

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition for Reinstatement
of Respiratory Care Practitioner License No.
10818 by:

THERESA MONICA FARRAR
1241 Doris Avenue
Oxnard, CA 93030

Petitioner.

**DECISION ON PETITION FOR
REINSTATEMENT OF RESPIRATORY
CARE PRACTITIONER LICENSE**

On August 6, 2007, Theresa Monica Farrar, hereinafter Petitioner, filed a Petition for Reinstatement of her revoked respiratory care practitioner license number 10818. Petitioner signed under penalty of perjury that the information contained in the petition and copies of all documents submitted within the petition were true and correct. Petitioner chose not to be represented by counsel.

The following is the Decision of the Respiratory Care Board of California, hereinafter Board, on the Petition for the Reinstatement of Respiratory Care Practitioner License No. 10818.

FACTUAL FINDINGS

1. Petitioner initially applied to the Board for a license to practice respiratory care in California in July 1986. On January 30, 1987, Petitioner was issued Respiratory Care Practitioner License No. 10818.

2. On February 5, 2003, the Board filed an Accusation against Petitioner's license alleging that on June 30, 2000, Petitioner was convicted by guilty plea of misdemeanor driving while having a .08% blood alcohol in violation of Vehicle Code section 23152(b); on July 17, 2002, Petitioner was convicted by guilty plea of felony possession of a controlled substance in violation of Health and Safety Code section 11377(a); and on November 12, 2002, Petitioner was convicted by guilty plea of felony being under the influence of a controlled substance in violation of Health and Safety Code section 11550(a).

3. Petitioner failed to file a notice of defense, and therefore, waived her right to a hearing. On April 16, 2003, the Board adopted a Default decision revoking Petitioner's respiratory care practitioner's license effective May 16, 2003. Within the decision, Petitioner was ordered to pay costs of investigation and prosecution in the amount of \$980.00 within 30 days of the effective date of the decision.

4. Petitioners failed to pay cost recovery as ordered. As a result, Petitioner's name

was submitted to the Franchise Tax Board to intercept any State tax returns and/or lottery winnings and to a collection agency. In April 2006, November 2006, and March 2007, Petitioner made payments which were applied to the outstanding cost recovery balance. As a requirement for eligibility to petition for reinstatement of her revoked license pursuant to Business and Professions Code section 3751, Petitioner paid her account balance in full on May 22, 2007.

5. Petitioner admits that the causes for discipline of her respiratory care practitioner license were conviction of crimes, which included the use and possession of a controlled substance.

6. Petitioner admits that on May 29, 2000, her blood alcohol was .15%, above the legal limit and that she was convicted on June 30, 2000 of violating Vehicle Code section 23152(b), driving while having a .08% or higher blood alcohol. Petitioner completed the court ordered drinking driver program and probation. On June 5, 2007, the court granted the motion to set aside and dismiss her conviction pursuant to Penal Code section 1203.4.

7. Petitioner admits that on April 3, 2002, she was arrested for possession of a controlled substance and possession of a smoking device. After a deferred entry of judgement for 24 months, Petitioner was convicted on July 17, 2002, by her plea of guilty, to possession of methamphetamine, a felony. On June 5, 2007, the court granted the motion to set aside and dismiss her conviction pursuant to Penal Code section 1203.4.

8. Petitioner admits that on August 31, 2002, she was arrested and subsequently convicted on November 12, 2002, of being under the influence of a controlled substance, violating Health & Safety Code section 11550(a). To satisfy her probation violation for this offense, Petitioner was mandated to complete a drug rehabilitation program. On April 7, 2004, Petitioner completed a 91-day commitment to a drug rehabilitation program.

9. In August 2002, Petitioner sought treatment at Prototypes, a drug rehabilitation program for women and children in Oxnard, California. Petitioner states Prototypes provided counseling to help her realize her drug problem during a time when she was homeless. Entering this program at her own free will exposed her to many positive components and other women who were turning their lives around. She became aware of narcotics (NA) and alcoholics anonymous (AA) and although she left the facility after three (3) weeks, she states she learned quite a bit and believes the experience contributed to her successful recovery.

10. On January 8, 2004, as a condition of court ordered probation, Petitioner entered Casa Latina Residential Recovery Program in Oxnard, California. Petitioner states she was able to get out of a negative drug influenced environment and gain education. Through this program Petitioner states she obtained many tools to help combat and stop the use of drugs, to which she states she utilizes in her life today. Petitioner achieved a certificate of completion for her 91-day commitment.

11. After leaving Casa Latina in April 2004, Petitioner resided at the Rain Project, a transitional living facility. Petitioner states the facility provided homeless persons with food, shelter and some support to find housing, it was not a rehabilitation program. In July 2004, Petitioner relapsed and had to leave the Rain Project. Homeless Services Social Worker states the Rain Project is not a licensed clinical program, but a program to address barriers to self-sufficiency. Although Petitioner was not at a point in her recovery where she was able to successfully complete the requirements necessary for her continued stay, he has periodically crossed paths with Petitioner and it is his opinion that she is doing exceptionally well and appears to have once again become a contributing member of her community.

12. From July 2004 until October 2004, Petitioner was homeless. She and her family resided in a motel until she began serving a sentence for a probation violation, the result of her relapse in July 2004. In November 2004, Petitioner transferred to a work furlough program and obtained employment. On December 31, 2004, Petitioner completed her violation sentence and sought and made arrangements to enter Babash's Angels, a sober living facility.

13. On January 1, 2005, Petitioner entered Babash's Angels sober living facility for women and children. Petitioner was not mandated to enter this program; she was homeless at this time and the program provided housing with a drug free environment and structure to women who have the desire to remain clean and sober. During Petitioner's nine (9) months stay, she worked to pay monthly rent and mandatorily attended 3 to 5 NA or AA meetings a week. In addition, she was required to attend church, which Petitioner states helped her begin the spiritual path she currently follows. Petitioner successfully completed her stay, found suitable housing and left Babash's Angels Living Facility on October 31, 2005. The Director of Babash's Angels attests Petitioner attended NA/AA meetings, worked with a sponsor, participated in Bible Study and attended church. She further attests Petitioner remained employed, paid rent timely, attended parenting classes, submitted to random drug testing and never tested positive for any type of narcotics. Babash's Angels Director states, Petitioner became strong enough in her sobriety to assist with other women by acting as a resident staff member.

14. Petitioner states she continues to attend NA & AA meetings at the Alano Club as often as she can, and worked with a sponsor up until a few years ago.

15. Petitioner completed her education as a Respiratory Therapy Technician in August 1986 at Simi Valley Adult School and Career Institute in Simi Valley, California. Petitioner was awarded an Associate degree on May 16, 2007, in General Liberal Arts and Science from Oxnard College in Oxnard, California. Petitioner was named to the Oxnard College Dean's List for the Fall 2006 and Spring 2007 semesters and was recognized for her hard work and academic accomplishments. Petitioner continues her education at Ventura County community College.

16. Petitioner provided proof of completion of eight (8) continuing education units which include the required Law & Professional Ethics Course and other respiratory care related courses during the period from January 2007 through July 2007.

17. Petitioner submitted references from licensed health care professionals. One reference was from a licensed physician/surgeon who worked with Petitioner at Santa Paula Memorial Hospital from 1995 to 2000. The physician states Petitioner directly assisted him with code blue, code arrest and provided emergency treatments to patients with respiratory distress, adjusting ventilators, and performing arterial blood gases. He states Petitioner always performed in a professional manner and provided excellent care to patients. He assessed Petitioner's knowledge, work habits, relationship with people, and attitude as exceeding the standard of practice and further states although he has not observed Petitioner's work habits for six years, she previously demonstrated that she was reliable, friendly and a proficient respiratory therapist. Another reference was from a licensed vocational nurse (LVN) who worked in the Emergency Room with Petitioner while employed at Santa Paula Memorial Hospital from 1986 to 2000. The LVN states Petitioner performed breathing treatments, ABG's, and assisted with code blue's. She found Petitioner to be kind, professional, and compassionate while working with patients.

DETERMINATION OF ISSUES

18. Pursuant to Business and Professions Code Section 3751, a person whose license has been revoked can petition for reinstatement of the license after three years from the date of revocation. Since Petitioner's license was revoked effective May 16, 2003, sufficient time has elapsed.

19. Respiratory Care Board regulation, Title 16, California Code of Regulations, Section 1399.372 provides in relevant part:

When considering the . . . petition for reinstatement, . . . the board will consider the following criteria in evaluating the rehabilitation of such person and his or her eligibility for a license:

- (a) The nature and severity of the act(s) or offense(s).
- (b) The total criminal record.
- © The time that has elapsed since the commission of the act(s) or offense(s).
- (d) Compliance with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against such person.
- (e) Evidence of any subsequent act(s) or crime(s) committed.
- (f) Any other evidence of rehabilitation submitted that is acceptable to the board including:
 - (1) Successful completion of respiratory care courses with a "C" or better, as determined by the institution'
 - (2) Active continued attendance or successful completion of rehabilitative programs such as 12-step recovery programs or psychotherapy counseling;
 - (3) Letters relating to the quality of practice signed under penalty of perjury from licensed health care providers responsible for the supervision of his/her work.
- (g) Statements, letters, attestations of good moral character, or references relating to character, reputation, personality, marital/family status, or habits shall not be considered rehabilitation unless they relate to quality of practice as listed in section (f).

