EDMUND G. BROWN JR.
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General
ANTOINETTE B. CINCOTTA
Deputy Attorney General
State Bar No. 120482
110 West "A" Street, Suite 1100
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2095
Facsimile: (619) 645-2061
Attorneys for Complainant

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

In the Matter of the Accusation Against: ROBERT HERSHEY PETERSON, AKA RICHARD PETERSON, AKA ROBERT PETERSON, AKA PETE PETERSON 2911 Gayridge Street Pomona, CA 91767 Registered Nurse License No. 297018 Respondent.	Case No. 2010-657 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about October 31, 1978, the Board of Registered Nursing issued Registered Nurse License Number 297018 to Robert Hershey Peterson, aka Richard Peterson, aka Robert Peterson, aka Pete Peterson (Respondent). The Registered Nurse License will expire on November 30, 2010, unless renewed. The Registered Nurse License was suspended by order of the Orange County Superior Court on or about April 12, 2010.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") 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.

5. Section 2764 of the Code 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 section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

"As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

8. Section 2761 of the Code states:

"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:

". . . .

"(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.

". . . ."

REGULATIONS

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

"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 . . . ."

10. California Code of Regulations, title 16, section 1445, states in relevant part:

". . .

"(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

"(1) Nature and severity of the act(s) or offense(s).

"(2) Total criminal record.

"(3) The time that has elapsed since commission of the act(s) or offense(s).

"(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

///

"(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

"(6) Evidence, if any, of rehabilitation submitted by the licensee."

COST RECOVERY

11. Section 125.3 of the Code 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.

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction April 12, 2010 - for Elder Abuse of Patient on October 31, 2007)

12. Respondent's license is subject to discipline under Code sections 490 and 2761, subdivision (f), in that Respondent was convicted of crimes that are substantially related to the qualifications, functions, and duties of a registered nurse, as follows:

a On or about April 12, 2010, in the Superior Court, County of Orange, in the case entitled *People of the State of California v. Robert Hershey Peterson, aka Pete Peterson, aka Richard Peterson, aka Robert Peterson,* Case No. 08NF3789, Respondent was convicted by the Court on his plea of guilty to violating Penal Code section 368, subdivision (b)(1), elder abuse, a misdemeanor.

b. The circumstances underlying this conviction are that on or about October 31, 2007, Respondent tied a dependent seizure patient lying flat to a hospital bed with a roll belt, and placed kerlix bandages on the patient's hands, and medical tape covering the patient's mouth. This placed the patient at risk of suffication and death, in direct violation of the Patients' Bill of Rights. At the time of his conviction, Respondent admitted that he:

"while having care of [the patient,] caused [the patient] to be in a circumstance likely to produce great bodily harm or death. Further, when [Respondent] acted he knew or should have known this potential result and that [Respondent] acted with criminal negligence when he permitted the event to occur."

///

c. As a result of this conviction, Respondent was sentenced: to serve three years formal probation; to serve 180 days in custody with credit for 1 day time served; to use no unauthorized drugs, narcotics, or controlled substances and submit to drug or narcotic testing as directed by his probation officer or police officer; to cooperate with the probation officer in any plan for psychiatric, psychological, alcohol and/or drug treatment, or counseling; to not own, use, or possess any type of dangerous or deadly weapon; to use his true name and date of birth only at all times; to carry valid picture identification at all times; to pay a restitution fine of $100.00; to pay a security fee of $30.00; to pay a criminal conviction assessment fee of $30.00 and an infraction fee of $35.00; to pay $100.00 to the Victim Witness Emergency Fund; to pay restitution in the amount as determined and directed by the probation officer; to not have any contact with the victim; to comply with the stipulation suspending his nursing privileges; to not practice nursing/caretaking without a license; and to pay costs for counsel in the amount of $200.00.

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 297018, issued to Respondent Robert Hershey Peterson, aka Richard Peterson, aka Robert Peterson, aka Pete Peterson;

2. Ordering Respondent 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: 6/22/10

Louise R. Bailey

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

SD2010800628