

IN THE MATTER OF
PERMANENT REGISTERED NURSE
LICENSE NUMBER 739867

ISSUED TO
CATHERINE SIE-DJOEN KOHL

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§

BEFORE THE TEXAS
BOARD OF NURSING
ELIGIBILITY AND
DISCIPLINARY COMMITTEE

ORDER OF THE BOARD

TO: CATHERINE SIE-DJOEN KOHL
6612 COLTON BLUFF SPRINGS ROAD
AUSTIN, TX 78744

During open meeting held in Austin, Texas, on **December 10, 2013**, the Texas Board of Nursing Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's license(s) to practice nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
William C. Thomas
Executive Director of the Board

The Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing [22 TEX. ADMIN.CODE § 213.16(j)]. All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Registered Nurse License Number 739867, previously issued to CATHERINE SIE-DJOEN KOHL, to practice nursing in the State of Texas be, and the same is/are hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

Entered this 10th day of December, 2013.

TEXAS BOARD OF NURSING



BY: _____

KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Attachment: Formal Charge filed October 18, 2013.

Re: Permanent Registered Nurse License Number 739867
Issued to CATHERINE SIE-DJOEN KOHL
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of December, 2013, a true and correct copy of the foregoing DEFAULT ORDER was served and addressed to the following person(s), as follows:

Via USPS Certified Mail, Return Receipt Requested

CATHERINE SIE-DJOEN KOHL
6612 COLTON BLUFF SPRINGS ROAD
AUSTIN, TX 78744

BY:



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of	§	BEFORE THE TEXAS
Permanent Registered Nurse	§	
License Number 739867	§	
Issued to CATHERINE SIE-DJOEN KOHL,	§	
Respondent	§	BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, CATHERINE SIE-DJOEN KOHL, is a Registered Nurse holding License Number 739867, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about July 15, 2012, October 15, 2012, January 15, 2013, and April 15, 2013, while employed at Austin Surgical Hospital, Austin, Texas, Respondent failed to comply with the Reinstatement Agreed Order issued to her on August 17, 2010, by the Texas Board of Nursing. Noncompliance is the result of her failure to comply with Stipulation Number Fifteen (15) of the Reinstatement Agreed Order which states, in pertinent part:

(15) PETITIONER SHALL attend at least two (2) support group meetings each week,...

A copy of the August 17, 2010, Reinstatement Agreed Order, Findings of Fact, and Conclusions of Law is attached and incorporated, by reference, as part of this pleading.

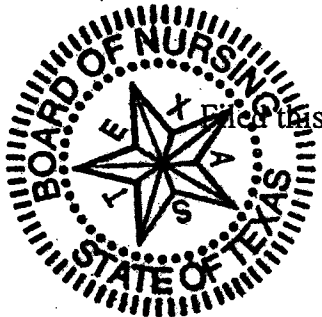
The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) and (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(11)(B).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.texas.gov/disciplinaryaction/discp-matrix.html.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order(s) which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Reinstatement Agreed Order dated August 17, 2010.



Filed this 12 day of October, 20 13.

TEXAS BOARD OF NURSING

James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Abel, Assistant General Counsel
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel
State Bar No. 24066924

John R. Griffith, Assistant General Counsel
State Bar No. 24079751

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

John F. Legris, Assistant General Counsel
State Bar No. 00785533

TEXAS BOARD OF NURSING
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6811
F: (512) 305-8101 or (512)305-7401

Attachments: Reinstatement Agreed Order dated August 17, 2010.

D/2012.06.19

BEFORE THE TEXAS BOARD OF NURSING



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Stephanie C. Palmer
Executive Director of the Board

In the Matter of Registered Nurse

License Number 739867

issued to CATHERINE SIE-DJOEN KOHL

§
§
§

REINSTATEMENT
AGREED ORDER

On this day came to be considered by the Texas Board of Nursing, hereinafter referred to as the Board, the Petition for Reinstatement of Registered Nurse License Number 739867, of CATHERINE SIE-DJOEN KOHL, hereinafter referred to as Petitioner.

An informal conference was held on June 22, 2010, at the office of the Texas Board of Nursing, in accordance with Section 301.464, Texas Occupations Code.

Petitioner appeared in person. Petitioner was represented by Dan Lype, Attorney at Law.

In attendance were Mary Beth Thomas, PhD, RN, Director of Nursing, Executive Director's Designee; Kyle Hensley, Assistant Counsel; Anthony L. Diggs, MSCJ, Director of Enforcement; Dominique Mackay, Investigator; and Diane E. Burell, Investigator.

FINDINGS OF FACT

1. Prior to institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Petitioner waived notice and hearing, and consented to the entry of this Order.
3. Petitioner received an Associate Degree in Nursing from San Diego City College, San Diego, California, on June 1, 1992. Petitioner was originally licensed to practice professional nursing in the State of Texas on April 4, 2007.

4. Petitioner's professional nursing employment history includes:

1992 - 1996	Staff Nurse	Scripps Mercy San Diego, California
1996 - 1998	Agency Nurse	Various Hospitals
1999 - 2002	Staff Nurse	Sharp Hospital Chula Vista, California
2002 - 2004	Staff Nurse	UCSD Hospital Hillcrest, California
2005 - present	Unknown	

5. On March 8, 2007, an Order of Conditional Eligibility was issued to Petitioner by the Texas Board of Nursing. A copy of the March 8, 2007, Eligibility Order, Findings of Fact, and Conclusions of Law, is attached and incorporated, by reference, as a part of this Order.
6. On January 15, 2008, the Board accepted the voluntary surrender of Petitioner's license to practice professional nursing in the State of Texas. A copy of the January 15, 2008, Agreed Order, Findings of Fact, and Conclusions of Law, is attached and incorporated, by reference, as a part of this Order.
7. On or about March 19, 2010, Petitioner submitted a Petition for Reinstatement of License to practice professional nursing in the State of Texas.
8. Petitioner presented the following in support of her petition:
- 8.1. Letter, dated July 7, 2009, from Kimberly McCullough, Administrative Assistant, Charlie's Place, Coastal Bend Alcohol and Drug Rehabilitation Center, Corpus Christi, Texas, states that Petitioner was admitted into the residential program on July 1, 2009.
- 8.2. Certificate, dated July 21, 2009, verifying that Petitioner completed an eight (8) hour course entitled Active Choices.
- 8.3. Certificate, dated July 28, 2009, verifying that Petitioner completed the residential program at Coastal Bend Alcohol and Drug Rehabilitation Center.

- 8.4. Letter, dated October 13, 2009, from Gloria Hernandez, LCPC, Lead Supervisor, South Texas Substance Abuse Recovery Services, Inc. (STSARS), Corpus Christi, Texas, states Petitioner has attended the number of groups needed to successfully complete the program. Petitioner has completed needed individual sessions. Petitioner has completed the program and was cooperative and had actively participated in the group sessions by giving good feedback and sharing information about personal experiences that affected her life.
85. Letter, dated April 1, 2010, from Jeffrey L. Butts, DO, Prudent Opiate Pain Practices & Solutions, Austin, Texas, states Petitioner presented to his office in January 2009. She was initially diagnosed with depression, bipolar disorder and alcohol use disorder. It is Dr. Butts' opinion that these conditions are currently in remission. Petitioner's sobriety date is June 5, 2009. She has been compliant for her appointments and has consistently tested negative on her random urine drug screens. Petitioner attends AA meetings several times a week, and has a sponsor. She is stable and has been proactive in her recovery process. Dr. Butts fully supports Petitioner's request to reinstate her nursing license and resume full-time employment in the nursing field.
- 8.6. Letter of support from David Avery, Marketing Director, Progressive Home Health Agency, states over the past six (6) months, Mr. Avery has had the pleasure of working with Petitioner. In his experience with her, she has always been very positive and has a genuine personality. Mr. Avery enjoyed working with Petitioner so much that he suggested that they join their efforts together, at times, for networking and in-service opportunities. Mr. Avery found Petitioner to have great work ethic and she is very proactive.
- 8.7. Letter of support, dated April 5, 2010, from Kyleen B. Creekmore, RN, Ocean Springs, MS, states she has known Petitioner personally and professionally for five (5) years. Ms. Creekmore has worked with Petitioner as a nurse and knows that she is a very compassionate and well-experienced nurse. She is cheerful and enthusiastic when presenting herself to her patients and co-workers. She is dedicated and is serious about her profession. Petitioner is always willing to listen and will go above and beyond the call of duty when necessary. Ms. Creekmore feels Petitioner is committed to continue with her rehabilitation and is eager to continue her nursing career.
- 8.8. Letter of support, dated April 6, 2010, from Joan C. Landa, MFT, states she has known Petitioner for several years, first as a professional and then as a friend. They worked together in the Emergency Department of Pomerado Hospital in Poway, California, for approximately three (3) years. Petitioner worked as a bedside nurse as well as serving as a charge nurse during many shifts in the ER. Ms. Landa was always impressed with Petitioner's competence and skills as a nurse, her calm demeanor despite the chaotic atmosphere of the environment, and her caring attitude towards all patients. Petitioner managed to perform difficult clinical tasks with patients while being reassuring and supportive to them. Petitioner also exhibited respect and professionalism toward other staff members. She worked well as a member of the team, offered assistance to those staff members needing it, and was well-

liked by her peers. Her knowledge of nursing was apparent and she took time to explain procedures to patients as well as ensuring each one felt as if he or she was her only patient. Petitioner understood nursing as well as hospital protocols and followed them closely to ensure good patient care at all times. She was versatile in her knowledge and experience, which benefitted patients and staff. Petitioner had excellent leadership skills and did not hesitate to offer her expertise to less skilled nurses when necessary. She was always cheerful, yet diligent. Petitioner has excellent observation skills and can quickly determine potential problems. Patient enjoyed being cared for by Petitioner and felt safe with her.

