

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION
LEGAL UNIT

1515 Clay Street, Suite 1700
Oakland, California 94612
Tel (510) 286 -7100 Fax (510) 286-0687



September 29, 2017

Virginia Garrett
249 Magellan Drive
Sarasota, FL 34243

NOTICE OF PROVIDER SUSPENSION – WORKERS' COMPENSATION

Dear Ms. Garrett:

The Acting Administrative Director of the Division of Workers' Compensation (DWC) is required by Labor Code sections 139.21(a)(1)(A) and 139.21(a)(1)(C) to suspend you from participation in the California workers' compensation system for one or more of the following reasons: you have been convicted of a crime described in Labor Code section 139.21(a)(1)(A), and/or your license, certification, or approval to provide health care services has been surrendered or revoked. Enclosed are copies of the documents relied upon by the Acting Administrative Director as the basis for taking this action.

Your suspension will start 30 calendar days after the date of mailing of this notice, unless you submit a written request for a hearing, which will stay the suspension pending the outcome of the hearing. Your request must be made within 10 calendar days of the date of mailing of this notice. If you do not request a hearing within the 10-day time limit, you will be suspended from participation in the California workers' compensation system pursuant to California Code of Regulations, title 8, section 9788.2(b).

Your request for a hearing must contain:

- Your current mailing address;
- The legal and factual reasons as to why you do not believe Labor Code section 139.21(a)(1) is applicable to you; and
- Your original signature or the original signature of your legal representative.

The scope of the hearing is limited to whether or not Labor Code section 139.21(a)(1) is applicable to you. The Acting Administrative Director is required to suspend you unless you provide proof in the hearing that Labor Code section 139.21(a)(1) does not apply.

Your original request for a hearing and one copy of the request must be filed with the Acting Administrative Director. Additionally, you must also serve one copy of the request for a hearing on the DWC Legal Unit. The addresses for the Acting Administrative Director and the Legal Unit are:

Virginia Garrett
September 29, 2017

Hearing Request
Acting Administrative Director
Division of Workers' Compensation
1515 Clay Street, Suite 1800
Oakland, California 94612

and

Hearing Request
Legal Unit, Division of Workers' Compensation
1515 Clay Street, Suite 1800
Oakland, California 94612

The original and all copies of the request for hearing must have a proof of service attached. A sample proof of service, containing all necessary elements, can be found on the DWC website at <https://www.dir.ca.gov/dwc/forms.html>, under the category "Court Forms," and then "Proof of Service." The Acting Administrative Director is required to hold your hearing within 30 days of the receipt of your written request. The hearing will be conducted by a hearing officer appointed by the Acting Administrative Director. You will be notified shortly after the receipt of your request of the date and time of the hearing.

For more information about the suspension procedure, please refer to Provider Suspension Regulations, California Code of Regulations, title 8, sections 9788.1 - 9788.4, which can be found on the DWC website at <http://www.dir.ca.gov/dwc/DWCPropRegs/Provider-Suspension-Procedure/Clean-Version/Text-of-Regulations.pdf>.

Sincerely,



George Parisotto
Acting Administrative Director
Division of Workers' Compensation

Encls.

- Misdemeanor Complaint in *The People of the State of California v. Virginia Garrett* (Case No. 8VY01984), Superior Court of California, County of Los Angeles
- Misdemeanor Sentencing Memorandum – Vehicle Code in *The People of the State of California v. Virginia Garrett* (Case No. 8VY01984), Superior Court of California, County of Los Angeles
- Default Decision and Order – In the Matter of the Accusation Against: Virginia Ila Garrett (Case No. 2010-354), Before the Board of Registered Nursing, Department of Consumer Affairs, State of California, with accompanying Accusation
- Declaration of Socorro Tongco in Support of Notice of Provider Suspension
- Proof of Service

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,
OR 04/30/2008 Bkg no. 1251104
Plaintiff,

vs.