20. In applying the Findings of Fact to the Criteria for Rehabilitation, the Respiratory Care Board finds that sufficient evidence of rehabilitation exists to grant the reinstatement of Petitioner's license with restrictions.

* * * * *

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Prior to Reinstatement of Petitioner's Respiratory Care Practitioner License No. 10818, Petitioner shall:

- a. Successfully take and pass the Respiratory Care Board's licensing examination within one (1) year of the effective date of this order.
- b. Pay current licensing fee of \$230.00 and costs of \$142.50 incurred by the Board to obtain and review documents or information related to Petitioner's criminal history and rehabilitation.

Upon completion of the above conditions, Petitioner's Respiratory Care Practitioner License No. 10818 shall be REINSTATED and Petitioner shall be placed on probation for a period of three (3) years subject to the following terms and conditions:

1. **BIOLOGICAL FLUID TESTING** Respondent, at his/her expense, shall participate in random testing, including but not limited to biological fluid testing (i.e. urine, blood, saliva), breathalyzer, hair follicle testing, or any drug screening program approved by the Board. Test costs range from \$21.00 to \$200.00 each. The length of time shall be for the entire probation period. The frequency and location of testing will be determined by the Board.

At all times Respondent shall fully cooperate with the Board or any of its representatives, and shall, when directed, appear for testing as requested and submit to such tests and samples for the detection of alcohol, narcotics, hypnotic, dangerous drugs or other controlled substances.

If Respondent is unable to provide a specimen in a reasonable amount of time from the request, while at the work site, Respondent understands that any Board representative may request from the supervisor, manager or director on duty to observe Respondent in a manner that does not interrupt or jeopardize patient care in any manner until such time Respondent provides a specimen acceptable to the Board.

Failure to submit to testing or appear as requested by any Board representative for testing, as directed shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

2. **ABSTENTION FROM USE OF MOOD ALTERING SUBSTANCES** Respondent shall completely abstain from the possession or use of alcohol, any and all other mood altering drugs, substances and their associated paraphernalia, except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment.

Respondent shall execute a release authorizing the release of pharmacy and prescribing records as well as physical and mental health medical records. Respondent shall also provide information of treating physicians, counselors or any other treating professional as requested by the Board.

Respondent shall ensure that he/she is not in the presence of or in the same physical location as individuals who are using illegal substances, even if Respondent is not personally ingesting the drug(s).

Any positive result that registers over the established laboratory cutoff level shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

Respondent also understands and agrees that any positive result that registers over the established laboratory cutoff level shall be reported to each of Respondent's employers.

3. **WORK SCHEDULES** Respondent shall be required to submit to the probation monitor work schedules on a weekly/monthly basis for the length of probation. Respondent shall ensure the Board has a copy of her/his current work schedule at all times for each place of employment.

Failure to submit current work schedules on a continuous basis, shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

4. **ADDITIONAL CONTINUING EDUCATION** Respondent shall be required to complete additional Continuing Education beyond that which is required for license renewal. A minimum of fifteen (15) additional hours is required for each year of probation. Respondent shall submit proof to the Board of successful completion of all continuing education requirements.

5. **RESTRICTION OF PRACTICE** Respondent may not be employed or function as a member of a respiratory care management or supervisory staff during the entire length of probation. This includes lead functions. Respondent is prohibited from working in home care unless it is under direct supervision and personal observation. Respondent is prohibited from working for a registry.

6. **OBEY ALL LAWS** Respondent shall obey all laws, whether federal, state, or local. The Respondent shall also obey all regulations governing the practice of respiratory care in California.

Respondent shall notify the Board in writing within 14 days of any incident resulting in his/her arrest, or charges filed against, or a citation issued against, Respondent.

7. **QUARTERLY REPORTS** Respondent shall file quarterly reports of compliance under penalty of perjury to the probation monitor assigned by the Board. Omission or falsification in any manner of any information on these reports shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

Quarterly report forms will be provided by the Board. Respondent is responsible for contacting the Board to obtain additional forms if needed. Quarterly reports are due for each year of probation and the entire length of probation as follows:

For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th.

For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 7th.

For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th.

For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 7th.

Failure to submit complete and timely reports shall constitute a violation of probation.

8. **SUPERVISOR QUARTERLY REPORTS** Supervisor Quarterly Reports of Performance are due for each year of probation and the entire length of probation from each employer, as follows:

For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th.

For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 7th.

For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th.

For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 7th.

Respondent is ultimately responsible for ensuring his/her employer(s) submits complete and timely reports. Failure to ensure each employer submits complete and timely reports shall constitute a violation of probation.

9. **PROBATION MONITORING PROGRAM** Respondent shall comply with requirements of the Board appointed probation monitoring program, and shall, upon reasonable request, report to or appear to a local venue as directed.