- 8.9. Documentation of eighteen (18) negative drug screens dating from April 16, 2009, through March 10, 2010.
- 8.10. Documentation of support group attendance dating from March 23, 2009, through May 31, 2010.
- 8.11. Verification of successful completion of twenty (20) Continuing Education Contact Hours.
- 9. Petitioner gives June 5, 2009, as her date of sobriety.

CONCLUSIONS OF LAW

- 1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
- 2. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.
- 3. Pursuant to Section 301.467, Texas Occupations Code, the Board may refuse to issue or renew a license, and may set a reasonable period that must lapse before reapplication. Pursuant to 22 TEX. ADMIN. CODE §213.26, the Board may impose reasonable conditions that a Petitioner must satisfy before reissuance of an unrestricted license.

ORDER

IT IS THEREFORE AGREED, subject to ratification by the Texas Board of Nursing, that the petition of CATHERINE SIE-DJOEN KOHL, Registered Nurse License Number 739867, to practice nursing in the state of Texas, be and the same is hereby GRANTED, AND SUBJECT TO THE FOLLOWING STIPULATIONS SO LONG AS THE PETITIONER complies in all respects with the

Nursing Practice Act, Texas Occupations Code, §301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et. seq.* and the stipulations contained in this Order:

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Petitioner's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Petitioner's license is encumbered by this Order, Petitioner may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the State of Texas and the Board of Nursing in the party state where Petitioner wishes to work.

(1) PETITIONER SHALL pay all re-registration fees and be issued a license to practice nursing in the State of Texas, which shall bear the appropriate notation. Said license issued to CATHERINE SIE-DJOEN KOHL, shall be subject to the following agreed post-licensure stipulations:

(2) PETITIONER SHALL pay a monetary fine in the amount of five hundred (\$500.00) dollars. PETITIONER SHALL pay this fine within forty-five (45) days of relicensure. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(3) PETITIONER SHALL, within one (1) year of relicensure, successfully complete a course in Texas nursing jurisprudence and ethics. PETITIONER SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual

Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. PETITIONER SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify PETITIONER's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure.

Board-approved courses may be found at the following Board website address:

<http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.

IT IS FURTHER AGREED, SHOULD PETITIONER CHOOSE TO WORK AS A NURSE IN TEXAS, PETITIONER WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR THREE (3) YEARS OF EMPLOYMENT. THE LENGTH OF THE PROBATION PERIOD WILL BE EXTENDED UNTIL SUCH THIRTY-SIX (36) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS PROBATION PERIOD:

(4) PETITIONER SHALL notify all future employers in nursing of this Order of the Board and the stipulations on PETITIONER'S license. PETITIONER SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(5) PETITIONER SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the PETITIONER by the Board, to the Board's office within five (5) days of employment as a nurse.

(6) For the first year of employment as a Nurse under this Order, PETITIONER SHALL be directly supervised by a Registered Nurse. Direct supervision requires another professional nurse to be working on the same unit as PETITIONER and immediately available to provide assistance and intervention. PETITIONER SHALL work only on regularly assigned, identified and predetermined unit(s). The PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(7) For the remainder of the stipulation period, PETITIONER SHALL be supervised by a Registered Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as PETITIONER, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the PETITIONER is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(8) PETITIONER SHALL NOT practice as a nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the identified, predetermined unit(s) to which PETITIONER is regularly assigned for one (1) year of employment as a nurse.

(9) PETITIONER SHALL NOT practice as a nurse in any critical care area for one (1) year of employment as a nurse. Critical care areas include, but are not limited to, intensive care units, emergency rooms, operating rooms, telemetry units, recovery rooms, and labor and delivery units.

(10) PETITIONER SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates for one (1) year of employment as a nurse.

(11) PETITIONER SHALL CAUSE each employer to submit, on forms provided to the PETITIONER by the Board, periodic reports as to PETITIONER'S capability to practice nursing. These reports shall be completed by the Registered Nurse who supervises the PETITIONER. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for three (3) years of employment as a nurse.

(12) PETITIONER SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, PETITIONER SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and PETITIONER SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.

(13) PETITIONER SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. For the remainder of the stipulation period, random screens shall be performed at

least once every three (3) months. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the PETITIONER'S place of employment at any time during the stipulation period and require PETITIONER to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. PETITIONER SHALL be responsible for the costs of all random drug screening during the stipulation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of PETITIONER's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

(14) PETITIONER SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. PETITIONER SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the PETITIONER'S progress in therapy, rehabilitation and capability

to safely practice nursing. The report must indicate whether or not the PETITIONER'S stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months. If therapy is recommended for beyond three (3) months, the reports shall then be required at the end of each three (3) month period for the duration of the stipulation period, or until PETITIONER is dismissed from therapy.

(15) PETITIONER SHALL attend at least two (2) support group meetings each week, one of which must be for substance abuse and provided by Alcoholics Anonymous, Narcotics Anonymous, or another comparable recovery program that has been pre-approved by the Board. PETITIONER SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least: the date of each meeting; the name of each group attended; and the signature and printed name of the chairperson of each group attended by PETITIONER. PETITIONER SHALL submit the required evidence on the forms provided by the Board at the end of every three (3) month period. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from PETITIONER's license to practice professional nursing in the State of Texas and PETITIONER shall be eligible for nurse licensure compact privileges, if any.

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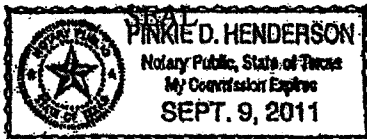
PETITIONER'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Reinstatement Agreed Order. I certify that my past behavior, except as disclosed in my Petition for Reinstatement of Licensure, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of convictions, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

I have reviewed this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to reinstating my license to practice professional nursing in the state of Texas. I understand that if I fail to comply with all terms and conditions of this Order, my license to practice professional nursing in the State of Texas will be revoked, as a consequence of my noncompliance.

Signed this 9th day of July, 2010.
Catherine Sie-Djoen Kohl
CATHERINE SIE-DJOEN KOHL, Petitioner

Sworn to and subscribed before me this 9th day of July, 2010.



Pinkie Henderson
Notary Public in and for the State of TEXAS

Approved as to form and substance:

Dan Lype
DAN LYPE, Attorney for Petitioner

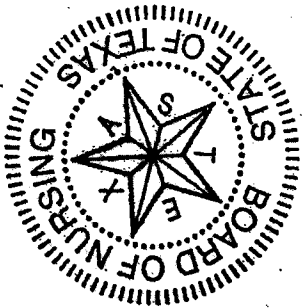
Signed this 9 day of July, 2010.

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 9th day of July, 2010, by CATHERINE SIE-DJOEN KOHL, Registered Nurse License Number 739867, and said Order is final.

Effective this 17th day of August, 2010.



Katherine A. Thomas, MN, RN
Executive Director on behalf
of said Board



BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse §
License Number 739867 §
issued to CATHERINE SIE-DJOEN KOHL §

ORDER OF THE BOARD

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 739867, issued to CATHERINE SIE-DJOEN KOHL, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived representation by counsel, informal conference, notice and hearing.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent is currently licensed to practice professional nursing in the State of Texas.
2. Respondent waived representation by counsel, informal conference, notice and hearing.
3. Respondent received an Associate Degree in Nursing from San Diego City College, San Diego, California, in June 1992. Respondent was licensed to practice professional nursing in the State of Texas on April 4, 2007.
4. Respondent's complete professional nursing employment history is unknown.
5. On March 8, 2007, Respondent was issued an Order of Conditional Eligibility by the Board of Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law, and Order of Conditional Eligibility dated March 8, 2007, is attached and incorporated by reference as part of this Order.

6. On or about February 16, 2007, Respondent submitted a sworn "Applicant's Certification" to the office of the Board of Nurse Examiners for the State of Texas, which was part of the recommended Order of Conditional Eligibility which states, in pertinent part that: "I am the Applicant in this matter. I have fully and truthfully disclosed all relevant information in conformity with Rule 213.29 at Texas Administrative Code. I certify that my past behavior, except as disclosed in my Temporary License/Endorsement Application, has been in conformity with the Board's professional character rule." Respondent failed to disclose that on April 4, 2006, she was terminated from California's Diversion Program as a threat to public safety due to non-compliance with the program, and Respondent failed to disclose that on July 14, 2006, an Accusation was filed against her by the Board of Registered Nursing, Department of Consumer Affairs, State of California.
7. On or about July 12, 2007, Respondent's license to practice professional nursing in the State of California was Revoked by the Board of Registered Nursing, Department of Consumer Affairs, San Diego, California. A copy of the Accusation, First Amended Accusation, Second Amended Accusation, and Order of the Board dated July 12, 2007, is attached and incorporated by reference as part of this Order.
8. On or about November 16, 2007, while participating in the Texas Peer Assistance Program for Nurses (TPAPN) Respondent engaged in the intemperate use of Benzodiazepines in that Respondent submitted a specimen for a drug screen which resulted positive for Benzodiazepines. Possession of Benzodiazepines is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Benzodiazepines by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.
9. On or about November 29, 2007, Respondent failed to comply with the Eligibility Agreed Order issued to her by the Texas Board of Nursing on March 8, 2007. Non-compliance is the result of Respondent's intemperate use of Benzodiazepines, in that while participating in TPAPN Respondent submitted a specimen for a drug screen which resulted positive for Benzodiazepines. Respondent was dismissed from TPAPN and referred to the Board.
10. On December 4, 2007, Respondent returned License Number 739867 and submitted a statement to the Board voluntarily surrendering the right to practice professional nursing in Texas.
11. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.

12. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violations of Section 301.452(b)(1)(2)(8)(9)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(I),(9),(10)(D) &(11)(B).
4. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
5. Under Section 301.453(d), Texas Occupations Code, the Board may impose conditions for reinstatement of licensure.
6. Any subsequent reinstatement of this license will be controlled by Section 301.452 (b), Texas Occupations Code, and 22 TAC §§213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

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ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of Registered Nurse License Number 739867, heretofore issued to CATHERINE SIE-DJOEN KOHL, to practice professional nursing in the State of Texas, is accepted by the Executive Director on behalf of the Texas Board of Nursing. In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title of "Registered Nurse" or the abbreviation "RN" or wear any insignia identifying herself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

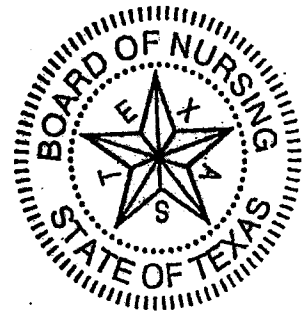
IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice professional nursing in compact states.

Effective this 15th day of January, 2008.

TEXAS BOARD OF NURSING

By: _____

Katherine A. Thomas, MN, RN
Executive Director on behalf of said Board



BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of
CATHERINE SIE-DJOEN KOHL
APPLICANT for Eligibility for
Licensure

§
§
§
§

ELIGIBILITY
AGREED ORDER

On the date entered below, the Board of Nurse Examiners for the State of Texas, hereinafter referred to as the Board, considered the Temporary License/Endorsement Application and supporting documents filed by CATHERINE SIE-DJOEN KOHL, hereinafter referred to as APPLICANT, together with any documents and information gathered by staff and APPLICANT's Certificate contained herein. Information received by the Board produced evidence that APPLICANT may have violated Section 301.452(b)(3), Texas Occupations Code.

APPLICANT waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on January 12, 2007, by Katherine A. Thomas, MN, RN, Executive Director.

FINDINGS OF FACT

1. On or about may 25, 2006, Applicant submitted a Temporary License/Endorsement Application requesting a determination of eligibility for licensure in compliance with 301.260 *et seq.*, Texas Occupations Code.
2. Applicant waived representation, notice, administrative hearing, and judicial review.
3. Applicant graduated with an Associate Degree in Nursing from San Diego City College, San Diego, California, in June 1992.
4. Applicant completed the Application for Licensure by Endorsement and answered "yes" to Question Number Thirteen (13), which reads in part as follows: *"Have you been convicted, adjudged guilty by a court, pled guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests? This includes expunged offenses and deferred adjudication with or without prejudice of guilt."*

5. Applicant disclose the following criminal history, to wit:

- A. On or about November 21, 1995, Applicant was charged with the misdemeanor offense of Driving Under the Influence in the San Diego Municipal Court, State of California. Applicant entered a plea of guilty and was granted entry into a Pre-Trial Diversion Program.
- B. On or about December 23, 1996, Applicant was charged with the misdemeanor offense of Driving Under the Influence in the San Diego Municipal Court, State of California. Applicant entered a plea of guilty and was sentenced to five (5) years probation.
- C. On or about July 27, 1998, Applicant was charged with the misdemeanor offense of Driving Under the Influence in the San Diego Municipal Court, State of California. Applicant entered a plea of guilty and was sentenced to five (5) years probation.
- D. On or about August 31, 1999, Applicant was charged with the misdemeanor offense of Theft of Property in the San Diego Municipal Court, State of California. Applicant entered a plea of guilty and was sentenced to three (3) years probation.

6. There is no evidence of any subsequent criminal conduct.

7. Applicant completed the Application for Licensure by Endorsement and answered "yes" to Question Number Sixteen (16), which reads as follows: *"Within the past five (5) years have you been addicted to and/or treated for the use of alcohol or any other drug?"*

8. From July 24, 2003, to August 29, 2003, Applicant was in an inpatient treatment program at the Betty Ford Center, Rancho Mirage, California.

9. From September 1, 2003, to December 1, 2003, Applicant was a resident of Bethesda Recovery Center, San Diego, California, participating in a ninety (90) day zero tolerance residence program.

10. The safety of patients and the public requires that all persons licensed to practice nursing be fit, sober, and able to consistently practice nursing in autonomous roles under demanding and stressful conditions.

11. The Executive Director considered evidence of Applicant's substance abuse and subsequent rehabilitation as provided in §213.29, 22 Texas Administrative Code.

12. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Applicant.

13. Applicant has sworn that, with the exception of matters disclosed in connection with the Temporary License/Endorsement Application, her past behavior conforms to the Board's professional character requirements. Applicant presented no evidence of behavior which is inconsistent with the Board's character requirements in 22 Texas Administrative Code §213.27.
14. Applicant's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

CONCLUSIONS OF LAW

1. The Board of Nurse Examiners has jurisdiction over this matter pursuant to Section 301.453 *et seq.*, Texas Occupations Code.
2. Applicant has submitted an application in compliance with Section 301.260 *et seq.*, Texas Occupations Code.
3. Applicant shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452 *et seq.*, Texas Occupations Code.
4. The Board of Nurse Examiners may license an individual who has a history of substance abuse, after consideration of the criteria set out in 22 Texas Administrative Code §213.29, the Board determines the Applicant does not currently pose a direct threat to the health and safety of patients or the public.
5. The Board may, in its discretion, order a Applicant, upon initial licensure as a registered nurse, to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED that the application of CATHERINE SIE-DJOEN KOHL, APPLICANT, is hereby conditionally GRANTED and shall be subject to conditions.

(1) APPLICANT shall obtain and read the Texas Nursing Practice Act, and the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice.

(2) IT IS FURTHER ORDERED that APPLICANT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.*, and this Order.

IN ADDITION, IT IS THEREFORE FURTHER AGREED and ORDERED that APPLICANT, upon initial licensure, SHALL comply with the following conditions for such a time as is required for APPLICANT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) APPLICANT SHALL, within forty-five (45) days of initial licensure, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of five hundred dollars (\$500.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, APPLICANT SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Board of Nurse Examiners.

(3) APPLICANT SHALL comply with all requirements of the TPAPN contract during its term.

(4) APPLICANT SHALL CAUSE the TPAPN to notify the Board of Nurse Examiners of any violation of the TPAPN contract.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Applicant's multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Applicant's license is encumbered by this Order, Applicant may not work outside the State of Texas pursuant to a

multistate licensure privilege without the written permission of the State of Texas and the Board of Nursing in the party State where Applicant wishes to work.

IT IS FURTHER AGREED, SHOULD APPLICANT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including revocation of APPLICANT's license to practice professional nursing in the State of Texas.

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APPLICANT'S CERTIFICATION

I am the Applicant in this matter. I have fully and truthfully disclosed all relevant information in conformity with Rule 213.29 at Texas Administrative Code. I certify that my past behavior, except as disclosed in my Temporary License/Endorsement Application, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of conviction, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

In connection with my application, I acknowledge that I have read and I understand Section 301.257, Texas Occupations Code, Section 301.452 (a), (b) and (c), Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and Board Rules 213.27, 213.28, and 213.29 at 22 Texas Administrative Code, which are incorporated by reference as a part of this Order. I agree with all terms of this Order, including the Findings of Fact and Conclusions of Law and any stipulations set out in this Order. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to accepting any permit or license from the Board of Nurse Examiners.

I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Executive Director of the Board of Nurse Examiners enter this Order.

Signed this 16 day of February, 2007

Catherine Sie-Djoen Kohl
CATHERINE SIE-DJOEN KOHL, APPLICANT

Sworn to and subscribed before me this _____ day of _____, _____.

SEAL

Notary Public in and for the State of _____

CALIFORNIA JURAT WITH AFFIANT STATEMENT

State of California

County of

SAN DIEGO

} ss.

☒ See Attached Document (Notary to cross out lines 1-6 below)

☐ See Statement Below (Lines 1-5 to be completed only by document signer[s], not Notary)

1 _____
2 _____
3 _____
4 _____
5 _____
6 _____
Signature of Document Signer No. 1 _____ Signature of Document Signer No. 2 (if any) _____

Subscribed and sworn to (or affirmed) before me on this

16 day of February, 2007, by

(1) Catherine Ste Djoen Kohl
Name of Signer

☒ Personally known to me

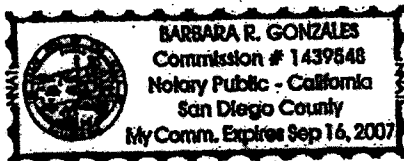
☐ Proved to me on the basis of satisfactory evidence to be the person who appeared before me (.) (.) (and

(2) _____
Name of Signer

☐ Personally known to me

☐ Proved to me on the basis of satisfactory evidence to be the person who appeared before me.)

