

BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke
Probation Against:

Case No. 2012-571

IRINEO SUBIDO MALLARI a.k.a.,
RENE MALLARI

Registered Nurse License No. 582230

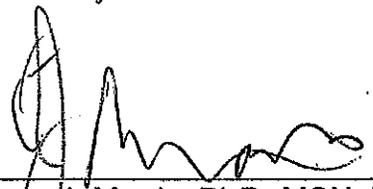
Respondent.

DECISION AND ORDER

Pursuant to Title 16 of the California Code of Regulations, section 1403,
the attached Stipulated Settlement is hereby adopted by the Board of Registered
Nursing as its Decision and Order in the above-entitled matter.

This Decision shall become effective on June 13, 2017.

IT IS SO ORDERED this 13th day of June, 2017.



Joseph Morris, PhD, MSN, RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 XAVIER BECERRA
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER
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455 Golden Gate Avenue, Suite 11000
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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Petition to Revoke
11 Probation Against:

Case No. 2012-571

12 **IRINEO SUBIDO MALLARI**
13 **a.k.a. RENE MALLARI**
13 **19301 Saffron Drive**
14 **Morgan Hill, CA 95037**

STIPULATED SURRENDER OF
LICENSE AND ORDER

15 **Registered Nurse License No. 582230**

16 Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Joseph L. Morris, PhD, MSN, RN (Complainant) is the Executive Officer of the
21 Board of Registered Nursing (Board). He brought this action solely in his official capacity and is
22 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
23 Jonathan D. Cooper, Deputy Attorney General.

24 2. Irineo Subido Mallari, aka Rene Mallari (Respondent) is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about June 20, 2001, the Board of Registered Nursing issued Registered Nurse
27 License Number 582230 to Irineo Subido Mallari, aka Rene Mallari (Respondent). The
28 Registered Nurse License was in effect at all times relevant to the charges brought herein and will

1 expire on October 31, 2018, unless renewed.

2 **JURISDICTION**

3 4. Petition to Revoke Probation No. 2012-571 was filed before the Board, and is
4 currently pending against Respondent. The Petition to Revoke Probation and all other statutorily
5 required documents were properly served on Respondent on April 4, 2017. Respondent timely
6 filed his Notice of Defense contesting the Petition to Revoke Probation. A copy of Petition to
7 Revoke Probation No. 2012-571 is attached as Exhibit A and incorporated by reference.

8 **ADVISEMENT AND WAIVERS**

9 5. Respondent has carefully read, and understands the charges and allegations in Petition
10 to Revoke Probation No. 2012-571. Respondent also has carefully read, and understands the
11 effects of this Stipulated Surrender of License and Order.

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

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

21 **CULPABILITY**

22 8. Respondent admits the truth of each and every charge and allegation in Petition to
23 Revoke Probation No. 2012-571, agrees that cause exists for discipline and hereby surrenders his
24 Registered Nurse License No. 582230 for the Board's formal acceptance.

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

27 **CONTINGENCY**

28 10. This stipulation shall be subject to approval by the Board. Respondent understands

1 and agrees that counsel for Complainant and the staff of the Board may communicate directly
2 with the Board regarding this stipulation and surrender, without notice to or participation by
3 Respondent. By signing the stipulation, Respondent understands and agrees that he may not
4 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
5 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
6 Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
7 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
8 be disqualified from further action by having considered this matter.

9 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
10 copies of this Stipulated Surrender of License and Order, including Portable Document Format
11 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

12 12. This Stipulated Surrender of License and Order is intended by the parties to be an
13 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
14 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
15 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
16 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
17 executed by an authorized representative of each of the parties.

18 13. In consideration of the foregoing admissions and stipulations, the parties agree that
19 the Board may, without further notice or formal proceeding, issue and enter the following Order:

20 **ORDER**

21 IT IS HEREBY ORDERED that Registered Nurse License No. 582230, issued to
22 Respondent Irineo Subido Mallari, aka Rene Mallari, is surrendered and accepted by the Board of
23 Registered Nursing.

24 1. The surrender of Respondent's Registered Nurse License and the acceptance of the
25 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
26 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
27 license history with the Board of Registered Nursing.

28 2. Respondent shall lose all rights and privileges as a registered nurse in California as of

1 the effective date of the Board's Decision and Order.

