Code
10 section 4022 in that it requires a prescription under federal law.

11 12. "Propranolol" is a dangerous drug within the meaning of Business and Professions
12 Code section 4022 in that it requires a prescription under federal law.

13 FIRST CAUSE FOR DISCIPLINE

14 (Gross Negligence)

15 13. Respondent is subject to discipline under Code section 2878(a), on the grounds of
16 unprofessional conduct, as defined in Code section 2878(a)(1), in that while employed as a
17 licensed vocational nurse at Delta Nursing & Rehabilitation Center, located in Visalia, California,
18 Respondent was grossly negligent, in the following respects:

19 a. Respondent falsified patient Medication Administration Record ("MAR") by
20 documenting that she administered prescribed medications when, in fact, she did not, as more
21 particularly set forth below in paragraph 14.

22 b. Respondent failed to comply with physician orders by failing to administer prescribed
23 medications, as more particularly set forth below in paragraph 14.

24 c. Respondent failed to document treatments provided to patients, as more particularly
25 set forth below in paragraph 15,

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SECOND CAUSE FOR DISCIPLINE

(Falsified, Made Incorrect or Inconsistent Entries in Hospital or Patient Records)

14. Respondent is subject to discipline under Code section 2878(a), on the grounds of unprofessional conduct as defined in Code section 2878.5(e), in that while employed as a licensed vocational nurse at Delta Nursing & Rehabilitation Center, located in Visalia, California, Respondent falsified, or made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital or patient records in the following respects;

Patient 2312:

a. Respondent falsified the patient's medical record, in that on or about June 30, 2012, at 1600 hours, Respondent documented the administration of 4.5 mg. of Coumadin on the patient's MAR when, in fact, Respondent did not administer that medication.

b. Respondent falsified the patient's medical record in that, on or about June 30, 2012, at 0900 hours, Respondent documented the administration of 20 mg. of Propranolol on the patient's MAR when, in fact, Respondent did not administer that medication.

Patient 2391:

c. Respondent falsified the patient's medication record, in that on or about June 20, 2012, and June 21, 2012, at 0900 and 1700 hours respectively, Respondent documented the administration of 40 mg. of Megace on the patient's MAR when, in fact, Respondent did not administer that medication.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

15. Respondent is subject to discipline under Code section 2878(a), on the grounds of unprofessional conduct, in that while employed as a licensed vocational nurse at Delta Nursing & Rehabilitation Center, located in Visalia, California, Respondent demonstrated unprofessional conduct by failing to document treatments provided to the following patients:

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1 **Patient 2216:**

2 a. On or about June 21, 2012, Respondent applied T-Gel Shampoo (therapeutic
3 shampoo) to the patient's scalp,

4 **Patient 2034:**

5 b. On or about June 20, 2012, and June 21, 2012, Respondent: 1) applied Eucerin lotion
6 to the relevant areas; 2) monitored edema to the lower extremities; 3) monitored the skin tear on
7 the top of the patient's left hand; and 4) monitored the skin tear to the patient's left elbow.

8 **Patient 2382:**

9 c. On or about June 20, 2012, and June 21, 2012, Respondent: 1) monitored the skin tear
10 on the patient's right forearm; 2) cleansed the patient's left great toe and applied wound spray and
11 Betadine; 3) ensured that the foot cradle was on while patient in bed; 4) monitored the left great
12 toe for signs of infection; and 5) checked the WanderGuard¹ function.

13 **Patient 2259:**

14 d. On or about June 20, 2012, and June 21, 2012, Respondent: 1) monitored the patient's
15 oxygen saturation; 2) checked the patient's oxygen via nasal cannula; 3) applied 1%
16 Hydrocortisone cream to the patient's itchy skin; 4) applied Aspercream; and 5) ensured the
17 patient had knee high Thrombo-Embolism Deterrent (TED) hose on during waking hours.

18 e. On or about June 20, 2012, Respondent applied T-Gel Shampoo to the patient's scalp.

