EDMUND G. BROWN JR., Attorney General
of the State of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General
JEFFREY M. PHILLIPS, State Bar No. 154990
Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 445-0767
Facsimile: (916) 324-5567

Attorneys for Complainant

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

In the Matter of the Accusation Against: RICHARD HOWARD TORKELSON, a.k.a. RICHARD TORKELSON 5601 Natomas Blvd., Apt. 22111 Sacramento, CA 95835 Registered Nurse License No. 253755 Respondent.	Case No. 2008-301 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about June 30, 1975, the Board issued Registered Nurse License Number 253755 ("license") to Richard Howard Torkelson, also known as Richard Torkelson ("Respondent"). On April 26, 1977, Respondent's license was revoked. In or about April 1980, Respondent filed a Petition for Reinstatement with the Board and his license was reinstated on or about June 12, 1980. On October 23, 1996, Respondent's license was revoked. The revocation was stayed and Respondent was placed on probation for five years, under certain terms and

conditions. On or about February 15, 1999, Respondent filed a Petition for Early Termination of Probation with the Board. The Board granted Respondent's petition on June 17, 1999. Respondent's license was in full force and effect at all times relevant to the charge brought herein and will expire on December 31, 2008, unless renewed.

STATUTORY PROVISIONS

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

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

5. Code section 2761 states, in pertinent part:

> The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:
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> . . . .
>
> (f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof . . .

6. Code section 2765 states:

> A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

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7. Penal Code section 11160, subdivision (d), states, in pertinent part:

> For the purposes of this section, "assaultive or abusive conduct" shall include any of the following offenses:
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> . . . .
>
> (18) Abuse of spouse or cohabitant, in violation of Section 273.5 . . .

8. California Code of Regulations, title 16, section 1444 states, in pertinent part:

> A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:
>
> (a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160 . . .

COST RECOVERY

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

CAUSE FOR DISCIPLINE

(Criminal Conviction)

10. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (f), in that on or about February 7, 2006, in the criminal proceeding titled *People v. Richard Torkelson* (Super. Ct. Sacramento County, 2006, Case No. 06F00012), Respondent was convicted by the court on his plea of nolo contendere to violating Penal Code sections 273.5, subdivision (a) (willful infliction of corporal injury, a misdemeanor), and 422 (threatening to commit a crime which will result in death or greatly bodily injury to another person, a misdemeanor), crimes substantially related to the qualifications, functions, and duties of a registered nurse.

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11. The circumstances of the crimes are as follows: On or about December 28, 2005, Respondent and the victim were involved in a verbal altercation (Respondent and the victim were cohabitating boyfriends). Respondent struck the victim in the face with his closed fist, causing a large lump on the victim's right cheek. Respondent then told the victim, "I'm going to kill you", and placed his hands around the victim's neck, causing red marks. At approximately 1900 hours that same day, Respondent was arrested by the Sacramento County Sheriff's Department for violations of Penal Code section 13700 (domestic violence) and 273.5. Respondent was released on bail a short time later and returned to the victim's residence. Respondent forced entry to the victim's residence by breaking a window and once inside the residence, threatened to kill the victim with a knife.

MATTERS IN AGGRAVATION: PRIOR DISCIPLINE

12. To determine the degree of discipline to be assessed against Respondent, if any, Complainant alleges as follows:

a. On March 25, 1977, pursuant to the Proposed Decision of the Administrative Law Judge adopted by the Board as its Decision in the disciplinary proceeding titled *In the Matter of the Accusation Against: Richard Howard Torkelson*, Case No. 77-20, the Board revoked Respondent's license effective April 26, 1977. The Administrative Law Judge found that grounds for disciplinary action were established pursuant to Code sections 2762, subdivision (e) (false and grossly incorrect entries in hospital, patient, or other records), 2671, subdivision (f) (criminal conviction for obtaining controlled substances by fraud), 2762, subdivision (a) (obtaining controlled substances by fraud), and 2762, subdivision (d) (committed/confined by the court for intemperate use of and addiction to use of narcotics). In or about April 1980, Respondent filed a Petition for Reinstatement with the Board and his license was reinstated on or about June 12, 1980.

b. On September 23, 1996, pursuant to the Proposed Decision of the Administrative Law Judge adopted by the Board as its Decision in the disciplinary proceeding titled *In the Matter of the Accusation Against: Richard Howard Torkelson*, Case No. 96-26, the Board revoked Respondent's license effective October 23, 1996. The revocation was stayed and

Respondent was placed on probation for five years on terms and conditions. The Administrative Law Judge found that grounds for disciplinary action were established pursuant to Code sections 2761, subdivision (a) (unprofessional conduct), and 2762, subdivision (a) (obtaining, possessing, and self-administering a controlled substance and a dangerous drug). On or about February 15, 1999, Respondent filed a Petition for Early Termination of Probation with the Board. The Board granted Respondent's petition on June 17, 1999.

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 or suspending Registered Nurse License Number 253755, issued to Richard Howard Torkelson, also known as Richard Torkelson;

2. Ordering Richard Howard Torkelson, also known as Richard Torkelson, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 4/23/08

RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

Complainant

03579-110-SA2007102568
phd; 03/25/2008