Barbara R. Gonzales
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

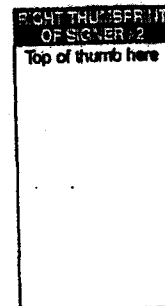
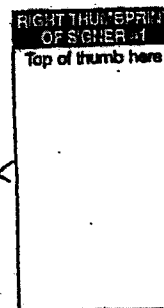
Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Further Description of Any Attached Document

Title or Type of Document: affidavit of identity for application for nursing license - TX

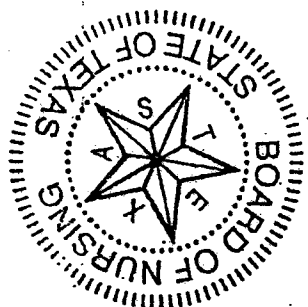
Document Date: 1-12-07 Number of Pages: _____

Signer(s) Other Than Named Above: _____



WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Order of Conditional Eligibility that was signed on the 16th day of February, 2007, by CATHERINE SIE-DJOEN KOHL, APPLICANT, for Temporary License/Endorsement Application, and said Order is final.

Entered and effective this 8th day of March, 2007.



Katherine A. Thomas
Katherine A. Thomas, MN, RN
Executive Director on behalf
of said Board

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

In the Matter of the Accusation Against:

CATHERINE S. KOHL

Registered Nurse License No. 482586

Respondent.

Case No. 2007-8

OAH No. L2006080776

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on July 12, 2007.

IT IS SO ORDERED June 12, 2007.



Vice-President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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

In the Matter of the Accusation Against:

CATHERINE S. D. KOHL,

Registered Nurse License No. 482586,

Respondent.

Case No. 2007-8

OAH No. L2006080776

PROPOSED DECISION

James Ahler, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Diego, California, on March 30, 2007.

Susan Fitzgerald, Deputy Attorney General, Office of the Attorney General, State of California, represented complainant Ruth Ann Terry, M.P.H., R.N., the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, State of California.

Catherine S. D. Kohl, respondent, represented herself and was present throughout the administrative proceeding.

The matter was submitted on March 30, 2007.

FACTUAL FINDINGS

Jurisdictional Matters

1. On July 14, 2006, complainant Ruth Ann Terry, M.P.H., R.N., the Executive Officer of the Board of Registered Nursing (the Board), Department of Consumer Affairs, State of California, signed the Accusation in Case No. 2007-8.

The Accusation sought to impose discipline against the registered nursing license issued to respondent Catherine S. D. Kohl (respondent or Kohl) as a result of a 2003 driving under the influence (DUI) conviction with a prior, a 1999 driving on a suspended license conviction, a 1998 DUI and driving on a suspended license conviction, and for unprofessional conduct involving the dangerous use of alcoholic beverages.

The Accusation and other required jurisdictional documents were served on Kohl, who timely filed a notice of defense.

The First Amended Accusation was signed on complainant's behalf on January 2, 2007. It was served on respondent, along with all other required documents. New charges were deemed controverted under Government Code section 11507.

The Second Amended Accusation was signed on complainant's behalf on January 5, 2007. It was served on respondent, along with all other required documents. New charges were deemed controverted under Government Code section 11507.

The record in the administrative hearing was opened on March 30, 2007. Jurisdictional documents were presented, sworn testimony and documentary evidence was received, a closing argument was given, the record was closed, and the matter was submitted.

License History

2. On August 31, 1992, the Board issued Registered Nurse License No. 482586 to Catherine S. D. Kohl. There is no history of any administrative discipline having ever been imposed against that license.

Respondent's Convictions

3. On July 27, 1998, Kohl was convicted on her plea of guilty of violating Vehicle Code sections 23152, subdivision (a) (Driving Under the Influence) and 12500, subdivision (a) (Driving Without a License), both misdemeanors, and of having previously been convicted, on December 23, 1996, of violating section 23152, subdivision (a) in the Municipal Court of California, County of San Diego, in Case No. T-198344 entitled *People v. Catherine Siedjoen Kohl*.

Imposition of sentence was suspended, and Kohl was placed on five years summary and formal probation. Terms and conditions of probation required Kohl to serve 365 days in county jail (suspended for five years pending the successful completion of probation), to serve 48 hours in custody or to provide 320 hours of public service in lieu thereof, to pay fines and fees of approximately \$1,325, to have her driving privilege restricted for 18 months, to run concurrent with any Department of Motor Vehicle suspension, to have an ignition interlock device installed on her vehicle, to attend and complete a MADD Impact course, to attend and complete a multiple offender drinking driver's program, not to drive with any alcohol in her system, to have no further driving under the influence convictions, and to obey all laws.

Kohl performed poorly on probation. She failed to submit timely proof that she had completed her volunteer work, she failed to pay her fines and fees in a timely fashion, she failed to submit proof that she attended the MADD Impact program, and she failed to provide proof that she had enrolled in the multiple offender drinking driver's program. On May 28, 1999, Kohl admitted she had violated the terms and conditions of her probation.

Probation was reinstated on condition that she comply with all unsatisfied terms and conditions thereof. On July 16, 1999, Kohl was ordered to appear in court to show cause concerning a check she had written on an insufficient account to pay her fines and fees. Kohl made payment on July 30, 1999, and the order imposing a civil assessment was vacated. On February 1, 2000, the requirement that Kohl's vehicle be equipped with an ignition interlock device was vacated. On April 27, 2000, probation was summarily vacated as a result of Kohl's failure to complete the multiple offender's drinking driver's program. Following Kohl's subsequent arrest for driving under the influence (which constituted a violation of probation), Kohl was permitted to complete the multiple offender drinking driver's program.

4. On November 30, 1999, Kohl was convicted on her plea of guilty of violating Vehicle Code section 14601.1, subdivision (a) (Knowingly Driving With a Suspended License), a misdemeanor, in the Municipal Court of California, County of San Diego, in Case No. T207718 entitled *People v. Catherine Kohl*.

Imposition of sentence was suspended, and Kohl was placed on three years summary probation. Terms and conditions of probation required her to pay approximately \$1,000 in fines and fees, to provide 50 hours of public service, and to violate no laws (excluding minor traffic offenses).

Kohl completed all affirmative requirements of her probation, but nonetheless violated her probation by virtue of her arrest and subsequent DUI conviction on June 23, 2003.

5. On June 23, 2003, Kohl was convicted on her plea of guilty of violating Vehicle Code section 23152, subdivision (b) (Driving With a Blood Alcohol Level of 0.08 Percent or More), a misdemeanor, and of having previously been convicted on July 27, 1998, of violating Vehicle Code section 23152, subdivision (a) (Driving Under the Influence) in the Superior Court of California, County of San Diego, in Case No. M 890377 entitled *People v. Catherine Siedjoen Kohl*.

Imposition of sentence was suspended, and Kohl was placed on five years summary probation. Terms and conditions of probation required Kohl to serve 365 days in county jail (suspended pending the successful completion of probation), to pay fines and fees of approximately \$1,325, to provide 25 days of public service work (stayed pending completion of a residential treatment program), to reside 150 days in a residential treatment facility, to have her driver's license suspended by the Department of Motor Vehicles, to have an ignition interlock device installed on her vehicle for 18 months, to attend and complete a MADD Impact course, to attend and complete a multiple offender drinking driver's program, and to obey all laws.

Kohl remains on probation for this offense.

Circumstances of the Offenses

6. *The December 23, 1996 Conviction.* Kohl was driving home from a bar one evening with her (then) boyfriend. A police officer stopped the vehicle Kohl was driving and arrested Kohl for driving under the influence. Kohl was taken into custody, and her blood alcohol level was later determined to have been approximately 0.11 percent. As a result of the conviction, Kohl attended a first offender drinking driver's program. Kohl did not believe she had a problem with alcohol, and she continued to consume alcoholic beverages. She made efforts not to drink and drive. On June 21, 1998, shortly before she completed the first offender program, Kohl was arrested again for the same offense.

7. *The July 27, 1998 Convictions.* On the evening of June 21, 1998, Kohl left a bar in Poway to drive home. A deputy sheriff stopped the vehicle Kohl was driving when Kohl was about a block away from home. Kohl was arrested for driving under the influence and was taken into custody. Kohl's blood alcohol level was later determined to have been 0.18 percent.

8. *The November 30, 1999 Conviction.* On the morning of March 24, 1999, Kohl decided to drive her sons to school, even though her license was at the time suspended, because she believed her sons had no other way to get there. Kohl's vehicle was stopped because her vehicle did not have a valid current registration, and it was determined that she was driving on a suspended license.

9. *The June 23, 2003 Convictions.* On the evening of March 6, 2003, after drinking with fellow employees at a bar in Pacific Beach, Kohl decided to drive home. While she was driving, she noticed her vision was blurred and her reactions were not sharp. Kohl stopped her vehicle on the shoulder of northbound I-5 near the Balboa Avenue overcrossing. CHP Officer David Foote was on routine patrol when he observed Kohl's vehicle at the side of the road with its emergency lights activated. Officer Foote stopped, investigated, and determined that Kohl had been drinking. Kohl told Officer Foote that there was no need for him to administer the field sobriety tests because she was drunk. Officer Foot arrested Kohl. Kohl's blood alcohol level was determined to be 0.23 percent.

Diversion Program

10. Kohl's several convictions came to the Board's attention. Kohl was given the opportunity to participate in the Board's diversion program in lieu of facing disciplinary action. On October 18, 2004, Kohl entered that program. During her participation in the program, Kohl provided two urine specimens containing elevated levels of ethylglucuronide, which was consistent with the recent consumption of alcoholic beverages. While it was not established that the positive urine tests were in fact related to Kohl's consumption of alcoholic beverages, it was established that, contrary to her diversion program agreement, Kohl had returned to work as a nurse without permission.

On March 28, 2006, Kohl sent a letter by facsimile to the diversion program indicating she was withdrawing from the program.

The diversion program terminated Kohl as a "public risk" on April 4, 2006.

