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

In the Matter of the Accusation Against: ANITA MARIA KEEFE 1906 Huasna Road Arroyo Grande, CA 93420 Registered Nursing License No. 598741 Respondent.	Case No. 2009-257 **ACCUSATION**

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, Department of Consumer Affairs.

2. On or about April 29, 2002, the Board of Registered Nursing (Board) issued Registered Nursing License No. 598741 to Anita Maria Keefe (Respondent). The Registered Nursing License was in full force and effect at all times relevant to the charges brought herein, expired on July 31, 2007, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 490 states:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

"(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Senate Bill 797 of the 2007-08 Regular Session do not constitute a change to, but rather are declaratory of, existing law."

5. 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.

6. 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, 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 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:

. . . .

"(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 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.

REGULATORY PROVISIONS

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

"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."

COST RECOVERY

10. 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

(Conviction of Substantially Related Crimes)

11.. Respondent is subject to disciplinary action under section 2761, subdivision (f) and 490, as defined in California Code of Regulations, title 16, section 1444, in that Respondent has been convicted of crimes substantially related to the qualifications, functions or duties of a registered nurse, as follows:

a. On or about May 22, 2007, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) (driving while having a 0.08% or higher blood alcohol) in the criminal proceeding entitled *The People of the State of California v. Anita Maria Keefe* (Super. Ct. Los Angeles County, 2007, No. 6JB04171). Respondent was placed on probation for three years with terms and conditions and sentenced to 4 days in Los Angeles County Jail. The circumstances surrounding

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the conviction are that on or about April 28, 2006, Respondent drove a vehicle while having 0.08% and more, by weight, of alcohol in her blood.

b. On or about May 21, 2007, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a) (driving under the influence of alcohol or drugs) in the criminal proceeding entitled *The People of the State of California v. Anita Maria Keefe* (Super. Ct. San Luis Obispo County, 2007, No. M000397693). Respondent was placed on probation for three years, with terms and conditions, and sentenced to 20 days in County Jail. The circumstances surrounding the conviction are that on or about December 25, 2006, during a traffic enforcement stop, Respondent was found to be driving a vehicle, while under the influence of alcohol or drugs.

c. On or about April 3, 2002, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) (driving while having a 0.08% or higher blood alcohol) in the criminal proceeding entitled *The People of the State of California v. Anita Maria Keefe* (Super. Ct. Santa Barbara County, 2002, No. 1070980). Respondent was placed on probation for three (3) years with terms and conditions and sentenced to thirty (30) days in Santa Barbara County Jail. The circumstances surrounding the conviction are that on or about July 25, 2001, Respondent drove a vehicle while having 0.08% and more, by weight, of alcohol in her blood.

d. On or about October 5, 1990, after pleading nolo contendere, Respondent was convicted of one felony count of violating Vehicle Code section 23153, subdivision (a) (driving under the influence of alcohol or drugs causing injury) and one count of Vehicle Code section 23153, subdivision (b) (driving while having a 0.08% or higher blood alcohol) in the criminal proceeding entitled *The People of the State of California v. Anita Maria Keefe* (Super. Ct. Santa Barbara County, 1990, No. 182187). Respondent was placed on probation for five (5) years, with terms and conditions, and sentenced to 5 days in Santa Barbara County Jail. The circumstances surrounding the conviction are that on or about March 7, 1990, Respondent drove a vehicle, while under the influence of alcohol or drugs and while having 0.08% and more, by weight, of alcohol in her blood, causing injury to Lucille R.

SECOND CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

12. Respondent is subject to disciplinary action under section 2761, subdivision (a), as defined in section 2762, subdivision (b), in that Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to herself, and the public, as follows:

a. On or about December 25, 2006, April 28, 2006, July 25, 2001, and March 7, 1990, Respondent operated a vehicle under the influence of alcohol or drugs and while having 0.08% and more, by weight, of alcohol in her blood. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, subparagraphs (a) through (d), inclusive, as though set forth fully.

b. On or about October 15, 2006, Respondent was observed by a police officer, pushing her vehicle toward the curb, in front of a fire hydrant. Respondent told the police officer she ran out of gas and was walking to the nearby gas station. Respondent had red/watery eyes, droopy eyelids, slurred speech, moderate odor of alcohol, and signs of alcohol intoxication. She swayed while standing and had a staggered gait, while walking. Respondent was unable to provide for her safety or the safety of others and was subsequently arrested, in violation of Penal Code section 647, subdivision (f)(disorderly conduct/drunk in public.)

THIRD CAUSE FOR DISCIPLINE

(Conviction Involving the Consumption of Alcohol)

13. Respondent is subject to disciplinary action under section 2761, subdivision (a), as defined in section 2762, subdivision (c), in that on or about May 22, 2007, May 21, 2007, April 3, 2002, and October 5, 1990, Respondent was convicted of a crime involving the consumption of alcohol. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, subparagraphs (a) through (d), inclusive, as though set forth fully.

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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 issue a decision:

1. Revoking or suspending Registered Nursing License No. 598741, issued to Respondent.

2. Ordering Respondent pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3.

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

DATED: 4/22/09

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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