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9
10 **BEFORE THE**
RESPIRATORY CARE BOARD
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 1H 2012 239

14 **Santiago Alvarez, R.C.P.**
15 **5133 Harcourt Circle**
Riverside, CA 92505

A C C U S A T I O N

16 **Respiratory Care Practitioner License No.**
17 **12108**

Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Respiratory Care Board of California, Department of Consumer
23 Affairs.

24 2. On or about September 20, 1988, the Respiratory Care Board issued Respiratory Care
25 Practitioner License No. 12108 to Santiago Alvarez, R.C.P. (Respondent). On August 15, 2013,
26 Superior Court Judge Helios J. Hernandez, of the Riverside Superior Court, suspended
27 Respondent's Respiratory Care Practitioner License No. 12108, until the next court hearing on
28 August 27, 2013. On August 27, 2013, Judge Hernandez issued a second order suspending

1 Respondent's Respiratory Care Practitioner License No. 12108, pending the resolution of the
2 criminal complaint filed in the case entitled, *The People of the State of California v. Santiago*
3 *Alvarez*, Case No. RIF1301322. On December 12, 2013, the criminal complaint in Case No.
4 RIF1301322 was resolved and Respondent was placed on probation until December 12, 2016. As
5 a term of Respondent's probation, the Court continued the suspension of Respondent's
6 Respiratory Care Practitioner License No. 12108 until December 12, 2016. Respondent's
7 Respiratory Care Practitioner License No. 12108 expired on January 31, 2014, and has not been
8 renewed.

9 JURISDICTION

10 3. This Accusation is brought before the Respiratory Care Board (Board), Department of
11 Consumer Affairs, under the authority of the following laws. All section references are to the
12 Business and Professions Code (Code) unless otherwise indicated.

13 4. Section 3710 of the Code states:

14 "The Respiratory Care Board of California, hereafter referred to as the board,
15 shall enforce and administer this chapter." [Chapter 8.3, the Respiratory Care
16 Practice Act.]

17 5. Section 3718 of the Code states:

18 "The board shall issue, deny, suspend, and revoke licenses to practice
19 respiratory care as provided in this chapter."

20 6. Section 3731 of the Code states:

21 "A person holding a license as a respiratory care practitioner issued by the
22 board shall use the title 'respiratory care practitioner' or the letters 'RCP.' The
23 license as a respiratory care practitioner shall not authorize the use of the prefix
24 'Dr.' or the word 'doctor' or any suffix or affix indicating or implying that the
25 licensed person is a doctor or a physician and surgeon.

26 "The suffix 'M.D.' shall not be used unless the licensed practitioner is
27 licensed as a physician and surgeon in this state."

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1 7. Section 3750 of the Code states, in pertinent part:

2 “The board may order the denial, suspension or revocation of, or the
3 imposition of probationary conditions upon, a license issued under this chapter, for
4 any of the following causes:

5 “...

6 “(d) Conviction of a crime that substantially relates to the qualifications,
7 functions, or duties of a respiratory care practitioner. The record of conviction or a
8 certified copy thereof shall be conclusive evidence of the conviction.

9 “...

10 “(g) Conviction of a violation of any of the provisions of this chapter or of
11 any provision of Division 2 (commencing with Section 500), or violating, or
12 attempting to violate, directly or indirectly, or assisting in or abetting the violation
13 of, or conspiring to violate any provision or term of this chapter or of any
14 provision of Division 2 (commencing with Section 500).

15 “...

16 “(j) The commission of any fraudulent, dishonest, or corrupt act which is
17 substantially related to the qualifications, functions, or duties of a respiratory care
18 practitioner.

19 “...

20 “(p) A pattern of substandard care or negligence in his or her practice as a
21 respiratory care practitioner, or in any capacity as a health care worker, consultant,
22 supervisor, manager or health facility owner, or as a party responsible for the care
23 of another.”

24 8. Section 3752 of the Code states:

25 “A plea or verdict of guilty or a conviction following a plea of nolo
26 contendere made to a charge of any offense which substantially relates to the
27 qualifications, functions, or duties of a respiratory care practitioner is deemed to be
28 a conviction within the meaning of this article. The board shall order the license

1 suspended or revoked, or may decline to issue a license, when the time for appeal
2 has elapsed, or the judgment of conviction has been affirmed on appeal or when an
3 order granting probation is made suspending the imposition of sentence,
4 irrespective of a subsequent order under Section 1203.4 of the Penal Code
5 allowing the person to withdraw his or her plea of guilty and to enter a plea of not
6 guilty, or setting aside the verdict of guilty, or dismissing the accusation,
7 information, or indictment.”

8 9. California Code of Regulations, title 16, section 1399.370, states, in pertinent part:

9 “For the purposes of denial, suspension, or revocation of a license, a crime
10 or act shall be considered to be substantially related to the qualifications, functions
11 or duties of a respiratory care practitioner, if it evidences present or potential
12 unfitness of a licensee to perform the functions authorized by his or her license or
13 in a manner inconsistent with the public health, safety, or welfare. Such crimes or
14 acts shall include but not be limited to those involving the following:

15 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
16 abetting the violation of or conspiring to violate any provision or term of the Act.

17 “(b) Commission of an act or conviction of a crime involving fraud, fiscal
18 dishonesty, theft or larceny.

19 “...”

20 10. Section 118 of the Code states, in pertinent part:

21 “...”

22 “(b) The suspension, expiration, or forfeiture by operation of law of a license
23 issued by a board in the department, or its suspension, forfeiture, or cancellation
24 by order of the board or by order of a court of law, or its surrender without the
25 written consent of the board, shall not, during any period in which it may be
26 renewed, restored, reissued, or reinstated, deprive the board of its authority to
27 institute or continue a disciplinary proceeding against the licensee upon any
28

1 ground provided by law or to enter an order suspending or revoking the license or
2 otherwise taking disciplinary action against the licensee on any such ground.

