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

In the Matter of the Accusation Against: **MARY ELIZABETH ALDRIDGE; aka MARY O'MEARA** **1082 Lincoln Avenue** **San Diego, CA 92103** **Registered Nurse License No. 581603** Respondent.	Case No. 2010-363 **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 June 4, 2001, the Board of Registered Nursing issued Registered Nurse License Number 581603 to Mary Elizabeth Aldridge; aka Mary O'Meara (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, 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 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, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

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:

(a) Unprofessional conduct, which includes, but is not limited to, 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.

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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(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.

8. 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.

9. Section 492 of the Code states:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

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10. 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."

REGULATORY PROVISIONS

11. 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 including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code."

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12. California Code of Regulations, title 16, section 1445, states:

. . . .

(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 offenses(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.

13. 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

(April 29, 2004 Criminal Conviction for DUI on October 24, 2003)

14. Respondent is subject to disciplinary action under sections 490, 2761(f), and 2762(c) of the Code in that she was convicted of a crime involving alcohol that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

15. On or about October 24, 2003, Respondent was arrested and charged with a violations of Vehicle Code section 23152(a) (driving under the influence of alcohol or drugs or under their combined influence); Vehicle Code section 23152(b) (driving a vehicle while having 0.08% or more, by weight, of alcohol in his or her blood); Vehicle Code section 12500(a) (unlawfully driving a vehicle upon a highway at a time when she did not hold a valid driver's license); and

two enhancement allegations of a prior conviction on or about October 10, 2002, in the State of Arizona. Respondent's BAC was .11%.

16. On or about April 29, 2004, in a criminal proceeding entitled *People v. Mary O'Meara*, in San Diego Superior Court, case number M914406, Respondent was convicted on her guilty plea for violating Vehicle Code section 23152(a) with one prior. Respondent admitted that she operated a motor vehicle with a blood alcohol content of .08 or higher having suffered a prior conviction for same within two years. All other charges were dismissed as a result of the plea.

17. As a result of this conviction, Respondent was sentenced to summary probation for five years. She was also committed to custody for 96 hours (consecutive weekends), payment of fines and fees in the amount of $1,700.00, service of five days in the public service program, standard alcohol conditions under Vehicle Code section 23600, and enrollment and completion of the Multiple Conviction and MADD programs.

SECOND CAUSE FOR DISCIPLINE

(May 19, 2009 Criminal Conviction for DUI on March 6, 2009)

18. Respondent is subject to disciplinary action under sections 490, 2761(f), and 2762(c) of the Code in that she was convicted of a crime involving alcohol that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

19. On or about March 6, 2009, Respondent was arrested and charged with a violations of Vehicle Code section 23152(a) (driving under the influence of alcohol or drugs or under their combined influence); Vehicle Code section 23152(b) (driving a vehicle while having 0.08% or more, by weight, of alcohol in his or her blood); and two enhancement allegations of a prior conviction on or about April 29, 2004, San Diego Superior Court case no. M914406. Respondent's BAC was .15%.

20. On or about May 19, 2009, in a criminal proceeding entitled *People of the State of California v. Mary O'Meara aka: Mary E Aldridge*, in San Diego Superior Court, case number M075916, Respondent was convicted on her guilty plea for violating Vehicle Code section 23152(b) with one prior; the April 29, 2004 conviction for violation of Vehicle Code section 23152(a), as detailed above. Respondent admitted that she drove under the influence of alcohol

with a BAC of .08% or more. She further admitted one prior DUI conviction. All other charges were dismissed as a result of the plea.

21. As a result of this conviction, Respondent was sentenced to summary probation for five years. She was also committed to custody for 96 hours (work release), payment of fines and fees in the amount of $2,508.00, service of ten days in the public service program, standard alcohol conditions under Vehicle Code section 23600, enrollment and completion of the Multiple Conviction Program, the MADD program, and any others as directed by the Assessor.

THIRD CAUSE FOR DISCIPLINE

(Use of Alcohol in a Manner Dangerous to Self or Others)

22. Respondent is subject to disciplinary action under section 2762(b) of the Code in that on or about October 24, 2003 and March 6, 2009 respondent used alcohol to an extent as to be dangerous to herself or others, as set forth above in paragraphs 14 through 21.

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 581603, issued to Mary Elizabeth Aldridge; aka Mary O'Meara;

2. Ordering Mary Elizabeth Aldridge; aka Mary O'Meara 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: 2/2/10

Louise R. Bailey

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

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