19 **Patient 2237:**

20 f. On or about June 20, 2012, and June 21, 2012, Respondent: 1) monitored the patient's
21 oxygen saturation; 2) checked the WanderGuard function; 3) applied NonyX (fungal gel) to the
22 top of the patient's fingernails and toenails; and 4) ensured TED hose were on the patient.

23 **Patient 2308:**

24 g. On or about June 20, 2012, and June 21, 2012, Respondent cleansed the excoriation
25 under the bilateral breast with normal saline and monitored the excoriation under the bilateral
26 breast.

27 ¹ WanderGuard is a monitoring device worn by patients with wandering, flight-risk or
28 aggressive behaviors.

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Patient 2282:

h. On or about June 20, 2012, and June 21, 2012, Respondent monitored the patient's oxygen saturation and ensured the patient was wearing thigh high TED hose to bilateral lower extremities.

Patient 2286:

i. On or about June 20, 2012, and June 21, 2012, Respondent: 1) monitored the patient's rash on the inner thighs; 2) monitored Stage I and II coccyx for infection; 3) monitored bilateral breast folds for signs of infection; 4) cleansed bilateral breast folds, applied TAO (triple antibiotic ointment) to underneath bilateral folds and applied gauze; 5) monitored open blister to right the medial ankle for signs of infection; 6) cleansed open blister on right ankle with wound spray and Xeroform (petroleum gauze), and wrap with Kerlix (bandage); 7) monitored the open blister to the left medial ankle for signs of infection; 8) cleansed the left medial ankle blister with wound spray, apply Xeroform, and wrap with Kerlix; 9) monitored the open blister to lateral right lower extremity for signs of infection; 10) ensured Geri-Sleeve to bilateral arms were worn at all times; and 11) monitored oxygen saturation,

j. On or about June 21, 2012, Respondent: 1) cleansed the open blister to the lateral right lower extremities with wound spray, applied Xeroform, and wrapped with Kerlix; and, 2) cleansed the rash to the patient's inner thighs with wound spray and applied Calmoseptine ointment,

Patient 2341:

k. On or about June 20, 2012, and June 21, 2012, Respondent monitored the patient's oxygen saturation and checked the WanderGuard function.

Patient 2149:

l. On or about June 20, 2012, and June 21, 2012, Respondent monitored the patient's oxygen saturation and ensured the patient's oxygen was flowing at 3 LPM (litre per minute),

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1 Respondent displayed incompetence, as more particularly set forth above in paragraphs 14 and
2 15.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Committed Acts of Dishonesty)**

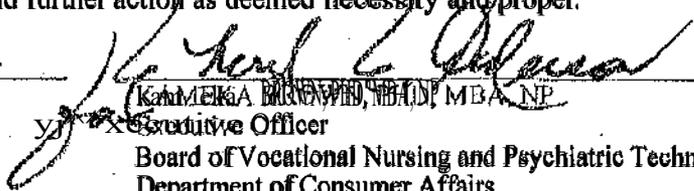
5 17, Respondent is subject to discipline under Code section 2878(j), in that on or about
6 June 20, 2014, and June 30, 2014, while employed as a licensed vocational nurse at Delta Nursing
7 & Rehabilitation Center, located in Visalia, California, Respondent committed acts involving
8 dishonesty, as set forth above in paragraph 14.

9 **PRAYER**

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

- 13 1. Revoking or suspending Vocational Nurse License Number VN 95872, issued to
- 14 Mary Michelle Denis;
- 15 2. Ordering Mary Michelle Denis to pay the Board of Vocational Nursing and
- 16 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
- 17 pursuant to Business and Professions Code section 125.3; and,
- 18 3. Taking such other and further action as deemed necessary and proper.

19 DATED: 04/14/17



20 **KAMEKA BROWN, MBA, NP**
 21 **Executive Officer**
 22 **Board of Vocational Nursing and Psychiatric Technicians**
 23 **Department of Consumer Affairs**
 24 **State of California**
 25 **Complainant**

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