11. Kohl testified that because she had been abstinent since July 24, 2003, her required participation in the diversion program angered her at the time. She explained that most of the other persons participating in the program were nurses who had diverted controlled substances from work to satisfy their personal drug addictions. While Kohl understood the reason why these persons were not permitted to work as nurses, she felt her situation was different because she did not use alcohol at work, did not work under the influence of alcohol, and had never experienced any quality of care issues related to her consumption of alcoholic beverages. Kohl testified she participated in the diversion program in good faith, but became the victim of two false positive tests, which she believed likely resulted from something she had eaten. Kohl knew that the terms of her diversion program prohibited her from working as an ER nurse, but she nevertheless returned to work. Kohl testified she had hoped "to slide under the wire" and avoid detection.

Kohl's Background, Training, Experience, and Evidence

12. Kohl was born on December 25, 1964, in Upland, California. She was the youngest of three children. Her father was an alcoholic. Her family moved constantly about California and, finally, when Kohl was in high school, the family settled in Texas. Kohl's mother, father, and surviving sister continue to live in Texas.

Kohl graduated from Bible Baptist Christian Academy in Grand Prairie, Texas, in 1982, when she was 16 years old. Thereafter, she attended Arlington Baptist College and Tennessee Temple University for a couple of years. She returned home to Grand Prairie and worked and attended school on a part-time basis. In 1987, Kohl married. The relationship resulted in two children, a 19-year-old son (who is currently living with Kohl's parents in Texas) and a 17-year-old son (who is currently living in Poway, California, half the time with Kohl and half the time with his father). Kohl separated from her ex-husband in 1996, shortly before her first DUI arrest.

13. Kohl and her ex-husband moved to San Diego County in 1988. Kohl thereafter enrolled in a nursing program at San Diego City College, while also taking care of her two sons. Kohl completed the nursing program in June 1992. She became licensed as a registered nurse in August 1992.

14. Kohl was steadily employed as a nurse after she became licensed. She first worked at Mercy Hospital in San Diego from about 1992 through 1996, at several hospitals through a registry from about 1996 through 1998, at Sharp Hospital in Chula Vista from about 1999 through 2002, and at the UCSD Hospital in Hillcrest in 2002 to 2004. Kohl specialized as an emergency room nurse. Kohl took a leave of absence from her employment with UCSD in 2004 to participate in the Board's diversion program.

15. Kohl testified she began drinking alcoholic beverages when she was 16 years old. She recognized that she probably had a problem with alcohol after she was arrested for

her second DUI in June 1998. Following her second arrest, Kohl concluded she had problems controlling her drinking, but she testified that was not ready to stop drinking. She decided it would be wise for her to stop drinking and driving. She was able to avoid another DUI arrest until March 2003. Kohl's several DUI convictions indicate that Kohl's alcohol problem became progressive.

Kohl claimed a sobriety date of July 24, 2003.

16. Kohl was given the option of going to jail for a year or spending six months in an inpatient substance abuse program following her June 2003 conviction. Kohl elected to pursue recovery. She resided at the Betty Ford Center in Rancho Mirage from June 2003 through July 2003, and at the Bethesda Recovery Center in San Diego from August 2003 through January 2004. While she was a resident at these facilities, Kohl attended several 12-step meetings daily, met with a sponsor, and worked through the 12 steps. Kohl was not employed during her residential treatment, and she devoted virtually all of her time to her recovery. Kohl was permitted to go home one evening a week when she resided at the Bethesda Recovery Center, and she made an effort to reunite with and make amends to her sons (who felt Kohl had abandoned them) during her stay there.

While she resided at the Bethesda Recovery Center, Kohl simultaneously attended a minimum of three outside 12-step meetings a day and completed a nine-week recovery program at the Alvarado Parkway Institute, which involved four hours of study per evening three nights a week.

17. In February 2004, after she completed her residential rehabilitation, Kohl returned to work at the UCSD Clinic in Hillcrest. It was well after she began this work that Kohl became a member of the Board's diversion program and took a leave of absence.

18. Kohl most recently has been working at Pomerado Hospital in Poway as an emergency room nurse. Within six months of the date she was hired, Kohl was promoted to the position of emergency room night charge nurse.

Performance evaluation reports from Pomerado Hospital state that Kohl has provided quality care, is caring and friendly to patients and family members, improves the level of care she provides, is a great team player, utilizes resources economically, possesses sound assessment and clinical skills, is a patient advocate, and provides appropriate documentation. Her evaluator described Kohl as having good organizational skills and a positive attitude. Kohl is a valued member of the Palomar-Pomerado Healthcare team.

19. Kohl admitted that she did not tell her immediate supervisor at Pomerado Hospital of the accusation that had been filed against her, or that she was appearing in an administrative hearing concerning her licensure.

20. Laurel R., a registered nurse who was Kohl's AA sponsor, wrote a letter dated July 15, 2006, which stated Kohl had considerable nursing experience, was a team player,

and was a resource for other nurses. Laurel R. described Kohl as being "a resilient advocate of Alcoholics Anonymous" who worked passionately with other women in recovery.

21. Kyleen Creekmore, currently a resident of Kentucky, worked with Kohl in California. Creekmore authored a letter dated January 16, 2007, which stated Kohl was a warm, thoughtful, friendly professional who was fun to be around. Creekmore stated Kohl had a good relationship with her sons and worked hard to maintain her sobriety.

22. Michael Sorrels, who works as a delivery person for the *Union-Tribune*, has known Kohl since November 2004. Sorrels, who has been sober for nearly 12 years, at one time dated Kohl. Sorrels and Kohl have new significant others in their lives, but they maintain a friendship. Sorrels currently speaks with Kohl weekly by telephone.

Sorrels testified that Kohl was forced to give up a good job at UCSD to participate in the diversion program, and that while she was in that program Kohl never consumed any alcoholic beverages. Sorrels believed Kohl's only mistake was returning to work without permission, and that Kohl was a good nurse. Sorrels described Kohl as "a good lady, very caring, very kind."

23. Kohl currently attends one formal AA meeting a week at the Poway Alano Club, from 7:30-8:00 a.m. She is also the secretary of a weekly women's group, which meets at the homes of the group's five members on a rotating basis. Kohl does not currently have a sponsor and she is not sponsoring others. Kohl is not currently working through the 12 steps, and she could not recite the 12 steps, or any one of them, when asked to do so.

24. Kohl testified she really enjoys nursing, and considers her current employment and position to be a perfect fit. Kohl understood the Board's concerns, but emphasized that these concerns were unfounded because she had never consumed alcohol when she was at work, she did not report to work under the influence of alcohol, and no quality of care complaints were filed against her for any alcohol-related misconduct. She testified her sobriety was her top priority.

Disciplinary Guidelines – Measure of Discipline

25. The Board enacted disciplinary guidelines. The introduction to these guidelines states:

"In keeping with its obligation to protect the consumer of nursing services from the unsafe, incompetent and/or negligent registered nurse, the Board of Registered Nursing has adopted the following recommended guidelines for disciplinary orders and conditions of probation for violations of the Nursing Practice Act.

The Board carefully considers the totality of the facts and circumstances in each individual case, with the safety of the public being paramount. Consequently, the Board requests that the Administrative Law Judge clearly delineate the factual basis for his/her decision. This is especially important should the ALJ deviate from the recommended

guidelines. The rationale for the deviation should be reflected in the decision to enable the Board to understand the reasons therefore and to evaluate the appropriateness of the decision.

If, at the time of hearing, the Administrative Law Judge finds that the respondent for any reason is not capable of safe practice, the Board favors outright revocation of the license. If, however, the respondent has demonstrated a capacity to practice safe nursing, a stayed revocation order with probation is recommended.

Suspension of a license may also be appropriate where the public may be better protected if the practice of the registered nurse is suspended in order to correct deficiencies in skills, education or personal rehabilitation."

26. In determining whether revocation, suspension or probation should be imposed in a given case, the disciplinary guidelines suggest that relevant factors such as the following should be considered: (1) nature and severity of the acts under consideration; (2) the actual or potential harm to the public; (3) the actual or potential harm to any patient; (4) the prior disciplinary record; (5) the number and/or variety of current violations; (6) mitigation evidence; (7) rehabilitation evidence; and (8) the time that has passed since the acts occurred.

27. The disciplinary guideline for a violation of Business and Professions Code section 2761, subdivision (f) (a conviction related to the qualifications, functions, or duties of a nurse) is limited to revocation. The disciplinary guideline for a violation of Business and Professions Code section 2762, subdivision (b) (use of alcoholic beverages in a dangerous manner) includes a maximum sanction of revocation and a minimum sanction for a first-time offense with documented evidence of an on-going rehabilitation program of revocation, stayed, with three years probation.

Evaluation

28. Kohl has been licensed for 15 years. Her license has never been subject to any prior administrative discipline. Kohl developed a significant problem with alcohol. Kohl did not address this problem in a meaningful way until she was ordered to do so by the judicial system in June 2003, following her most recent DUI conviction. Since then, Kohl completed a six-month residential treatment program and has been abstinent. While Kohl claimed that her sobriety was her top priority, and though this testimony was heartfelt, Kohl's attendance at 12-step meetings and her participation in the AA program has steadily waned. There are realistic concerns about relapse.

There is no evidence that Kohl ever reported to work when she was under the influence, that she ever consumed alcoholic beverages when she was working as a nurse, or that she ever provided professional services when she was under the influence of alcohol. There is substantial evidence establishing that Kohl's alcoholism became progressively more serious, that it resulted in three DUI convictions, and that Kohl failed to comply with all but her most recent grant of criminal probation. Kohl also failed to successfully complete the Board's diversion program.

