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

In the Matter of the Accusation Against: **KRISTY LYNN MOORE** **818 Cimarron Drive** **Redlands, CA 92374** **Registered Nurse License No. 629746** Respondent.	Case No. 2008-1077 OAH No. 2009110340 **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 December 4, 2003, the Board of Registered Nursing issued Registered Nurse License Number 629746 to Kristy Lynn Moore (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on September 20, 2011, unless renewed.

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.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), of the Business and Professions Code (Code) provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. 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.

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:"

...

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:

"(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.

"(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.

...

"(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."

8. 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(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

9. 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.

10. Code section 4022 states:

> "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:
>
> (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
>
> (b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.
>
> (c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

11. Health and Safety Code section 11170 states: "No person shall prescribe, administer, or furnish a controlled substance for himself."

12. Health and Safety Code section 11173 states:

> (a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.
>
> (b) No person shall make a false statement in any prescription, order, report, or record, required by this division.
>
> (c) No person shall, for the purpose of obtaining controlled substances, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler,

pharmacist, physician, dentist, veterinarian, registered nurse, physician's assistant, or other authorized person.

(d) No person shall affix any false or forged label to a package or receptacle containing controlled substances.

13. California Code of Regulations, title 16, section 1448 (b) states in pertinent part:

"The committee may terminate a nurse's participation in the program for any of the following reasons:

....

(b) Failure to comply with the rehabilitation program designated by the committee...."

14. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

15. **DRUGS**

"Morphine" is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug under Code section 4022 in that under federal or state law it requires a prescription.

FIRST CAUSE FOR DISCIPLINE

(Obtain or Possess a Controlled Substance)

16. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (a), for violating Health and Safety Code section 11173, subdivision (a), in that on or about March 15, 2008, while on duty as a registered nurse at County of San Bernardino, Arrowhead Regional Medical Center ("ARMC"), Colton, California, Respondent obtained or possessed controlled substances by fraud, deceit, misrepresentation or subterfuge, as follows:

a. On or about March 15, 2008, while on duty as a registered nurse at ARMC, it was reported that Respondent was exhibiting suspicious behavior. Respondent was observed by at least four (4) coworkers assisting with the administration of medication for patients who were not assigned to her and frequently leaving the unit. On March 16, 2008, Respondent initially agreed

to submit to a drug and alcohol test, however she refused to submit to the test upon arrival at the testing facility.

b. On November 18, 2008, Senior Investigator Tracey Kanno interviewed the Respondent in person at the Ontario Field Office of the Division of Investigation. The Respondent admitted that the allegations made against her by ARMC were true. The Respondent admitted to Senior Investigator Kanno that she removed tubing from Morphine IVs which she would place in her pocket, then transfer to her locker, and later take home.

SECOND CAUSE FOR DISCIPLINE

(Self Administration of a Controlled Substance)

17. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (b), for violating Health and Safety Code section 11170, in that on or about March 15, 2008, while on duty as a registered nurse at ARMC, Respondent administered or furnished controlled substances to herself, as follows:

a. From on or about March 15 to on or about March 16, 2008, while on duty as a registered nurse at ARMC, Respondent diverted and administered or furnished Morphine to herself, such that she was assisting with the administration of medication for patients who were not assigned to her and frequently leaving the unit.

b. The Respondent admitted to Senior Investigator Kanno that she sometimes injected herself with diverted Morphine at work.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Failure to Successfully Complete Diversion)

18. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2770.11, and California Code of Regulations, title 16, section 1448, subdivisions (b), for failing to complete the Board's diversion program, as follows:

a. On or about April 8, 2008, after ARMC's Associate Hospital Administrator Patient Services had filed a complaint against Respondent with the Board, Respondent was enrolled in

the Board's Diversion Program (Program) administered by Maximus for alcohol and drug abuse. During the intake process, Respondent admitted to abusing controlled substances with developing dependence since 2006.

b. While in the Program, Respondent relapsed twice. On June 15, 2009, she tested positive for Hydrocodone. On June 24, 2009, she tested positive for Codeine. Respondent went to the doctor and got Vicodin without telling her Program Clinical Case Manager. On July 14, 2009, the Respondent was terminated from the Program for being a public risk.

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 629746, issued to Kristy Lynn Moore.

2. Ordering Kristy Lynn Moore 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: 12/2/09

for 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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