EDMUND G. BROWN JR.
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General
STERLING A. SMITH
Deputy Attorney General
State Bar No. 84287
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 445-0378
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: **TINA ELAINE KIRKBRIDE** **707 Scottsdale Drive** **Vacaville, California 95867** **Registered Nurse License 403636** Respondent.	Case No. 2010-42 **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 ("Board"), Department of Consumer Affairs.

Registered Nurse License

2. On or about August 31, 1986, the Board issued Registered Nurse License Number 403636 to Tina Elaine Kirkbride ("Respondent"). The registered nurse license was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2010, unless renewed.

///

///

STATUTORY PROVISIONS

3. 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 Code 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:

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

COST RECOVERY

7. 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.

FIRST CAUSE FOR DISCIPLINE

(Criminal Convictions)

8. Respondent is subject to discipline pursuant to Code section 2761, subdivision (f), in that Respondent has been convicted of the following crimes that are substantially related to the qualifications, functions or duties of a licensed registered nurse:

a. On May 6, 2008, in the Superior Court, County of Solano, California, in the matter entitled *People v. Tina Elaine Kirkbride*, 2008, Case No. FCR252029, Respondent was convicted by the court following her plea of nolo contendere to a violation of Vehicle Code section 23152, subdivision (b) (driving while having a 0.08% or higher blood alcohol), a misdemeanor. The circumstances of the crime are that on or about January 14, 2008, following a collision with a another vehicle, Respondent was arrested for driving while intoxicated.

b. On November 15, 2002, in the Superior Court, County of Solano, California, in the matter entitled *People v. Tina Elaine Kirkbride*, 2002, Case No. FCR200665, Respondent was convicted by the court following her plea of nolo contendere to a violation of Vehicle Code section 23152, subdivision (b) (driving while having a 0.08% or higher blood alcohol), a misdemeanor. The circumstances of the crime are that on or about June 17, 2002, Respondent was arrested after she was found sitting on the side of the road with her car parked on the road, blocking traffic on Allison Drive in Vacaville, California.

SECOND CAUSE FOR DISCIPLINE

(Criminal Convictions Involving Alcohol)

9. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (c), in that Respondent has been convicted of crimes involving alcoholic beverages, as more particularly set forth in paragraph 8, subparagraphs a and b, above.

///

///

THIRD CAUSE FOR DISCIPLINE

(Use Alcohol to an Extent or in a Manner Dangerous or Injurious to Herself or Others)

10. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (b), in that on or about June 17, 2002, and January 14, 2008, Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to herself or others, as more particularly set forth in paragraphs 8 and 9, above.

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 403636, issued to Tina Elaine Kirkbride;

2. Ordering Tina Elaine Kirkbride 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: 7/31/09

Louise R. Bailey

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

SA2009308858
10470434.doc