VIRGINIA GARRETT 02/08/1947 F

V23152a/pr

V23152b

FILED
LOS ANGELES SUPERIOR COURT

APR 28 2008

JOHN A. CLARKE, CLERK
Manasella
By Manasella Deputy
Defendant (s)

MISDEMEANOR COMPLAINT

Case number: 8VY01984

FILED
JOHN A. CLARKE
Executive Officer/Clerk

By _____
Deputy Clerk

Issued by
ROCKARD J. DELGADILLO
City Attorney

By _____
JOHN C.I. ROCKE (LT)
Deputy City Attorney

Comes now the undersigned and states that he is informed and believes, and upon such information and belief declares: That on or about 04/09/2008 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit, violation of Subdivision (a) of Section 23152 of the California Vehicle Code was committed by the above-named defendant(s) (whose true name(s) to affiant is(are) unknown), who at the time and place last aforesaid, did willfully and unlawfully drive a vehicle while being under the influence of an alcoholic beverage and a drug and under the combined influence of an alcoholic beverage and a drug.

ALLEGATIONS OF PRIOR CONVICTIONS

It is further alleged that the defendant was convicted of having violated the following section(s) of the California Vehicle Code, said violation(s) and conviction(s) having occurred on or about the following date(s):

Code Section	Violation Date	Conviction Date	Docket No.	Court No.
V23152A	02/09/2004	04/01/2004	4VN00660	19498

MCI 23152(A)/29

COUNT II

For a further, separate and second cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about 04/09/2008 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit, violation of Subdivision (b) of Section 23152 of the California Vehicle Code was committed by the above-named defendant(s) (whose true name(s) to affiant is(are) unknown), who at the time and place last aforesaid, did willfully and unlawfully drive a vehicle with 0.08 percent or more, by weight, of alcohol in his or her blood.

The allegations of prior convictions listed in Count I of this complaint are hereby incorporated by reference as allegations of prior convictions for the purposes of this Count of the complaint.

MCI 23152(B)/29

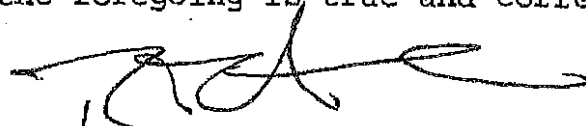
All of which is contrary to the law and against the peace and dignity of the People of the State of California. Declarant and complainant therefore prays that a warrant may be issued for the arrest of said defendant(s) and that he may be dealt with according to law.

Attached hereto and incorporated by reference as though fully set forth are written statements and reports which constitute the basis upon which I make the within allegations.

A declaration in Support of the Issuance of Such Warrant is Submitted.

Executed at Los Angeles, California, on

I declare under penalty of perjury that the foregoing is true and correct.



Declarant and Complainant

ABRAMIAN # 15253

INFORMAL DISCOVERY NOTICE

TO THE ABOVE-NAMED DEFENDANT(S) AND/OR ATTORNEY(S) FOR DEFENDANT(S):

Plaintiff, the People of the State of California, hereby requests discovery/disclosure from the defendant(s) and his or her attorney(s) in this case pursuant to Penal Code Sections 1054.3 and 1054.5.

YOU ARE HEREBY NOTIFIED that if complete disclosure is not made within 15 days of this request, plaintiff will seek -- on or before the next court date, or as soon as practicable thereafter -- a court order enforcing the provisions of Penal Code Section 1054.1, subdivisions (b) and (c). This is an ongoing request for any of the listed items which become known to the defendant(s) and his or her attorney(s) after the date of compliance.

The written statements and reports attached hereto constitute discoverable materials designated in Penal Code Section 1054.1. Any additional material discoverable pursuant to Penal Code Section 1054.1 that becomes known to plaintiff will be provided to the defense.

If, prior to or during trial, as a result of this request plaintiff obtains additional evidence or material subject to disclosure under a previous defense request or court order pursuant to Penal Code Section 1054.1, plaintiff will disclose the existence of that evidence or material within a reasonable time.

DISCOVERY MATERIALS SHOULD BE DELIVERED TO A DEPUTY CITY ATTORNEY IN TRIAL COURT ON THE FIRST TRIAL DATE.

R. COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
MISDEMEANOR SENTENCING MEMORANDUM - VEHICLE CODE

Defendant: <u>VIRGINIA GARRETT</u>		Case No. <u>80401984</u>	
Date: <u>8-2008</u>	Dep't/Div. <u>113</u>	Prosecutor: <u>KLEBAN</u>	Defense:
Writ: <u>STAY</u>	Clerk:	Reporter:	Interpreter/Language:

As to Court 3, a violation of Vehicle Code § 23162(a)(b) 423103 per 28103.0 14601 12500(a) 1 with admitted priors.

Arrangement For Judgment

Arrangement for judgment and time for sentencing waived. There is no legal cause why judgment should not now be pronounced.

Sentence

1. Probation is denied. Defendant is to serve days/hours in the Los Angeles County Jail for with consecutive concurrent with Defendant to receive total credit of days/hours (credit days/hours actual plus days GTAWT).

2. Pay a fine of \$ plus all applicable penalty assessments and enhancements.

3. Pay all fines and assessments as set forth in paragraph 19 below.

3. Execution of the foregoing sentence is suspended, on the following terms and conditions:

Conditional Sentence (PC §1203b)/Order of Probation (PC §1203a)

Suspension of sentence is suspended (ISS). With supervision by county probation officer (formal probation)

For a period of 26 months upon the following terms and conditions:

1. Serve days/hours in the Los Angeles County Jail, consecutive concurrent with Defendant to receive credit of days/hours actual plus days/hours GTAWT. Time may be served in any penal institution. Time may be served on consecutive weekends of two days each beginning (772) Time may be served in any city jail having actual confinement, at defendant's expense. (621) Defendant may not participate in Sheriff's home detention/EHM per PC 1203.016(a), (774) Work furlough not allowed. Last days of jail time to be served by: Antelope Valley Rehabilitation Center at Arden or Warm Springs, California (827) Approved residential program Program. (802) Defendant to be released only to an authorized representative of that program and is to comply with all program terms and conditions. If defendant leaves or is discharged from the program prior to completion, defendant is to report to court on the next court day. (813)

2. Pay a fine of \$ 500 plus penalty assessments or in default thereof serve 10 additional days in County Jail, consecutive or perform days of Community Labor or perform days/hours of approved Community Service, with credit for days actual or \$ 30 towards fine for jail time already served. Fine may be paid in monthly installments of \$ (124) Defendant to report to Financial Evaluator to work out a payment plan. (163) Defendant elects jail in lieu of fine, forthwith, consecutive to all other time, credit days actual plus days GTAWT.

3. Perform days of work for Community Labor, or perform days/hours of approved Community Service, with credit for days actual. Sign up for all work of Community Service only at a court-approved volunteer center or the clerk's office. Failure to complete court-ordered work or Community Service without excuse may result in jail. This work or Community Service is in addition to that done in lieu of the fine.

4. Make restitution to victim per PC §1202.40 in the sum of \$ (648) In an amount to be determined at a hearing. (867) In the stipulated sum of \$ (840) per any final civil judgment against you (100) Liability is admitted, but amount is disputed.

5. Enroll within 21 days (or within 21 days from your release from custody) and successfully complete an approved Defendant's BAC: % Refusal (12 hour) 3 month (AB541) (327) 6 month (AB 768) 18 month (SB38) (328) 30 month alcohol education program. The DMV will not restore your driving privilege until you have successfully completed a licensed alcohol education program. Report to Clerk or Health Officer for program information.

6. Attend Alcoholics Anonymous/Narcotics Anonymous meetings at the rate of times per week, IN ADDITION to those required as part of the alcohol education program. (246)

7. Do not drive any vehicle with any measurable amount of alcohol or drugs in your blood, or refuse to take and complete any blood alcohol/drug chemical test, any field sobriety test or any preliminary alcohol screening test when requested by any peace officer. (711)

8. Do not drive a motor vehicle without a valid driver's license in your possession or without liability insurance in at least the minimum amounts required by law. (374)

9. Abstain from the use of all alcoholic beverages and stay out of all places where they are a chief form of sale. (300)

10. Enroll in and complete the Hospital and Morjue ("H&M") Program, (471) MADD Victim Impact Program (472)

11. The court finds that defendant presents a traffic safety or public safety risk and, per VC §13362.4 (d), disallows issuance by DMV of a restricted license. (249)

12. Your driver's license is hereby ordered suspended revoked for a period of months years. "M" service given in open court. (283) You may not drive a motor vehicle unless and until your driving privilege is restored. Defendant under age 21 at time of offense.