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

4 4. If Respondent ever files an application for licensure or a petition for reinstatement in
5 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
6 comply with all the laws, regulations and procedures for reinstatement of a revoked or
7 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
8 contained in Petition to Revoke Probation No. 2012-571 shall be deemed to be true, correct and
9 admitted by Respondent when the Board determines whether to grant or deny the petition.

10 5. If Respondent should ever apply or reapply for a new license or certification, or
11 petition for reinstatement of a license, by any other health care licensing agency in the State of
12 California, all of the charges and allegations contained in Petition to Revoke Probation No. 2012-
13 571 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any
14 Statement of Issues or any other proceeding seeking to deny or restrict licensure.

15 6. Respondent shall not apply for licensure or petition for reinstatement for two (2)
16 years from the effective date of the Board's Decision and Order.

17 ACCEPTANCE

18 I have carefully read the Stipulated Surrender of License and Order. I understand the
19 stipulation and the effect it will have on my Registered Nurse License. I enter into this
20 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
21 be bound by the Decision and Order of the Board of Registered Nursing.

22
23 DATED: _____

5/8/2017

24 
IRINEO SUBIDO MALLARI AKA RENE
MALLARI
25 Respondent

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ENDORSEMENT

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

Dated: 5/22/17

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General


JONATHAN D. COOPER
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Petition to Revoke Probation No. 2012-571

1 XAVIER BECERRA
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER
Deputy Attorney General
4 State Bar No. 141461
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1404
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Petition to Revoke
11 Probation Against,

Case No. 2012-571

12 **IRINEO SUBIDO MALLARI**
13 **a.k.a. RENE MALLARI**
14 **19301 Saffron Drive**
Morgan Hill, CA 95037

PETITION TO REVOKE PROBATION

15 **Registered Nurse License No. 582230**

16 **Respondent.**

17 **Complainant alleges:**

18 **PARTIES**

19 1. Joseph L. Morris, PhD, MSN, RN (Complainant) brings this Petition to Revoke
20 Probation solely in his official capacity as the Executive Officer of the Board of Registered
21 Nursing, Department of Consumer Affairs.

22 2. On or about June 20, 2001, the Board of Registered Nursing issued Registered Nurse
23 License Number 582230 to Irineo Subido Mallari, aka Rene Mallari (Respondent). The
24 Registered Nurse License was in effect at all times relevant to the charges brought herein and will
25 expire on October 31, 2018, unless renewed.

26 3. In a disciplinary action entitled "In the Matter of Accusation Against Irineo Subido
27 Mallari, aka Rene Mallari," case No. 2012-571, the Board of Registered Nursing issued a
28 decision, effective May 16, 2013, in which Respondent's Registered Nurse License was revoked.

1 However, the revocation was stayed and Respondent's Registered Nurse License was placed on
2 probation for a period of three (3) years with certain terms and conditions. A copy of that
3 decision is attached as Exhibit A and is incorporated by reference. Pursuant to the terms of
4 probation, and pursuant to a request made by Respondent, on or about December 11, 2015, the
5 Board extended Respondent's probation an additional year in order to allow Respondent to
6 complete the employment requirement of the probation order.

7 JURISDICTION

8 4. This Petition to Revoke Probation is brought before the Board of Registered Nursing
9 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
10 references are to the Business and Professions Code unless otherwise indicated.

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

15 6. Section 2759 of the Code provides, in pertinent part, that the Board may impose
16 discipline upon the holder of a license by placing him on probation.

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

21 FIRST CAUSE TO REVOKE PROBATION

22 (Failure to Comply with Probation Program)

23 8. At all times after the effective date of Respondent's probation, Probation Condition
24 Two stated, in pertinent part:

25 **Comply with the Board's Probation Program.** Respondent shall fully
26 comply with the conditions of the Probation Program established by the Board and
27 cooperate with representatives of the Board in its monitoring and investigation of
28 the Respondent's compliance with the Board's Probation 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.

1 9. Respondent's probation is subject to revocation because he failed to comply with
2 Probation Condition Two, referenced above, as set forth below in the Second Cause to Revoke
3 Probation.

4 **SECOND CAUSE TO REVOKE PROBATION**

5 (Failure to Function as Registered Nurse)

6 10. At all times after the effective date of Respondent's probation, Probation Condition
7 Six stated, in pertinent part:

8 **Function as a Registered Nurse.** Respondent, during the period of
9 probation, shall engage in the practice of registered nursing in California for a
10 minimum of 24 hours per week for 6 consecutive months or as determined by the
11 Board.

