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

In the Matter of the Accusation Against: **SHELLY LOPEZ COHEN** **2641 East Denise** **Orange, CA 92867** **Registered Nurse License No. 361969** Respondent.	Case No. 2010-189 **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 August 31, 1983, the Board of Registered Nursing issued Registered Nurse License Number 361969 to Shelly Lopez Cohen (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2011, unless renewed.

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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 (Code) unless otherwise indicated.

4. Section 2750 of the 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 states:

> The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license.

STATUTORY PROVISIONS

6. 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:
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> (a) Unprofessional conduct, which includes, but is not limited to, the following:
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> (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.
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> . . .

7. Section 2762 of the Code states:

> 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:
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> . . . .
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> (b) Use 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, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
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> . . .
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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.

COST RECOVERY

8. 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.

DRUGS

9. Ativan, a trade name for Lorazepam, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057(d)(16) and a dangerous drug per Business and Professions Code section 4022. Ativan is a benzodiazepine with anti-anxiety, sedative, and anticonvulsant effects.

10. Methadone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055(c)(14) and a dangerous drug per Business and Professions Code section 4022. Methadone is used to treat moderate to severe pain and for withdrawal from other opiods.

11. Hydrocodone, also known as Norco, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055(b)(1)(J) and a dangerous drug per Business and Professions Code section 4022. Norco is a narcotic pain reliever.

FACTS

12. On January 1, 2007, respondent was working the night shift in the Intensive Care Unit (ICU) at Western Medical Center. At approximately 3:00 a.m. respondent was observed staggering in the hallway, slurring her speech and walking barefoot. Her shoes were found in a patient's room. There was a used syringe sticking inside of one of respondent's shoes. The syringe contained a clear liquid and was blood tinged. The bed next to where her shoes were found had blood stains on it. Respondent's shirt sleeve also had blood stains.

13. Respondent admitted taking Ativan and Norco before coming to work. She denied being impaired and said she thought it was appropriate for her to be on duty while taking narcotics. She also stated she was in a Methadone program which she failed to disclose to her employer.

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14. Respondent was taken off duty at 4:00 a.m. and yet her patients in the ICU had chart notes written by respondent timed at 4:00 a.m., 5:00 a.m. and 6 a.m.

FIRST CAUSE FOR DISCIPLINE
(Use of Controlled Substances in Manner Dangerous to Self or Others)

15. Respondent is subject to disciplinary action under section 2762(b) of the Code in that she used controlled substances in a manner injurious to herself or others while on duty and while working in the Intensive Care Unit at Western Medical Center, as set forth above in paragraphs 12-14.

SECOND CAUSE FOR DISCIPLINE
(Inaccurate Charting)

16. Respondent is subject to disciplinary action under section 2762(e) of the Code in that she made entries in medical charts that were false, or grossly incorrect, grossly inconsistent, or unintelligible, as set forth above in paragraphs 12-14.

THIRD CAUSE FOR DISCIPLINE
(Gross Negligence)

17. Respondent is subject to disciplinary action under section 2761(a)(1) of the Code in that she was grossly negligent in carrying out her usual nursing functions as follows:

a. Respondent was under the influence of controlled substances while on duty in the Intensive Care Unit of Western Medical Center;

b. Respondent injected herself with controlled substances while providing direct patient care in the Intensive Care Unit at Western Medical Center;

c. Respondent left a bloody syringe in a patient room; and

d. Respondent made false entries in medical charts.

FOURTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct)

18. Respondent is subject to disciplinary action under section 2761(a) of the Code in that she was negligent in carrying out her usual nursing functions as follows:

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a. Respondent failed to inform her employer that she was in a methadone treatment program;

b. Respondent was taking drugs while working in direct patient care in the ICU and expressed her opinion that this is appropriate behavior for a registered nurse.

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 361969, issued to Shelly Lopez Cohen.

2. Ordering Shelly Lopez Cohen 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: 10/5/09

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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