13. You are hereby declared to be a Habitual Traffic Offender for a period of years. (283)

14. Comply with the "Supplemental Terms of Probation - Ignition Interlock Device" regarding installation of an Ignition Interlock. (248)

15. Do not own, use, possess, buy or sell any controlled substances, or associated paraphernalia, except with valid prescription, and stay away from places where users, buyers or sellers congregate. Do not associate with persons known by you to be controlled substance users or sellers, except in an authorized drug counseling program. (926)

16. Submit your person and property to search and seizure at any time of the day or night, by any Probation Officer or other peace officer, with or without a warrant, probable cause or reasonable suspicion. (576)

17. The vehicle with license plate is, after notice and hearing, ordered impounded for days per Vehicle Code § 23594(a). (699)

18. The vehicle with license plate is, after notice and hearing, ordered confiscated and sold per Vehicle Code § 23596(a).

19. Pay all of the following (check all that apply):
 A restitution fine of \$100.00. \$ per PC §1202.4(b) through (e). (888)
 A probation revocation restitution fine of \$100.00. \$ per PC §1202.44, payment is stayed until probation is revoked and sentence imposed.
 A court security fee of \$20.00 per PC §1465.0(a)(1), (ADL SA SF)
 An administrative screening fee of \$25.00 per Gov't Code §29550(f). (If defendant arrested and released by arresting agency.)
 A citation processing fee of \$10.00 per Gov't Code §29550(f). (If defendant arrested and cited out by the arresting agency.)
 A criminal justice administration reimbursement fee of \$, payable to the local arresting agency, per Gov't Code §29550.1 or Gov't Code §29550.2
 All applicable alcohol assessment and program fees.

20.

21. Obey all laws and orders of the Court. (841) and rules and instructions of the Probation Department. (842) Defendant acknowledges that he/she understands and accepts the terms and conditions of probation. (821) Defendant ordered to pay attorney fees in the amount of \$ in the amount determined by the Financial Evaluator. Counts/allegations 1-2 are dismissed/striken on the People's motion pursuant to Penal Code Section 1385 as to this defendant.

Compliance Dates: Defendant is ordered to appear in person on each of the following compliance dates. (883)

Surrender for jail:	Restitution Hearing in Div/Dept <u> </u> at <u> </u> a.m.
Pay fines/fees in full by installments allowed: <u>2/20/09 8:30am</u>	POE/Prost of Completion of Alcohol Program: <u>10/1/08 8:30 AM</u>
Complete jail/work/s by:	Other:

understand, accept and will comply with the foregoing conditional sentence and compliance dates and will return to Court as ordered.

Defendant's Signature: Attorney's Signature:

Defendant's Address: Judge/Commissioner of the Superior Court

Defendant's Telephone: White - Defendant Copy

(Signature)
 Judge/Commissioner of the Superior Court
(Signature)
 White - Defendant Copy

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

In the Matter of the Accusation Against:

Case No. 2010-354

**VIRGINIA ILA GARRETT
249 Magellan Drive
Sarasota, FL 34243**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Registered Nurse License No. 543848

Respondent.

FINDINGS OF FACT

1.1. On or about January 29, 2010, Complainant Louise R. Bailey, M.Ed., RN, in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2010-354 against Virginia Ila Garrett ("Respondent") before the Board of Registered Nursing. (Accusation attached as **Exhibit A.**)

1.2. On or about June 4, 1998, the Board of Registered Nursing ("Board") issued Registered Nurse License No. 543848 to Respondent. The Registered Nurse License expired on March 31, 2012, and has not been renewed.

1.3. On or about June 28, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2010-354, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at

1 Respondent's address of record which, pursuant to California Code of Regulations, title 16,
2 section 1409.1, is required to be reported and maintained with the Board, which was and is:
3 249 Magellan Drive
Sarasota, FL 34243.

4 1.4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
6 124.

7 1.5. On or about February 23, 2010, Respondent filed a Notice of Defense.

