EDMUND G. BROWN JR., Attorney General
of the State of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General
KAREN R. DENVIR, State Bar No. 197268
Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5333
Facsimile: (916) 327-8643

Attorneys for Complainant

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

In the Matter of the Accusation Against: **BEVERLY ANN RICHARDS** 1740 Charm Way Sacramento, CA 95835 Registered Nurse License No. 301801 Respondent.	Case No. 2010-8 **A C C U S A T I O N**

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 March 31, 1979, the Board issued Registered Nurse License Number 301801 to Beverly Ann Richards ("Respondent"). Respondent's Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2010, unless renewed.

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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:
>
> (a) Unprofessional conduct, which includes, but is not limited to, the following:
>
> (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions. . .

6. Code section 2762 states, in pertinent part:

> In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:
>
> (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.
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> . . . .
>
> (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

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7. California Code of Regulations, title 16, section ("Regulation") 1442 states:

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

8. Regulation 1443 states:

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

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.

DANGEROUS DRUG AT ISSUE

10. "Heparin" is a dangerous drug within the meaning of Code section 4022 in that it is available by prescription only.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

11. At all times herein mentioned, Respondent was employed as a registered nurse in the Medical/Surgical Unit ("MSU") of Kaiser Permanente Hospital ("KPH") in Sacramento, California. On January 6, 2007, Respondent was working the day shift from 7 a.m. to 3 p.m.

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12. On January 5, 2007, at approximately 2350 hours, patient J.U. had pulled out his Dobhoff feeding tube ("tube")[1]. Patient J.U.'s physician was contacted by registered nurse E.M., who was instructed to reinsert the tube and then have an x-ray taken to verify proper placement in the stomach. The tube was reinserted by E.M., but she was unable to have the x-ray completed as the x-ray technicians were too busy in other departments. At 0520 hours, E.M. documented in patient J.U.'s chart that the feeding tube placement verification still had not occurred.

13. On January 6, 2007, Respondent was assigned to the care of patient J.U. Respondent reviewed patient J.U.'s Kardex (a worksheet for tasks) in order to assess his condition. Respondent subsequently restarted patient J.U.'s tube feeding without verification of the tube's placement. In addition, Respondent documented in patient J.U.'s Medication Administration Record ("MAR") that she had administered 0.5 ml of Heparin to patient J.U. at 0900 hours; however the Pyxis (a computerized medication system) indicated that she had not withdrawn the medication until 1231 hours. Further, Respondent documented in patient J.U.'s MAR that she had administered 20 mg of Pepcid at 0900 hours and 5 ml of multivitamin at 1200 hours when, in fact, the medications had never been removed from the Pyxis.

14. On January 6, 2007, at 0910 hours, patient J.U.'s portable AP supine x-ray revealed that the tube was malpositioned down the right mainstem bronchus into the right lung.

15. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about January 6, 2007, while on duty as a registered nurse in the MSU of KPH, Respondent was guilty of gross negligence, within the meaning of Regulation 1442, as follows:

a. Respondent initiated patient J.U.'s tube feeding without confirming that the x-ray to check for proper placement of the tube had been completed.

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1. A **Dobhoff feeding tube** is used to give fluids, food, and medicine to patients who cannot take them by mouth. The tube is placed through the patient's nose and into the stomach. An x-ray is taken to confirm that the tube is in the stomach.

b. Respondent based her nursing actions for patient J.U. solely on patient J.U.'s Kardex, rather than completing a comprehensive assessment of patient J.U.'s condition.

SECOND CAUSE FOR DISCIPLINE

(Incompetence)

16. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct. On or about January 6, 2007, Respondent was guilty of incompetence, within the meaning of Regulation 1443, as follows:

a. Respondent documented in patient J.U.'s MAR that she had administered 0.5 ml of Heparin to patient J.U. at 0900 hours when, in fact, the medication had not been withdrawn from the Pyxis until 1231 hours.

b. Respondent documented in patient J.U.'s MAR that she had administered 20 mg of Pepcid at 0900 hours and 5 ml of multivitamin at 1200 hours when, in fact, the medications had never been removed from the Pyxis.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

17. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), in that on or about January 6, 2007, she committed acts constituting unprofessional conduct, as set forth in subparagraphs 14(a) and (b) and 15(a) and (b), above.

FOURTH CAUSE FOR DISCIPLINE

(False Entries in Hospital/Patient Records)

18. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (e), in that on or about January 6, 2007, she falsified, or made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital, patient, or other records pertaining to the dangerous drug Heparin, as follows: Complainant incorporates by reference as though fully set forth herein the allegations contained in subparagraph 15(a), above.

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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 of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 301801, issued to Beverly Ann Richards;

2. Ordering Beverly Ann Richards 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; and

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

DATED: 7/8/09

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

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