Alcoholism is a primary, progressive disease. Left untreated, it can be fatal. Without active involvement in a recovery program, relapse is not uncommon. The duties of an emergency room nurse require that the nurse remain sober and responsible. Even though Kohl probably does not consume alcoholic beverages at this time, and even though she hopes she will not do so in the future, her lack of a structured and organized recovery program and her failure to cooperate with authorities while on probation and on diversion create an unreasonable potential for patient harm, a risk that would exist even if Kohl were placed on probation and ordered to return to the Board's diversion program or to a similar program. Kohl is not trustworthy when she is on probation.

Under all the circumstances, revocation is the only measure of discipline which will protect the public.

Costs of Investigation and Enforcement

29. A Certification of Costs of Investigation was received indicating that the Board was billed \$2,235 by the Office of the Attorney General through December 22, 2006. A declaration for the deputy attorney general who prosecuted this matter stated additional time was spent since then resulting in billings of at least \$1,935. The Office of the Attorney General billed \$146 to \$158 per hour for attorney services. The hourly rate was reasonable, as were the number of hours claimed. The deputy attorney general who prosecuted the matter was well prepared. No investigative expenses were claimed.

The reasonable costs of prosecution in this matter total \$4,170.

LEGAL CONCLUSIONS

Standard of Proof

1. The standard of proof in an administrative disciplinary proceeding seeking the suspension or revocation of a professional license is "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.)

2. The key element of clear and convincing evidence is that it must establish a high probability of the existence of the disputed fact, greater than proof by a preponderance of the evidence. Clear and convincing evidence requires a finding of high probability and evidence of a charge is clear and convincing so long as there is a high probability that the charge is true. (*People v. Mabini* (2001) 92 Cal.App.4th 654, 662.)

Applicable Disciplinary Statutes

3. Business and Professions Code section 2708.1 provides:

"Protection of the public shall be the highest priority for the Board of Registered Nursing in exercising its licensing, regulatory, and disciplinary functions. Whenever

the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

4. Business and Professions Code section 2761 provides in 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:

...

(f) Conviction . . . 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 . . ."

5. Business and Professions Code section 2762 provides in part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any . . . alcoholic beverages, to an extent or in a manner dangerous or injurious to . . . herself, any other person, or the public or to the extent that such use impairs . . . her ability to conduct with safety to the public the practice authorized by . . . her license.

(c) Be convicted of a criminal offense involving the . . . consumption . . . of any of the substances described in subdivisions (a) and (b) of this section . . . in which event the record of the conviction is conclusive evidence thereof . . ."

Substantial Relationship

6. Conviction alone will not support the discipline of a license unless the crime substantially relates to the qualifications, functions, or duties of the business or profession in question. (*Harrington v. Department of Real Estate* (1989) 214 Cal. App.3d 394, 402.)

7. California Code of Regulations, title 16, section 1444 provides in part:

"A conviction . . . 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. Such convictions or acts shall include but not be limited to the following:

- (a) Assaultive or abusive conduct . . .
- (b) Failure to comply with any mandatory reporting requirements.
- (c) Theft, dishonesty, fraud, or deceit.
- (d) Any conviction or act subject to an order of registration . . ."

For the reasons set forth below, it is concluded that the listing of various categories of convictions or acts in California Code of Regulations, title 16, section 1444 is illustrative rather than a definitive roster of behaviors absolutely precluding licensure or certification as a nursing professional.

8. A misdemeanor driving under the influence conviction does not necessarily involve moral turpitude (*Ostrow v. Municipal Court* (1983) 149 Cal. App. 3d 668, 676), but a felony conviction for driving under the influence in violation of [prior] Vehicle Code section 23175 involved moral turpitude and a readiness to do evil.¹ (*People v. Forster* (1994) 29 Cal.App.4th 1746, 1756.)

9. There is a substantial relationship between several driving under the influence convictions and the good judgment required to hold a professional license. (See *Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 770-771.)

Cause Exists to Revoke Kohl's License

10. The clear and convincing evidence established cause to revoke Kohl's registered nursing license under Business and Professions Code section 2761, subdivision (f) and section 2762, subdivision (b). Kohl was convicted of driving under the influence in December 1996, in July 1998, in March 2003, and in June 2003. Kohl was convicted of knowingly driving on a suspended license in March 1999. These convictions, taken together, are substantially related to the qualifications, functions and duties of a registered nurse.

Kohl did not faithfully comply with the terms of probation imposed following each grant of probation (except for the March 2003 conviction, for which she currently remains on probation). Kohl violated her agreement with the Board's diversion program by returning to work without permission and was terminated from that program in April 2006. Kohl's alcoholism became progressively more serious and by the mid-1990s Kohl's condition represented a danger to herself and others. Kohl successfully completed a six-month residential treatment program and credibly testified that she had been abstinent since June 2003. However, Kohl has paid less and less attention to her recovery program for the past couple of years. Without an alcoholic's active participation in an on-going recovery program, relapse is not uncommon. The duties of an emergency room nurse require that the nurse remain sober and responsible. Even though Kohl established that she does not

¹ Former section 23175 (since repealed) provided that a driving under the influence conviction with three or more DUI convictions within seven years of the instant offense constituted a felony.

consume alcoholic beverages at this time, and even though she hopes she will not do so in the future, Kohl's lack of a structured and organized recovery program and her failure to cooperate with legal and licensing authorities while on probation raises the possibility of unreasonable risks of patient harm. Kohl would not be a good risk if she were placed on probation and ordered to return to the Board's diversion program or to a similar program.

Under all the circumstances, revocation is the only measure of discipline which will protect the public.

This conclusion is based on Factual Findings 2-28 and 10-19 and on Legal Conclusions 1-9.

Costs of Enforcement

11. Business and Professions Code section 125.3 authorizes an administrative law judge to direct a licensee who has violated the applicable licensing act to pay a sum not to exceed the reasonable costs of investigation and enforcement.

12. Cause exists under Business and Professions Code section 125.3 to direct Kohl to pay to the Board its reasonable costs of enforcement of \$4,170.

This conclusion is based on Factual Finding 29 and Legal Conclusions 10 and 11.

ORDERS

Registered Nurse License No. 482586 issued by the Board of Registered Nursing, State of California, to Catherine S. D. Kohl is revoked.

Catherine S. D. Kohl is directed to pay \$4,170 to the Board of Registered Nursing for its reasonable costs of enforcement.

DATED: 4/11/07


JAMES AHLER

Administrative Law Judge
Office of Administrative Hearings

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7 Attorneys for Complainant
8

9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2007-8

13 CATHERINE S.D. KOHL, R.N.
12609 Robison Blvd., #210
14 Poway, CA 92064

**SECOND AMENDED
ACCUSATION**

15 Registered Nurse License No. #482586

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this First Amended
21 Accusation solely in her official capacity as the Executive Officer of the Board of Registered
22 Nursing, Department of Consumer Affairs. This Second Amended Accusation supersedes all
23 previous Accusation in this case and is filed solely to add paragraph 8 herein below which was
24 inadvertently omitted from the First Amended Accusation.

25 2. On or about August 31, 1992, the Board of Registered Nursing issued Registered
26 Nurse License Number #482586 to Catherine S.D. Kohl, R.N. (Respondent). The registered
27 nurse license was in full force and effect at all times relevant to the charges brought herein and
28 will expire on January 31, 2008, 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 of the Business and Professions Code:

A. Section 2708.1 of the Code states:

"Protection of the public shall be the highest priority for the Board of Registered Nursing in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

B. Section 2761 of the Code states in pertinent part as follows:

"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:

"....

"(d) Violating or attempting to violate, directly or indirectly, . . .any provision or term of this chapter or regulations adopted pursuant to it.

"....

"(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.

"...."

C. 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:

"....

"(b) Use any . . .alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public. . . .

"...."

1 D. Section 490 of the Code states:

2 "A board may suspend or revoke a license on the ground that the licensee has been
3 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
4 of the business or profession for which the license was issued. A conviction within the meaning
5 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
6 contendere. Any action which a board is permitted to take following the establishment of a
7 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
8 been affirmed on appeal, or when an order granting probation is made suspending the imposition
9 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
10 Penal Code."

11 E. Section 493 of the Code states:

12 "Notwithstanding any other provision of law, in a proceeding conducted by a board
13 within the department pursuant to law to deny an application for a license or to suspend or revoke
14 a license or otherwise take disciplinary action against a person who holds a license, upon the
15 ground that the applicant or the licensee has been convicted of a crime substantially related to the
16 qualifications, functions, and duties of the licensee in question, the record of conviction of the
17 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
18 and the board may inquire into the circumstances surrounding the commission of the crime in
19 order to fix the degree of discipline or to determine if the conviction is substantially related to the
20 qualifications, functions, and duties of the licensee in question.

21 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
22 'registration.'"

23 F. Section 482 of the Code provides in pertinent part that the Board must develop
24 criteria for evaluation of rehabilitation where it is considering suspending or revoking a license
25 under Code section 490 and take into account all competent evidence of rehabilitation.

26 G. Section 125.3 of the Code provides, in pertinent part, that the Board may request
27 the administrative law judge to direct a licensee found to have committed a violation or

28 ///

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 4. This Accusation also refers to the following sections of Title 16, California Code
4 of Regulation (CCR):

5 A. Section 1444 provides in pertinent part as follows:

6 "A conviction or act shall be considered to be substantially related to the qualifications,
7 functions, or duties of a registered nurse if to a substantially degree it evidences the present or
8 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
9 safety, or welfare. . . .

10 "...."