8 1.6. On or about November 2, 2011, a hearing was held at the Office of Administrative
9 Hearings, located at 320 West Fourth Street, Suite 630, Los Angeles, CA 90013. Respondent was
10 served with the Notice of Hearing at her Florida address. Respondent failed to show.

11 1.7. California Government Code section 11520 states, in pertinent part:

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

15 1.8. Pursuant to its authority under Government Code section 11520, the Board finds
16 Respondent is in default. The Board will take action without further hearing and, based on the
17 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
18 taking official notice of all the investigatory reports, exhibits and statements contained therein on
19 file at the Board's offices regarding the allegations contained in Accusation No. 2010-354, finds
20 that the charges and allegations in Accusation No. 2010-354, are separately and severally, found
21 to be true and correct by clear and convincing evidence.

22 1.9. Taking official notice of its own internal records, pursuant to Business and
23 Professions Code ("Code") section 125.3, it is hereby determined that the reasonable costs for
24 Investigation and Enforcement is \$2,440.00 as of October 21, 2011.

25 DETERMINATION OF ISSUES

26 1.1. Based on the foregoing findings of fact, Respondent Virginia Ila Garrett has subjected
27 her Registered Nurse License No. 543848 to discipline.
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2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.

a. Respondent is subject to disciplinary action under sections 490, subdivision (b), 2761, subdivisions (a), (f) of the Code for unprofessional conduct because Respondent was criminally convicted of offenses substantially related to the qualifications, functions, and duties of a registered nurse. The conduct is described in more particularity in Accusation No. 2010-354, inclusive and herein incorporated by reference.

b. Respondent is subject to disciplinary action under section 2762, subdivisions (b) and (c) of the Code on the grounds of unprofessional conduct because she was convicted of a crime involving the use of alcohol and dangerous use of alcohol. The conduct is described in more particularity in Accusation No. 2010-354, inclusive and herein incorporated by reference.

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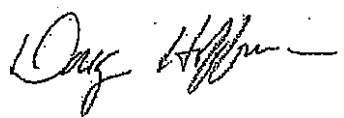
ORDER

IT IS SO ORDERED that Registered Nurse License No. 543848, heretofore issued to Respondent Virginia Ila Garrett, 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 27, 2012

It is so ORDERED December 28, 2011



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

51015372.DOC
DOI Matter ID: LA2011601561

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 EDMUND G. BROWN JR.
Attorney General of California
2 GLORIA BARRIOS
Supervising Deputy Attorney General
3 MICHEL W. VALENTINE
Deputy Attorney General
4 State Bar No. 153078
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2544
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 2010-354

13 VIRGINIA ILA GARRETT
17558 Hiawatha Street
Granada Hills, CA 91344

ACCUSATION

14 Registered Nurse License No. 543848

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about June 4, 1998, the Board of Registered Nursing (Board) issued Registered
24 Nurse License No. 543848 to Virginia Ila Garrett (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 March 31, 2010, unless renewed.

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AGO- - 00003

1 JURISDICTION

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

8 5. Section 2750 provides, in pertinent part, that every licensee, including licensees
9 holding temporary or inactive licenses, may be disciplined as provided in Article 3 of the Nursing
10 Act.

11 STATUTORY PROVISIONS

12 6. Section 490 states:

13 (a) In addition to any other that a board is permitted to take against a licensee, a
14 board may suspend or revoke a license on the ground that the licensee has been convicted of a
15 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
16 or profession for which the license was issued.

17 (b) Notwithstanding any other provision of law, a board may exercise any authority
18 to discipline a licensee for conviction of a crime that is independent of the authority granted under
19 subdivision (a) only if the crime is substantially related to the qualifications, functions, duties of
20 the business or profession for which the license was issued.

21 (c) A conviction within the meaning of this section means a plea or verdict of guilty
22 or a conviction following a plea of nolo contendere. Any action that a board is permitted to take
23 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
24 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
25 made suspending the imposition of sentence, irrespective of a subsequent order under the
26 provisions of Section 1203.4 of the Penal Code.

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1 7. Section 2761 states:

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

4 (a) Unprofessional conduct,

5 ...

6 (d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
7 violation of, or conspiring to violate any provision or term of this chapter or regulations adopted
8 pursuant to it.