12 For purposes of compliance with the section, "engage in the practice of
13 registered nursing" may include, when approved by the Board, volunteer work as a
14 registered nurse, or work in any non-direct patient care position that requires
15 licensure as a registered nurse.

16 The Board may require that advanced practice nurses engage in advanced
17 practice nursing for a minimum of 24 hours per week for 6 consecutive months or as
18 determined by the Board.

19 If Respondent has not complied with this condition during the probationary
20 term, and Respondent has presented sufficient documentation of his good faith
21 efforts to comply with this condition, and if no other conditions have been violated,
22 the Board, in its discretion, may grant an extension of Respondent's probation
23 period up to one year without further hearing in order to comply with this condition.
24 During the one year extension, all original conditions of probation shall apply.

25 11. Respondent's probation is subject to revocation because he failed to comply with
26 Probation Condition Six, referenced above, in that he has failed to engage in the practice of
27 nursing as required.

28 **PRAYER**

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

1. Revoking the probation that was granted by the Board of Registered Nursing in Case
No. 2012-571 and imposing the disciplinary order that was stayed, thereby revoking Registered
Nurse License No. 582230, issued to Respondent Irineo Subido Mallari, aka Rene Mallari;
2. Revoking or suspending Registered Nurse License No. 582230, issued to Respondent

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Irineo Subido Mallari aka Rene Mallari;

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

DATED: April 4, 2017

for 
JOSEPH E. MORRIS, PHD, MSN, RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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

In the Matter of the Accusation Against:

IRINEO SUBIDO MALLARI
a.k.a. **RENE MALLARI**
19301 Saffron Drive
Morgan Hill, CA 95037

Registered Nurse License No. 582230

Respondent

Case No. 2012-571

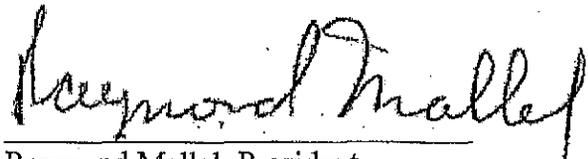
OAH No. 2012050596

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 May 16, 2013.

IT IS SO ORDERED April 16, 2013.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER
Deputy Attorney General
4 State Bar No. 141461
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1404
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

11 **IRINEO SUBIDO MALLARI**
12 **aka Rene Mallari**

13 **19301 Saffron Drive**
14 **Morgan Hill, CA 95037**

15 **Registered Nurse License No. 582230**

16 Respondent.

Case No. 2012-571

OAH No. 2012050596

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
21 Registered Nursing. She brought this action solely in her official capacity and is represented in
22 this matter by Kamala D. Harris, Attorney General of the State of California, by Jonathan D.
23 Cooper, Deputy Attorney General.

24 2. Respondent Irineo Subido Mallari (Respondent) is represented in this proceeding by
25 attorney Edward O. Lear, whose address is: Century Law Group, LLP, 5200 West Century
26 Boulevard, Suite 345, Los Angeles, CA, 90045

27 3. On or about June 20, 2001, the Board of Registered Nursing issued Registered Nurse
28 License No. 582230 to Irineo Subido Mallari (Respondent). The Registered Nurse License was

1 in full force and effect at all times relevant to the charges brought in Accusation No. 2012-571
2 and will expire on October 31, 2014, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 2012-571 was filed before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on March 26,
7 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 2012-571 is attached as exhibit A and incorporated herein
9 by reference.

10 **ADVISEMENT AND WAIVERS**

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 2012-571. Respondent has also carefully read, fully
13 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
14 Order.

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

22 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 **CULPABILITY**

25 9. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 2012-571.

27 10. Respondent agrees that his Registered Nurse License is subject to discipline and he
28 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

1
2 11. This stipulation shall be subject to approval by the Board of Registered Nursing.
3 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
4 Registered Nursing may communicate directly with the Board regarding this stipulation and
5 settlement, without notice to or participation by Respondent or his counsel. By signing the
6 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
7 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
8 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
9 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
10 action between the parties, and the Board shall not be disqualified from further action by having
11 considered this matter.

12 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
13 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
14 effect as the originals.