Respondent shall claim all certified mail issued by the Board, respond to all notices of reasonable requests timely, and submit Annual Reports, Identification Update reports or other reports similar in nature, as requested and directed by the Board or its representative.

Respondent is encouraged to contact the Board's Probation Program at any time he/she has a question or concern regarding his/her terms and conditions of probation.

Failure to appear for any scheduled meeting or examination, or cooperate with the requirements of the program, including timely submission of requested information, shall constitute a violation of probation and will result in the filing of an accusation and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

10. **PROBATION MONITORING COSTS** All costs incurred for probation monitoring during the entire probation shall be paid by the Respondent. The monthly cost may be adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms and conditions may also cause this amount to be increased.

All payments for costs are to be sent directly to the Respiratory Care Board and must be received by the date(s) specified. (Periods of tolling will not toll the probation monitoring costs incurred.)

If Respondent is unable to submit costs for any month, he/she shall be required, instead to submit an explanation of why he/she is unable to submit the costs, and the date(s) he/she will

be able to submit the costs including payment amount(s). Supporting documentation and evidence of why the Respondent is unable to make such payment(s) must accompany this submission.

Respondent understands that failure to submit costs timely is a violation of probation and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, Respondent understands that by providing evidence and supporting documentation of financial hardship it may delay further disciplinary action.

In addition to any other disciplinary action taken by the Board, an unrestricted license will not be issued at the end of the probationary period and the respiratory care practitioner license will not be renewed, until such time all probation monitoring costs have been paid.

The filing of bankruptcy by the Respondent shall not relieve the Respondent of his/her responsibility to reimburse the Board for costs incurred.

11. **EMPLOYMENT REQUIREMENT** Respondent shall be employed a minimum of 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of his/her probation period.

Respondent may substitute successful completion of a minimum of thirty (30) additional continuing education hours, beyond that which is required for license renewal, for each 8 months of employment required. Respondent shall submit proof to the Board of successful completion of all continuing education requirements. Respondent is responsible for paying all costs associated with fulfilling this term and condition of probation.

12. **NOTICE TO EMPLOYER** Respondent shall be required to inform his/her employer, and each subsequent employer during the probation period, of the discipline imposed by this decision by providing his/her supervisor and director and all subsequent supervisors and directors with a copy of the decision and order in this matter prior to the beginning of or returning to employment or within 14 days from each change in a supervisor or director.

If Respondent is employed by or through a registry [and is not restricted from working for a registry], Respondent shall make each hospital or establishment to which he/she is sent aware of the discipline imposed by this decision by providing his/her direct supervisor and administrator at each hospital or establishment with a copy of the decision in this matter prior to the beginning of employment. This must be done each time there is a change in supervisors or administrators.

The employer will then inform the Board, in writing, that he/she is aware of the discipline, on forms to be provided to the Respondent. Respondent is responsible for contacting the Board to obtain additional forms if needed. All reports completed by the employer must be submitted from the employer directly to the Board.

Respondent shall execute a release authorizing the Board or any of its representatives to review and obtain copies of all employment records and discuss and inquire of the probationary status with any of Respondent's supervisors or directors.

13. **CHANGES OF EMPLOYMENT OR RESIDENCE** Respondent shall notify the Board, and appointed probation monitor, in writing, of any and all changes of employment, location, and address within 14 days of such change. This includes but is not limited to applying for employment, termination or resignation from employment, change in employment status,

change in supervisors, administrators or directors.

Respondent shall also notify his/her probation monitor AND the Board IN WRITING of any changes of residence or mailing address within 14 days. P.O. Boxes are accepted for mailing purposes, however the Respondent must also provide his/her physical residence address as well.

14. **TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE** Periods of residency or practice outside California, whether the periods of residency or practice are temporary or permanent, will toll the probation period but will not toll the cost recovery requirement, nor the probation monitoring costs incurred. Travel out of California for more than 30 days must be reported to the Board in writing prior to departure. Respondent shall notify the Board, in writing, within 14 days, upon his/her return to California and prior to the commencement of any employment where representation as a respiratory care practitioner is/was provided.

15. **VALID LICENSE STATUS** Respondent shall maintain a current, active and valid license for the length of the probation period. Failure to pay all fees and meet CE requirements prior to his/her license expiration date shall constitute a violation of probation.

16. **VIOLATION OF PROBATION** If Respondent violates any term of the probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended until the matter is final. No petition for modification of penalty shall be considered while there is an accusation or petition to revoke probation or other penalty pending against Respondent.

17. **COMPLETION OF PROBATION** Upon successful completion of probation, Respondent's license shall be fully restored.

IT IS SO ORDERED.

The effective date of this decision is May 7, 2009.

DATED: May 7, 2009

Original signed by: _____
Larry L. Renner, BS, RRT, RCP, RPFT
President, Respiratory Care Board of California
Department of Consumer Affairs
State of California