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

In the Matter of the Accusation Against: **THOMAS WILLIAM ERICSON** 1689 Chadwick Way La Verne, CA 91750 Registered Nurse License No. RN 712062 Respondent.	Case No. 2010-475 **ACCUSATION**

Complainant alleges:

PARTIES

1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board).

2. On or about September 7, 2007, the Board issued Registered Nurse License Number RN 712062 (license) to Thomas William Ericson (Respondent). The license was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2011, unless 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 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 490 provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a registered nurse.

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:

"(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.

"(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.

REGULATORY PROVISION

8. 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..."

COST RECOVERY

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.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

10. Respondent is subject to disciplinary action under section under sections 490 and 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that on or about April 16, 2008, Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a registered nurse which to a substantial degree evidences

his present or potential unfitness to perform the functions authorized by her license in a manner consistent with the public health, safety, or welfare. The conviction is as follows:

a. On or about April 16, 2008, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [Driving a vehicle while having a greater than 0.08% or more blood alcohol content (BAC) level] in the criminal proceeding titled *The People of the State of California v. Thomas Ericson* (Super. Ct. Los Angeles County, 2008, No. 8PK01625). The Court sentenced Respondent to serve 30 days in jail (with credit for one day already served) – which could be satisfied by way of performing 29 days of Cal-Trans work - and he was placed on summary probation for three (3) years. He was also ordered to pay fines and fees totaling $2,049.00, and was further ordered to complete an 18 month licensed second-offender alcohol and other drug education counseling program.

b. The circumstances underlying the conviction are that on or about January 11, 2008, an officer of the La Verne Police Department observed a vehicle being driven by Respondent traveling in excess of 20 miles per hour over the posted speed limit and moving erratically. After a routine stop of Respondent's vehicle was made, the officer spoke with Respondent and detected a moderate to strong odor of an alcoholic beverage emitting from Respondent's breath and person. Respondent was then given a series of field sobriety tests, which he failed. As a result thereof, Respondent was arrested and transported to the La Verne Police Department jail, where he submitted to a blood test and was found to have a BAC level of .18%.

SECOND CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

11. Respondent is subject to disciplinary action under section 2761, subdivision (a), as defined in section 2762, subdivision (b), in that on or about April 16, 2008, Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to himself, and to the public, when he drove a motor vehicle while having 0.08% or more, by weight, of alcohol in his blood. Complainant refers to and by this reference incorporates herein the allegations set forth above in paragraph 10, as though set forth fully.

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THIRD CAUSE FOR DISCIPLINE

(Conviction Involving the Consumption of Alcohol)

12. Respondent is subject to disciplinary action under section 2761, subdivision (a), as defined in section 2762, subdivision (c), in that on or about April 16, 2008, Respondent was convicted of a crime involving the consumption of alcohol. Complainant refers to and by this reference incorporates herein the allegations set forth above in paragraph 10, as though set forth fully.

DISCIPLINE CONSIDERATIONS

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

a. On or about June 30, 2003, in a prior criminal proceeding titled *People of the State of California v. Thomas Ericson* (Super Ct. San Bernardino County, 2003, No. TWV041014). Respondent was convicted of violating Vehicle Code section 21352(b) [Driving a vehicle while having a greater than 0.08% or more blood alcohol content (BAC) level], a misdemeanor. As a result thereof, Respondent was ordered to pay a fine in the amount of $1419.00 and complete an alcohol offender's program. In addition, Respondent's driver's license was restricted for three (3) months. The record of the criminal proceeding is incorporated as if fully set forth.

b. On or about March 3, 1994, in a prior criminal proceeding titled *People of the State of California v. Thomas Ericson* (Super. Ct. San Bernardino County, 1994, No. T10874), Respondent was convicted of violating Vehicle Code section 23103(a) [Alcohol-related reckless driving], a misdemeanor. As a result thereof, Respondent was ordered to pay a fine in the amount of $1149.00 and complete an alcohol-related program. Respondent was also placed on probation for three (3) years. The record of the criminal proceeding is incorporated as if fully set forth.

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 Nurse License Number RN 712062, issued to Thomas William Ericson;

2. Ordering Thomas William Ericson to pay the Board 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: 3/29/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., R.N.
Interim Executive Officer
Board of Registered Nursing
State of California
Complainant

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