15 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
16 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
17 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
18 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
19 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
20 writing executed by an authorized representative of each of the parties.

21 14. In consideration of the foregoing admissions and stipulations, the parties agree that
22 the Board may, without further notice or formal proceeding, issue and enter the following
23 Disciplinary Order:

DISCIPLINARY ORDER

24
25 IT IS HEREBY ORDERED that Registered Nurse License No. 582230, issued to
26 Respondent Irineo Subido Mallari (Respondent), is revoked. However, the revocation is stayed
27 and Respondent is placed on probation for three (3) years on the following terms and conditions.

28 **Severability Clause.** Each condition of probation contained herein is a separate and

1 distinct condition. If any condition of this Order, or any application thereof, is declared
2 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
3 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
4 and enforceable to the fullest extent permitted by law.

5 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and
6 detailed account of any and all violations of law shall be reported by Respondent to the Board in
7 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with
8 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
9 45 days of the effective date of the decision, unless previously submitted as part of the licensure
10 application process.

11 **Criminal Court Orders:** If Respondent is under criminal court orders, including
12 probation or parole, and the order is violated, this shall be deemed a violation of these probation
13 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

14 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with
15 the conditions of the Probation Program established by the Board and cooperate with
16 representatives of the Board in its monitoring and investigation of the Respondent's compliance
17 with the Board's Probation Program. Respondent shall inform the Board in writing within no
18 more than 15 days of any address change and shall at all times maintain an active, current license
19 status with the Board, including during any period of suspension.

20 Upon successful completion of probation, Respondent's license shall be fully restored.

21 3. **Report in Person.** Respondent, during the period of probation, shall appear in
22 person at interviews/meetings as directed by the Board or its designated representatives.

23 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
24 practice as a registered nurse outside of California shall not apply toward a reduction of this
25 probation time period. Respondent's probation is tolled, if and when he resides outside of
26 California. Respondent must provide written notice to the Board within 15 days of any change of
27 residency or practice outside the state, and within 30 days prior to re-establishing residency or
28 returning to practice in this state.

1 Respondent shall provide a list of all states and territories where he has ever been licensed
2 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
3 information regarding the status of each license and any changes in such license status during the
4 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing
5 license during the term of probation.

6 **5. Submit Written Reports.** Respondent, during the period of probation, shall submit
7 or cause to be submitted such written reports/declarations and verification of actions under
8 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
9 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
10 Respondent shall immediately execute all release of information forms as may be required by the
11 Board or its representatives.

12 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
13 state and territory in which he has a registered nurse license.

14 **6. Function as a Registered Nurse.** Respondent, during the period of probation, shall
15 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
16 6 consecutive months or as determined by the Board.

17 For purposes of compliance with the section, "engage in the practice of registered nursing"
18 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
19 non-direct patient care position that requires licensure as a registered nurse.

20 The Board may require that advanced practice nurses engage in advanced practice nursing
21 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

22 If Respondent has not complied with this condition during the probationary term, and
23 Respondent has presented sufficient documentation of his good faith efforts to comply with this
24 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
25 extension of Respondent's probation period up to one year without further hearing in order to
26 comply with this condition. During the one year extension, all original conditions of probation
27 shall apply.

28 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain

1 prior approval from the Board before commencing or continuing any employment, paid or
2 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
3 performance evaluations and other employment related reports as a registered nurse upon request
4 of the Board.

5 Respondent shall provide a copy of this Decision to his employer and immediate
6 supervisors prior to commencement of any nursing or other health care related employment.

7 In addition to the above, Respondent shall notify the Board in writing within seventy-two
8 (72) hours after he obtains any nursing or other health care related employment. Respondent
9 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,
10 regardless of cause, from any nursing, or other health care related employment with a full
11 explanation of the circumstances surrounding the termination or separation.

12 8. **Supervision.** Respondent shall obtain prior approval from the Board regarding
13 Respondent's level of supervision and/or collaboration before commencing or continuing any
14 employment as a registered nurse, or education and training that includes patient care.

15 Respondent shall practice only under the direct supervision of a registered nurse in good
16 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
17 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
18 approved.

19 Respondent's level of supervision and/or collaboration may include, but is not limited to the
20 following:

21 (a) Maximum - The individual providing supervision and/or collaboration is present in
22 the patient care area or in any other work setting at all times.

23 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
24 care unit or in any other work setting at least half the hours Respondent works.