11 B. Section 1445 provides in pertinent part as follows:

12 "....

13 "(b) When considering the suspension or revocation of a license on the grounds that a
14 registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such
15 person and his/her eligibility for a license will consider the following criteria:

16 (1) Nature and severity of the act(s) or offense(s).

17 (2) Total criminal record.

18 (3) The time that has elapsed since commission of the act(s) or offense(s).

19 (4) Whether the licensee has complied with any terms of parole, probation, restitution or
20 any other sanction lawfully imposed against the licensee.

21 (5) If applicable, evidence of expungement proceedings pursuant top Section 1203.4 of
22 the Penal Code.

23 CHARGES AND ALLEGATIONS

24 First Cause for Discipline

25 (Unprofessional Conduct: Conviction for a Substantially Related Crime -
26 ~~6/23/03 Conviction for DUI With Prior on 3/3/03~~)

27 4. Respondent is subject to disciplinary action under Code sections 2761(f) and 490
28 in that she was convicted of a crime substantially related to the qualifications, functions, or duties

1 of a registered nurse. The circumstances are as follows:

2 A. On or about June 23, 2003, in San Diego Superior Court Case No. M890377,
3 *People v. Catherine Siedjoen Kohl, aka Catherine Arnold, aka Catherine Sie Djoen Kohl*,
4 Respondent was convicted of driving with a blood alcohol level of 0.08% or more (Vehicle Code
5 section 23152(b)) and of having a prior conviction for a DUI.

6 B. On March 3, 2003, Respondent was found in her car on the side of the highway
7 with the engine on and her emergency lights flashing. When contacted by the California
8 Highway Patrol, her eyes were watery, her breath smelled of alcohol, her speech was slurred and,
9 when she exited her car, she could not walk steadily. During the administration of field sobriety
10 tests, she admitted, "I've had too much to drink. Just arrest me."

11 C. Respondent was sentenced to 5 years summary probation with 365 days custody
12 suspended for 5 years. Additionally, she was ordered into a 150-day residential rehabilitation
13 program, to do 25 days PSWP volunteer work (stayed until after her residential rehabilitation), to
14 have an ignition lock on her car for 18 months, and to pay various fines.

15 **Second Cause for Discipline**

16 **(Unprofessional Conduct: Conviction for a Substantially Related Crime -**
17 **8/2/99 Conviction for Driving w/Suspended License on 3/24/99)**

18 5. Respondent is subject to disciplinary action under Code sections 2761(f) and 490
19 in that she was convicted of a crime substantially related to the qualifications, functions, or duties
20 of a registered nurse. The circumstances are as follows:

21 A. On or about August 2, 1999, in San Diego Superior Court Case No. T207718,
22 *People v. Catherine S. Kohl*, Respondent was convicted of driving with a suspended license
23 (Vehicle Code section 14601.1(a)).

24 B. On March 24, 1999, Respondent was issued a traffic citation for both driving with
25 a suspended license and driving without DMV registration.

26 C. Respondent was sentenced to 3 years summary probation, to do 50 hours of
27 volunteer work and to pay various fines. Imposition of sentence was suspended for 2 years.

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1 public safety. She was non-compliant with the program by returning to work in a hospital
2 emergency room several months previous to April, 2006 without the knowledge or permission of
3 the Diversion Evaluation Committee and she tested positive for alcohol use in late December
4 2005 and in March 2006.

5 **PRAYER**

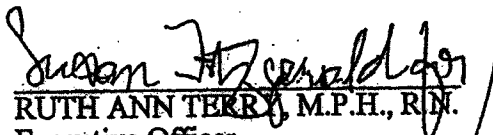
6 WHEREFORE, Complainant requests that a hearing be held on the matters herein
7 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

8 1. Revoking or suspending Registered Nurse License Number #482586, issued to
9 Catherine S.D. Kohl, R.N.;

10 2. Ordering Catherine S.D. Kohl, R.N. to pay the Board of Registered Nursing the
11 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
12 Professions Code section 125.3;

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

14 DATED: January 5, 2007.

15
16 
17 RUTH ANN TERRY, M.P.H., R.N.
18 Executive Officer
19 Board of Registered Nursing
20 Department of Consumer Affairs
21 State of California
22 Complainant
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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2007-8

13 CATHERINE S.D. KOHL, R.N.
12609 Robison Blvd., #210
14 Poway, CA 92064

**FIRST AMENDED
ACCUSATION**

15 Registered Nurse License No. #482586

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this First Amended
21 Accusation solely in her official capacity as the Executive Officer of the Board of Registered
22 Nursing, Department of Consumer Affairs. This First Amended Accusation supersedes the
23 original Accusation in this case.

24 2. On or about August 31, 1992, the Board of Registered Nursing issued Registered
25 Nurse License Number #482586 to Catherine S.D. Kohl, R.N. (Respondent). The registered
26 nurse license was in full force and effect at all times relevant to the charges brought herein and
27 will expire on January 31, 2008, unless renewed.

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1 D. Section 490 of the Code states:

2 "A board may suspend or revoke a license on the ground that the licensee has been
3 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
4 of the business or profession for which the license was issued. A conviction within the meaning
5 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
6 contendere. Any action which a board is permitted to take following the establishment of a
7 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
8 been affirmed on appeal, or when an order granting probation is made suspending the imposition
9 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
10 Penal Code."

11 E. Section 493 of the Code states:

12 "Notwithstanding any other provision of law, in a proceeding conducted by a board
13 within the department pursuant to law to deny an application for a license or to suspend or revoke
14 a license or otherwise take disciplinary action against a person who holds a license, upon the
15 ground that the applicant or the licensee has been convicted of a crime substantially related to the
16 qualifications, functions, and duties of the licensee in question, the record of conviction of the
17 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
18 and the board may inquire into the circumstances surrounding the commission of the crime in
19 order to fix the degree of discipline or to determine if the conviction is substantially related to the
20 qualifications, functions, and duties of the licensee in question.

21 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
22 'registration.'"

23 F. Section 482 of the Code provides in pertinent part that the Board must develop
24 criteria for evaluation of rehabilitation where it is considering suspending or revoking a license
25 under Code section 490 and take into account all competent evidence of rehabilitation.

26 G. Section 125.3 of the Code provides, in pertinent part, that the Board may request
27 the administrative law judge to direct a licensee found to have committed a violation or

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1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 4. This Accusation also refers to the following sections of Title 16, California Code
4 of Regulation (CCR):

5 A. Section 1444 provides in pertinent part as follows:

6 "A conviction or act shall be considered to be substantially related to the qualifications,
7 functions, or duties of a registered nurse if to a substantially degree it evidences the present or
8 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
9 safety, or welfare.

10 "...."

11 B. Section 1445 provides in pertinent part as follows:

12 "...."

13 "(b) When considering the suspension or revocation of a license on the grounds that a
14 registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such
15 person and his/her eligibility for a license will consider the following criteria:

16 (1) Nature and severity of the act(s) or offense(s).

17 (2) Total criminal record.

18 (3) The time that has elapsed since commission of the act(s) or offense(s).

19 (4) Whether the licensee has complied with any terms of parole, probation, restitution or
20 any other sanction lawfully imposed against the licensee.

21 (5) If applicable, evidence of expungement proceedings pursuant top Section 1203.4 of
22 the Penal Code.

23 CHARGES AND ALLEGATIONS

24 First Cause for Discipline

25 (Unprofessional Conduct: Conviction for a Substantially Related Crime -
26 6/23/03 Conviction for DUI With Prior on 3/3/03)

27 4. Respondent is subject to disciplinary action under Code sections 2761(f) and 490,
28 in that she was convicted of a crime substantially related to the qualifications, functions, or duties

1 of a registered nurse. The circumstances are as follows:

2 A. On or about June 23, 2003, in San Diego Superior Court Case No. M890377,
3 *People v. Catherine Siedjoen Kohl, aka Catherine Arnold, aka Catherine Sie Djoen Kohl*,
4 Respondent was convicted of driving with a blood alcohol level of 0.08% or more (Vehicle Code
5 section 23152(b)) and of having a prior conviction for a DUI.

6 B. On March 3, 2003, Respondent was found in her car on the side of the highway
7 with the engine on and her emergency lights flashing. When contacted by the California
8 Highway Patrol, her eyes were watery, her breath smelled of alcohol, her speech was slurred and,
9 when she exited her car, she could not walk steadily. During the administration of field sobriety
10 tests, she admitted, "I've had too much to drink. Just arrest me."

11 C. Respondent was sentenced to 5 years summary probation with 365 days custody
12 suspended for 5 years. Additionally, she was ordered into a 150-day residential rehabilitation
13 program, to do 25 days PSWP volunteer work (stayed until after her residential rehabilitation), to
14 have an ignition lock on her car for 18 months, and to pay various fines.

15 Second Cause for Discipline

16 (Unprofessional Conduct: Conviction for a Substantially Related Crime -
17 8/2/99 Conviction for Driving w/Suspended License on 3/24/99)

18 5. Respondent is subject to disciplinary action under Code sections 2761(f) and 490
19 in that she was convicted of a crime substantially related to the qualifications, functions, or duties
20 of a registered nurse. The circumstances are as follows:

21 A. On or about August 2, 1999, in San Diego Superior Court Case No. T207718,
22 *People v. Catherine S. Kohl*, Respondent was convicted of driving with a suspended license
23 (Vehicle Code section 14601.1(a)).

24 B. On March 24, 1999, Respondent was issued a traffic citation for both driving with
25 a suspended license and driving without DMV registration.

