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

In the Matter of the Accusation Against: **DAYANA MARURI POSADA, AKA** **DAYANA F. MARURI** **3735 S. Morganfield Avenue** **West Covina, CA 91792** **Registered Nurse License No. 657413** Respondent.	Case No. 2011-105 **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.

Registered Nurse License

2. On or about May 9, 2005, the Board of Registered Nursing issued Registered Nurse License Number 657413 to Dayana Maruri Posada, aka Dayana F. Maruri ("Respondent"). The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2010, unless renewed.

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STATUTORY PROVISIONS

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 Code 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 Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code provides, in pertinent part:

"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:

. . .

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

. . .

(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..."

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7. Section 2762 of the Code provides, 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:

(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..."

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.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

9. Respondent is subject to disciplinary action under Code section 2761, subdivision (f), in that Respondent was convicted of a crime substantially related to the qualifications, functions, or duties of a licensed registered nurse. Specifically, on or about June 7, 2007, in a criminal proceeding entitled *The People of the State of California v. Dayana F. Maruri Posada,* in Orange County Superior Court, Case No. 07NF0905, Respondent pled guilty and was convicted of a violation of Penal Code sections 484(a)/488 (theft with prior conviction), a felony. Respondent also plead guilty to a violation of Health and Safety Code section 11377, subdivision (a) (illegal possession of methamphetamine) and was placed on deferred entry of judgment (diversion) and ordered to complete a drug program pursuant to Penal Code section 1000.

a. The circumstances surrounding the conviction are that on or about January 27, 2007, Respondent stole merchandise from a store in Disneyland Amusement Park in Anaheim, California. Pursuant to a search incident to the arrest, Methamphetamine and drug paraphernalia were found in Respondent's purse.

b. For the theft conviction, Respondent was sentenced to three years of formal probation, thirty days in county jail, and payment of fines.

SECOND CAUSE FOR DISCIPLINE

(Illegal Drug Possession)

10. Respondent is subject to disciplinary action under section 2762, subdivision (a), on the grounds of illegal drug possession, in that Respondent illegally possessed Methamphetamine, a controlled substance, as set forth in paragraph 9, above.

THIRD CAUSE FOR DISCIPLINE

(Disciplinary Action by California Bureau of Vocational Nursing)

11. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that Respondent was disciplined by the California Bureau of Vocational Nursing and Psychiatric Technicians ("Vocational Nursing Board") as follows:

a. On or about December 12, 2008, purusant to Default Decision and Order, in the diciplary action entitled *In the Matter of the Accusation Filed Agaisnt: Dayana Maruri Posada, 3735 S. Morganfield Avenue, West Covina, CA, 91792, Vocational Nurse License No. VN 197396*, the Vocational Nursing Board revoked Respondent's vocational nursing license.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

12. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), in that Respondent committed acts of unprofessional conduct, as described in paragraphs 9 and 11, above.

DISCIPLINE CONSIDERATIONS

13. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges, as follows:

a. On or about June 24, 1997, in a criminal proceeding entitled *The People of the State of California v. Dayana Maruri,* in Los Angeles County Superior Court, Case No.

7DW06455, Respondent plead nolo contender and was convicted of a violation of Penal Code section 459 (burglary), a misdemeanor.

b. The circumstances surrounding the conviction are that on or about on or about June 19, 1997, and on or about June 22, 1997, Respondent attempted to exchange stolen merchandise (numerous cosmetic items) at Robinsons-May Department Store without a receipt. Respondent stole the cosmetic items while working in the store's cosmetic stockroom earlier in the week.

c. Respondent was sentenced to three years of summary probation, twenty days (20) in county jail, and payment of fines.

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 657413, issued to Dayana Maruri Posada aka Dayana F. Maruri;

2. Ordering Dayana Maruri Posada aka Dayana F. Maruri 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: 8/9/10

Stacie Berm

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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