25 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
26 person communication with Respondent at least twice during each shift worked.

27 (d) Home Health Care - If Respondent is approved to work in the home health care
28 setting, the individual providing supervision and/or collaboration shall have person-to-person

1 communication with Respondent as required by the Board each work day. Respondent shall
2 maintain telephone or other telecommunication contact with the individual providing supervision
3 and/or collaboration as required by the Board during each work day. The individual providing
4 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
5 patients' homes visited by Respondent with or without Respondent present.

6 **9. Employment Limitations.** Respondent shall not work for a nurse's registry, in any
7 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
8 or for an in-house nursing pool.

9 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
10 registered nursing supervision and other protections for home visits have been approved by the
11 Board. Respondent shall not work in any other registered nursing occupation where home visits
12 are required.

13 Respondent shall not work in any health care setting as a supervisor of registered nurses.
14 The Board may additionally restrict Respondent from supervising licensed vocational nurses
15 and/or unlicensed assistive personnel on a case-by-case basis.

16 Respondent shall not work as a faculty member in an approved school of nursing or as an
17 instructor in a Board approved continuing education program.

18 Respondent shall work only on a regularly assigned, identified and predetermined
19 worksite(s) and shall not work in a float capacity.

20 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
21 request documentation to determine whether there should be restrictions on the hours of work.

22 **10. Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and
23 successfully complete a course(s) relevant to the practice of registered nursing no later than six
24 months prior to the end of his probationary term.

25 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
26 Respondent shall submit to the Board the original transcripts or certificates of completion for the
27 above required course(s). The Board shall return the original documents to Respondent after
28 photocopying them for its records.

1 **11. Cost Recovery.** Respondent shall pay to the Board costs associated with its
2 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
3 amount of \$6,616.25. Respondent shall be permitted to pay these costs in a payment plan
4 approved by the Board, with payments to be completed no later than three months prior to the end
5 of the probation term.

6 If Respondent has not complied with this condition during the probationary term, and
7 Respondent has presented sufficient documentation of his good faith efforts to comply with this
8 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
9 extension of Respondent's probation period up to one year without further hearing in order to
10 comply with this condition. During the one year extension, all original conditions of probation
11 will apply.

12 **12. Violation of Probation.** If Respondent violates the conditions of his probation, the
13 Board, after giving Respondent notice and an opportunity to be heard, may set aside the stay
14 order and impose the stayed discipline (revocation) of Respondent's license.

15 If during the period of probation, an accusation or petition to revoke probation has been
16 filed against Respondent's license or the Attorney General's Office has been requested to prepare
17 an accusation or petition to revoke probation against Respondent's license, the probationary
18 period shall automatically be extended and shall not expire until the accusation or petition has
19 been acted upon by the Board.

20 **13. License Surrender.** During Respondent's term of probation, if he ceases practicing
21 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
22 Respondent may surrender his license to the Board. The Board reserves the right to evaluate
23 Respondent's request and to exercise its discretion whether to grant the request, or to take any
24 other action deemed appropriate and reasonable under the circumstances, without further hearing.
25 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
26 subject to the conditions of probation.

27 Surrender of Respondent's license shall be considered a disciplinary action and shall
28 become a part of Respondent's license history with the Board. A registered nurse whose license

1 has been surrendered may petition the Board for reinstatement no sooner than the following
2 minimum periods from the effective date of the disciplinary decision:

3 (1) Two years for reinstatement of a license that was surrendered for any reason other
4 than a mental or physical illness; or

5 (2) One year for a license surrendered for a mental or physical illness.

6 14. **Mental Health Examination.** Respondent shall, within 45 days of the effective date
7 of this Decision, have a mental health examination including psychological testing as appropriate
8 to determine his capability to perform the duties of a registered nurse. The examination will be
9 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by
10 the Board. The examining mental health practitioner will submit a written report of that
11 assessment and recommendations to the Board. All costs are the responsibility of Respondent.
12 Recommendations for treatment, therapy or counseling made as a result of the mental health
13 examination will be instituted and followed by Respondent.