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

12 8. Section 2762 states:

13 "In addition to other acts constituting unprofessional conduct within the meaning of this
14 chapter it is unprofessional conduct for a person licensed under this chapter to do any of the
15 following:

16 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
17 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
18 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
19 himself or herself, any other person, or the public or to the extent that such use impairs his or her
20 ability to conduct with safety to the public the practice authorized by his or her license.

21 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
22 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
23 or the possession of, or falsification of a record pertaining to, the substances described in
24 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
25 thereof."

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AGO- - 00005

1. REGULATORY PROVISION

2. 9. California Code of Regulations, title 16, section 1444, states:

3. "A conviction or act shall be considered to be substantially related to the qualifications,
4. functions or duties of a registered nurse if to a substantial degree it evidences the present or
5. potential unfitness of a registered nurse to practice in a manner consistent with the public health,
6. safety, or welfare. . ."

7. COST RECOVERY

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

12. FIRST CAUSE FOR DISCIPLINE

13. (Criminal Convictions)

14. 11. Respondent is subject to disciplinary pursuant to Code sections 490 and 2761,
15. subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that
16. Respondent was convicted of crimes substantially related to the qualifications, functions or duties
17. of a licensed registered nurse, as follows:

18. a. On or about August 20, 2008, after pleading nolo contendere, Respondent was
19. convicted of one misdemeanor count of violating Vehicle Code section 23103 [wet/reckless
20. driving], in the criminal proceeding entitled *The People of the State of California v. Virginia*
21. *Garrett* (Super. Ct. Los Angeles County, 2008, No. 8VY01984). Respondent was court ordered
22. to serve 10 days in jail, pay fines totaling \$1364.00, complete a 12-hour alcohol program and
23. placed on probation for a period of 36 months with terms and conditions. The circumstances
24. surrounding the conviction are that on or about April 9, 2008, the California Highway Patrol
25. arrested Respondent for driving under the influence of an alcoholic beverage and that her
26. continued operation of a motor vehicle would be unsafe.

27. b. On or about April 1, 2004, after pleading nolo contendere, Respondent was convicted of
28.

1 one misdemeanor count of violating Vehicle Code section 23152(b) [driving while having blood-
2 alcohol content greater than 0.8%], in the criminal proceeding entitled *The People of California v.*
3 *Virginia I. Garrett* (Super. Ct. Los Angeles County, 2004, No. 4VN00660). Respondent was
4 court ordered to serve 13 days in jail, pay fines totaling \$1366.00, complete a 3-month First-
5 Offender Alcohol Counseling Program and placed on probation for a period of 36 months with
6 terms and conditions.

7 **SECOND CAUSE FOR DISCIPLINE**

8 (Unprofessional Conduct)

9 12. Respondent is subject to disciplinary action pursuant to Code section 2761,
10 subdivision (a), in conjunction with California Code of Regulations, section 1444, for
11 unprofessional conduct in connection with alcohol use and criminal convictions. Complainant
12 refers to, and by this reference incorporates, the allegations set forth above in paragraph 11,
13 subparagraphs (a) and (b), as though set forth fully.

14 **THIRD CAUSE FOR DISCIPLINE**

15 (Dangerous Use of Alcohol)

16 13. Respondent is subject to disciplinary action pursuant to Code section 2762,
17 subdivision (b), in that on or about April 8, 2008 and April 1, 2004, Respondent used alcohol
18 beverages to an extent or in a manner dangerous to herself, and others. Complainant refers to,
19 and by this reference incorporates, the allegations set forth above in paragraph 11, subparagraphs
20 (a) and (b), as though set forth fully.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 (Conviction Involving Alcohol)

23 14. Respondent is subject to disciplinary action pursuant to Code section 2762,
24 subdivision (c), in that on or about April 1, 2004, Respondent was convicted of a crime involving
25 the consumption of alcohol. Complainant refers to, and by this reference incorporates, the
26 allegations set forth above in paragraph 11, subparagraph (b), as though set forth fully.

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PRAYER

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

1. Revoking or suspending Registered Nurse License No. 543848, issued to Respondent;

2. Ordering Virginia Ila Garrett to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 1/29/10

Louise R. Bailey

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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