EDMUND G. BROWN JR.
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General
ELENA L. ALMANZO
Deputy Attorney General
State Bar No. 131058
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 322-5524
Facsimile: (916) 327-8643
Attorneys for Complainant

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

In the Matter of the Accusation Against: **BRENDA CHRISTINE OBERREUTER** **1815 A Wind Ranch Road** **Reno, NV 89521** **Registered Nurse License No. 729993** Respondent.	Case No. 2011-244 **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 ("Board"), Department of Consumer Affairs.

Registered Nurse License

2. On or about July 7, 2008, the Board issued Registered Nurse License Number RN 729993 to Brenda Christine Oberreuter ("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 30, 2011, unless renewed.

///

///

STATUTORY PROVISIONS

3. 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.

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

5. Code section 2761 states, 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 . . . ,
>
> (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.

6. Coder section 2762 states, 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:
>
> (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.

COST RECOVERY

7. Code 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

(Criminal Conviction)

8. Respondent has subjected her license to discipline pursuant to Code section 2761, subdivision (f) in that on or about January 30, 2009, in the Superior Court, Solano County, California, in the matter entitled *People vs. Brenda Christine Oberreuter*, 2008, Case No. FCR255491, Respondent was convicted by the court following her plea of nolo contendere to Count 2, a violation of Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of .08% or more), a misdemeanor. Count 2 also alleged that pursuant to Vehicle Code section 23572, that while driving, Respondent did have a passenger who was a minor under the age of 14, to wit: J.O., age 2 ½. The circumstances of the crime are that on or about May 9, 2008, Respondent was observed by a CHP officer to be driving extremely slow and weaving back and forth across the roadway. The officer stopped Respondent and she was subsequently arrested for driving with a blood alcohol level of 0.08% or more. Further, Respondent had her son, who was 2 ½ years old, in the vehicle with her at the time of her arrest. Respondent submitted to 2 breath tests, which resulted in .16% each time. Such conduct is substantially related to the qualifications, functions, and duties of a licensed registered nurse.

SECOND CAUSE FOR DISCIPLINE

(Conviction of a Crime Involving Alcohol)

9. Respondent has subjected her license to discipline pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (c), in that Respondent has been convicted of a crime involving the consumption of alcohol, as more particularly set forth in paragraph 8, above.

THIRD CAUSE FOR DISCIPLINE

(Use Alcohol to an Extent or in a Manner Dangerous or Injurious)

10. Respondent has subjected her license to discipline pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,

subdivision (b), in that on or about May 9, 2008, Respondent used alcohol to an extent or in a manner dangerous or injurious to herself or others, as more particularly set forth in paragraph 8, above.

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 RN 729993, issued to Brenda Christine Oberreuter

2. Ordering Brenda Christine Oberreuter 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; and,

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

DATED: 9/16/10

Louise R. Bailey

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

SA2010101030
10606263.doc