14 If Respondent is determined to be unable to practice safely as a registered nurse, the
15 licensed mental health care practitioner making this determination shall immediately notify the
16 Board and Respondent by telephone, and the Board shall request that the Attorney General's
17 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
18 practice and may not resume practice until notified by the Board. During this period of
19 suspension, Respondent shall not engage in any practice for which a license issued by the Board
20 is required, until the Board has notified Respondent that a mental health determination permits
21 Respondent to resume practice. This period of suspension will not apply to the reduction of this
22 probationary time period.

23 If Respondent fails to have the above assessment submitted to the Board within the 45-day
24 requirement, Respondent shall immediately cease practice and shall not resume practice until
25 notified by the Board. This period of suspension will not apply to the reduction of this
26 probationary time period. The Board may waive or postpone this suspension only if significant,
27 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
28 by Respondent to obtain the assessment, and a specific date for compliance must be provided.

1 Only one such waiver or extension may be permitted.

2 15. **Therapy or Counseling Program.** Respondent, at his expense, shall participate in
3 an on-going counseling program until such time as the Board releases him from this requirement
4 and only upon the recommendation of the counselor. Written progress reports from the counselor
5 will be required at various intervals.

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14 ACCEPTANCE

15 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
16 discussed it with my attorney, Edward O. Lear. I understand the stipulation and the effect it will
17 have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary
18 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
19 of the Board of Registered Nursing.

20 DATED: _____

Irineo S. Mallari

IRINEO SUBIDO MALLARI
Respondent

22 I have read and fully discussed with Respondent Irineo Subido Mallari the terms and
23 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
24 I approve its form and content.

25 DATED: _____

1/16/13

Edward O. Lear
Edward O. Lear
Attorney for Respondent

27 ENDORSEMENT

28 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully

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submitted for consideration by the Board of Registered Nursing of the Department of Consumer
Affairs.

Dated: 1/25/13

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General



JONATHAN D. COOPER
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 2012-571

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER
Deputy Attorney General
State Bar No. 141461
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-1404
Facsimile: (415) 703-5480
6 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 2012-571

12 **IRINEO SUBIDO MALLARI**
aka Rene Mallari

ACCUSATION

13 **19301 Saffron Drive**
Morgan Hill, CA 95037

14 **Registered Nurse License No. 582230**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about June 20, 2001, the Board of Registered Nursing issued Registered Nurse
23 License Number 582230 to Irineo Subido Mallari, aka Rene Mallari (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on October 31, 2012, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

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

6 5. Section 2764 of the Code 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.

9 **STATUTORY AND REGULATORY PROVISIONS**

10 6. Section 2761 of the Code states, in pertinent part:

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

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

14 (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
15 functions.

16 ...
17 7. California Code of Regulations, title 16, section 1442, states:

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

24 8. California Code of Regulations, title 16, section 1443, states:

25 As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
26 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
27 exercised by a competent registered nurse as described in Section 1443.5.

28 ///

1 9. California Code of Regulations, title 16, section 1443.5 states:

2 A registered nurse shall be considered to be competent when he/she consistently
3 demonstrates the ability to transfer scientific knowledge from social, biological and physical
4 sciences in applying the nursing process, as follows:

5 (1) Formulates a nursing diagnosis through observation of the client's physical condition
6 and behavior, and through interpretation of information obtained from the client and others,
7 including the health team.

8 (2) Formulates a care plan, in collaboration with the client, which ensures that direct and
9 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and
10 for disease prevention and restorative measures.

11 (3) Performs skills essential to the kind of nursing action to be taken, explains the health
12 treatment to the client and family and teaches the client and family how to care for the client's
13 health needs.

14 (4) Delegates tasks to subordinates based on the legal scopes of practice of the
15 subordinates and on the preparation and capability needed in the tasks to be delegated, and
16 effectively supervises nursing care being given by subordinates.

17 (5) Evaluates the effectiveness of the care plan through observation of the client's physical
18 condition and behavior, signs and symptoms of illness, and reactions to treatment and through
19 communication with the client and health team members, and modifies the plan as needed.

20 (6) Acts as the client's advocate, as circumstances require, by initiating action to improve
21 health care or to change decisions or activities which are against the interests or wishes of the
22 client, and by giving the client the opportunity to make informed decisions about health care
23 before it is provided.

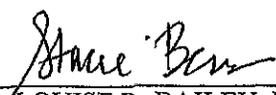
24 COSTS

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

1 the investigation and enforcement of this case, pursuant to Business and Professions Code section
2 125.3;

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

4 DATED: March 26, 2012

for 
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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