26 C. Respondent was sentenced to 3 years summary probation, to do 50 hours of
27 volunteer work and to pay various fines. Imposition of sentence was suspended for 2 years.

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1 Third Cause for Discipline

2 (Unprofessional Conduct: Conviction for a Substantially Related Crime -
3 7/27/98 Conviction for DUI and Driving w/Suspended License on 6/21/98)

4 6. Respondent is subject to disciplinary action under Code sections 2761(f) and 490
5 in that she was convicted of a crime substantially related to the qualifications, functions, or duties
6 of a registered nurse. The circumstances are as follows:

7 A. On or about July 27, 1998, in San Diego Superior Court Case No. T198344 in
8 *People v. Catherine Siedjoen Kohl*, Respondent pled guilty to a DUI (Vehicle Code section
9 23152(a)) and to violating Vehicle Code section 12500 (driving on a highway without a valid
10 driver's license), a lesser included offense of Vehicle Code section 14601.1(a). She also
11 admitted a prior DUI conviction on December 23, 1996 (Vehicle Code section 23152(a)).

12 B. On June 21, 1998, Respondent was driving on a highway without a valid driver's
13 license and while under the influence of alcohol. Her blood alcohol level was 0.18.

14 C. Respondent was sentenced to formal probation until she completed the SB 38
15 program and summary probation thereafter; required to serve 320 hours as an unpaid hospital
16 volunteer in lieu of 48 hours in custody; to have her driver's license suspended for 18 months; to
17 have an ignition lock device on her car for 18 months; and to pay various fines.

18 D. Court records show that she "washed out" of the SB 38 program at some point and
19 had previously had probation revoked on June 2, 2000.

20 Fourth Cause for Discipline

21 (Unprofessional Conduct: Dangerous Use of Alcoholic Beverages)

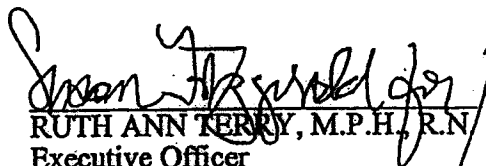
22 7. Respondent is subject to disciplinary action under Code section 2761(d) in
23 conjunction with section 2762(b) for using alcoholic beverages in such a manner and to such an
24 extent that she became a danger to herself, others, and the public by her drunk driving, as more
25 particularly alleged above and incorporated herein by reference.

26 PRAYER

27 WHEREFORE, Complainant requests that a hearing be held on the matters herein
28 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1 1. Revoking or suspending Registered Nurse License Number #482586, issued to
2 Catherine S.D. Kohl, R.N.;
- 3 2. Ordering Catherine S.D. Kohl, R.N. to pay the Board of Registered Nursing the
4 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
5 Professions Code section 125.3;
- 6 3. Taking such other and further action as deemed necessary and proper.

7 DATED: 1/2, 2007.

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9 
10 RUTH ANN TERRY, M.P.H., R.N.
11 Executive Officer
12 Board of Registered Nursing
13 Department of Consumer Affairs
14 State of California
15 Complainant
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1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN FITZGERALD, State Bar No. 112278
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101
5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2066
Facsimile: (619) 645-2061

7 Attorneys for Complainant
8

9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2007-8

13 CATHERINE S.D. KOHL, R.N.
12609 Robison Blvd., #210
14 Poway, CA 92064

A C C U S A T I O N

15 Registered Nurse License No. #482586

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about August 31, 1992, the Board of Registered Nursing issued Registered
24 Nurse License Number #482586 to Catherine S.D. Kohl, R.N. (Respondent). The registered
25 nurse license was in full force and effect at all times relevant to the charges brought herein and
26 will expire on January 31, 2008, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws of the Business and Professions Code:

A. Section 2708.1 of the Code states:

"Protection of the public shall be the highest priority for the Board of Registered Nursing in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

B. Section 2761 of the Code states in pertinent part as follows:

"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:

"....

"(d) Violating or attempting to violate, directly or indirectly, . . . any provision or term of this chapter or regulations adopted pursuant to it.

"....

"(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.

"...."

C. 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:

"....

"(b) Use any . . . alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public. . . .

"...."

1 D. Section 490 of the Code states:

2 "A board may suspend or revoke a license on the ground that the licensee has been
3 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
4 of the business or profession for which the license was issued. A conviction within the meaning
5 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
6 contendere. Any action which a board is permitted to take following the establishment of a
7 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
8 been affirmed on appeal, or when an order granting probation is made suspending the imposition
9 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
10 Penal Code."

11 E. Section 493 of the Code states:

12 "Notwithstanding any other provision of law, in a proceeding conducted by a board
13 within the department pursuant to law to deny an application for a license or to suspend or revoke
14 a license or otherwise take disciplinary action against a person who holds a license, upon the
15 ground that the applicant or the licensee has been convicted of a crime substantially related to the
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17 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
18 and the board may inquire into the circumstances surrounding the commission of the crime in
19 order to fix the degree of discipline or to determine if the conviction is substantially related to the
20 qualifications, functions, and duties of the licensee in question.

21 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
22 'registration.'"

23 F. Section 482 of the Code provides in pertinent part that the Board must develop
24 criteria for evaluation of rehabilitation where it is considering suspending or revoking a license
25 under Code section 490 and take into account all competent evidence of rehabilitation.

26 G. Section 125.3 of the Code provides, in pertinent part, that the Board may request
27 the administrative law judge to direct a licensee found to have committed a violation or

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1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 4. This Accusation also refers to the following sections of Title 16, California Code
4 of Regulation (CCR):

5 A. Section 1444 provides in pertinent part as follows:

6 "A conviction or act shall be considered to be substantially related to the qualifications,
7 functions, or duties of a registered nurse if to a substantially degree it evidences the present or
8 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
9 safety, or welfare. . . .

10 "...."

11 B. Section 1445 provides in pertinent part as follows:

12 "...."

13 "(b) When considering the suspension or revocation of a license on the grounds that a
14 registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such
15 person and his/her eligibility for a license will consider the following criteria:

16 (1) Nature and severity of the act(s) or offense(s).

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18 (3) The time that has elapsed since commission of the act(s) or offense(s).

19 (4) Whether the licensee has complied with any terms of parole, probation, restitution or
20 any other sanction lawfully imposed against the licensee.

21 (5) If applicable, evidence of expungement proceedings pursuant top Section 1203.4 of
22 the Penal Code.

23 CHARGES AND ALLEGATIONS

24 First Cause for Discipline

25 (Unprofessional Conduct: Conviction for a Substantially Related Crime -
26 6/23/03 Conviction for DUI With Prior on 3/3/03)

27 4. Respondent is subject to disciplinary action under Code sections 2761(f) and 490
28 in that she was convicted of a crime substantially related to the qualifications, functions, or duties

1 of a registered nurse. The circumstances are as follows:

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3 *People v. Catherine Siedjoen Kohl, aka Catherine Arnold, aka Catherine Sie Djoen Kohl*,
4 Respondent was convicted of driving with a blood alcohol level of 0.08% or more (Vehicle Code
5 section 23152(b)) and of having a prior conviction for a DUI.

6 B. On March 3, 2003, Respondent was found in her car on the side of the highway
7 with the engine on and her emergency lights flashing. When contacted by the California
8 Highway Patrol, her eyes were watery, her breath smelled of alcohol, her speech was slurred and,
9 when she exited her car, she could not walk steadily. During the administration of field sobriety
10 tests, she admitted, "I've had too much to drink. Just arrest me."

11 C. Respondent was sentenced to 5 years summary probation with 365 days custody
12 suspended for 5 years. Additionally, she was ordered into a 150-day residential rehabilitation
13 program, to do 25 days PSWP volunteer work (started until after her residential rehabilitation), to
14 have an ignition lock on her car for 18 months, and to pay various fines.

15 **Second Cause for Discipline**

16 **(Unprofessional Conduct: Conviction for a Substantially Related Crime -**
17 **8/2/99 Conviction for Driving w/Suspended License on 3/24/99)**

18 5. Respondent is subject to disciplinary action under Code sections 2761(f) and 490
19 in that she was convicted of a crime substantially related to the qualifications, functions, or duties
20 of a registered nurse. The circumstances are as follows:

21 A. On or about August 2, 1999, in San Diego Superior Court Case No. T198344,
22 *People v. Catherine S. Kohl*, Respondent was convicted of driving with a suspended license
23 (Vehicle Code section 14601.1(a)).

24 B. On March 24, 1999, Respondent was issued a traffic citation for both driving with
25 a suspended license and driving without DMV registration.

26 C. Respondent was sentenced to 3 years summary probation, to do 50 hours of
27 volunteer work and to pay various fines.

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1 2004. However, she was terminated from that program on or about April 4, 2006 as a threat to
2 public safety. She was non-compliant with the program by returning to work in a hospital
3 emergency room several months previous to April, 2006 without the knowledge or permission of
4 the Diversion Evaluation Committee and she tested positive for alcohol use in late December
5 2005 and in March 2006.

6 **PRAYER**

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein
8 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 9 1. Revoking or suspending Registered Nurse License Number #482586, issued to
10 Catherine S.D. Kohl, R.N.;
- 11 2. Ordering Catherine S.D. Kohl, R.N. to pay the Board of Registered Nursing the
12 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
13 Professions Code section 125.3;
- 14 3. Taking such other and further action as deemed necessary and proper.

15 DATED: July 14, 2006.

16
17 
18 RUTH ANN TERRY, M.P.H., R.N.
19 Executive Officer
20 Board of Registered Nursing
21 Department of Consumer Affairs
22 State of California
23 Complainant
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