3 “...”

4 **COST RECOVERY**

5 11. Section 3753.5, subdivision (a) of the Code states:

6 “In any order issued in resolution of a disciplinary proceeding before the
7 board, the board or the administrative law judge may direct any practitioner or
8 applicant found to have committed a violation or violations of law or any term and
9 condition of board probation to pay to the board a sum not to exceed the costs of
10 the investigation and prosecution of the case.”

11 12. Section 3753.7 of the Code states:

12 “For purposes of this chapter, costs of prosecution shall include attorney
13 general or other prosecuting attorney fees, expert witness fees, and other
14 administrative, filing, and service fees.”

15 13. Section 3753.1 of the Code states, in pertinent part:

16 “(a) An administrative disciplinary decision imposing terms of probation may
17 include, among other things, a requirement that the licensee-probationer pay the
18 monetary costs associated with monitoring the probation.

19 “...”

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Conviction of a Crime Substantially Related to the**
22 **Qualifications, Functions or Duties of a Respiratory Care Practitioner)**

23 14. Respondent has subjected his Respiratory Care Practitioner License No. 12108 to
24 disciplinary action under section 3750, as defined by sections 3750, subdivision (d), 3731, and
25 3752 of the Code, and section 1399.370, subdivision (b), title 16 of the California Code of
26 Regulations, in that he was convicted of a crime substantially related to the qualifications,
27 functions or duties of a respiratory care practitioner, which also involved fraud and/or fiscal
28 dishonesty, as more particularly alleged hereinafter:

1 15. In or about 2009, Respondent owned a business called LogiHealth, in Moreno Valley,
2 California, where he worked and referred to himself as “Dr. Alvarez.” On or about November 17,
3 2010, Medical Board Investigator T.M. arrived at LogiHealth, in Moreno Valley, posing as a
4 potential customer, wishing to purchase a spa package for his wife. A receptionist provided
5 Investigator T.M. with an advertisement of Botox at nine dollars per unit, and a business card,
6 showing Respondent’s name as follows: “Dr. Santiago Alvarez, N.M.D., Board Certified in Anti-
7 Aging Medicine.” In or about November 17, 2010, the only health care license that Respondent
8 held was Respiratory Care Practitioner License No. 12108.

9 16. In or about February of 2011, Respondent moved his business to a new location in
10 Moreno Valley, and called his business Rejuvenix Medical, LLC. On or about April 27, 2012,
11 Medical Board Investigator C.M. received a medical consultation for Botox from Respondent.
12 Investigator C.M. filled out a patient information form and was told to wait for “the doctor.”
13 Thereafter, Investigator C.M. was seen by Respondent, who wore surgical scrubs with “Dr. S.
14 Alvarez, DHM” embroidered on it and who introduced himself as Dr. Alvarez. Respondent
15 conducted a Botox consultation and quoted a cost of three hundred forty dollars for one treatment.
16 Respondent stated that he had performed Botox treatments since 2006, and offered to perform
17 laser treatment on Investigator C.M.

18 17. In or about May of 2012, Dr. R.A. employed Respondent as a Respiratory Care
19 Practitioner in his medical office. During his employment with Dr. R.A., Respondent took pages
20 from Dr. R.A.’s prescription pad and forged Dr. R.A.’s signature on prescriptions to obtain
21 medications for his own use at Rejuvenix Medical, LLC. ¹

22 18. On or about May 23, 2012, Respondent was arrested for violating 2052, subdivision
23 (a), of the Code.²

24 ¹ On or about May 23, 2012, Respondent stated he had been performing Botox injections
25 on patients for about a year. He ordered the medicine through on-line pharmacies. Respondent
26 treated approximately 115 patients, providing Botox injections, prescription Juviderm, laser hair
27 removal, laser mole and skin tag removal, laser facials, prescription hormone treatments and
weight loss treatments. For these medical services, Respondent collected approximately
\$48,700.00.

28 ² Section 2052, subdivision (a), provides, in pertinent part, that a person who practices
(continued...)

1 medication or medications, as more particularly alleged in paragraphs 15 through 22, above,
2 which are hereby incorporated by reference and realleged as if fully set forth herein.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Unauthorized Use of the Prefix “Dr.” or the Word Doctor, or any Suffix**
5 **Indicating the Licensee is a Doctor)**

6 23. Respondent has further subjected his Respiratory Care Practitioner License No.
7 12108 to disciplinary action under section 3750, as defined by sections 3750, subdivision (g), and
8 3731, the Code of in that he used the prefix “Dr.” and otherwise held himself out to be a doctor,
9 as more particularly alleged in paragraphs 15 through 23, above, which are hereby incorporated
10 by reference and realleged as if fully set forth herein.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Violation of a Provision or Provisions of the Act)**

13 24. Respondent has further subjected his Respiratory Care Practitioner License No.
14 12108 to disciplinary action under section 3750, as defined by section 3750, subdivision (g), of
15 the Code, in that he has violated a provision or provisions of the Respiratory Care Practice Act, as
16 more particularly alleged in paragraphs 15 through 24, above, which are hereby incorporated by
17 reference and realleged as if fully set forth herein.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking or suspending Respiratory Care Practitioner License No. 12108, issued to Respondent Santiago Alvarez, R.C.P.;

2. Ordering Respondent Santiago Alvarez, R.C.P. to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: April 4, 2014

Original signed by Liane Freels for:

STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant