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6
7 **BEFORE THE**
RESPIRATORY CARE BOARD
8 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

9 In the Matter of the Accusation Against:

Case No. 1H 2008 598

10 RON CLARIN, RCP

A C C U S A T I O N

11 1645 Amberwood Drive, #2
South Pasadena, California 91030

12 Respiratory Care Practitioner No. 13215,

13 Respondent.
14

15 Complainant alleges:

16 **PARTIES**

17 1. Stephanie Nunez (Complainant) brings this Accusation solely in her
18 official capacity as the Executive Officer of the Respiratory Care Board of California (Board).

19 2. On or about December 29, 1989, the Board issued Respiratory Care
20 Practitioner Number 13215 to Ron Clarin, RCP (Respondent). That license has been in full force
21 and effect at all times relevant to the charges brought herein and will expire on October 31,
22 2009, unless renewed.

23 **JURISDICTION**

24 3. This Accusation is brought before the Board under the authority of the
25 following laws. All section references are to the Business and Professions Code unless
26 otherwise indicated.

27 4. Section 3710 of the Code states: "The Respiratory Care Board of
28 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter

1 8.3, the Respiratory Care Practice Act].”

2 5. Section 3718 of the Code states: “The board shall issue, deny, suspend,
3 and revoke licenses to practice respiratory care as provided in this chapter.”

4 6. Section 3750.5 of the Code states, in pertinent part:

5 "In addition to any other grounds specified in this chapter, the
6 board may deny, suspend, or revoke the license of any applicant or license holder
7 who has done any of the following:

8 "

9 "(b) Used any controlled substance as defined in Division 10
10 (commencing with Section 11000) of the Health and Safety Code, or any
11 dangerous drug as defined in Article 2 (commencing with section 4015) of
12 Chapter 9 of this code.”

13”

14 7. California Code of Regulations, title 16, section 1399.370, states, in
15 pertinent part:

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

23 “(a) Violating or attempting to violate, directly or indirectly, or
24 assisting or abetting the violation of or conspiring to violate any provision
25 or term of the Act.”

26”

27 8. Health and Safety Code section 11007 states, “Controlled Substances,
28 unless otherwise specified, means a drug, substance, or immediate precursor which is listed in

1 any schedule in Section 11054, 11055, 11056, 11057 or 11058.”

2 9. Health and Safety Code section 11054 states, in pertinent part:

3 (a) “The controlled substances listed in this section are included
4 in Schedule I.”

5

6 (f) . . . (1) Cocaine base.

7”

8 10. Health and Safety Code section 11055 states, in pertinent part:

9 (a) “The controlled substances listed in this section are included
10 in Schedule II.”

11 (b) . . . (6) Cocaine

12 “

13 **COST RECOVERY**

14 11. Section 3753.5, subdivision (a) of the Business and Professions Code
15 states:

16 "In any order issued in resolution of a disciplinary proceeding
17 before the board, the board or the administrative law judge may direct any
18 practitioner or applicant found to have committed a violation or violations of law
19 to pay to the board a sum not to exceed the costs of the investigation and
20 prosecution of the case. A certified copy of the actual costs, or a good faith
21 estimate of costs where actual costs are not available, signed by the official
22 custodian of the record or his or her designated representative shall be prima facie
23 evidence of the actual costs of the investigation and prosecution of the case."

24 12. Section 3753.7 of the Business and Professions Code states:

25 "For purposes of the Respiratory Care Practice Act, costs of prosecution
26 shall include attorney general or other prosecuting attorney fees, expert witness
27 fees, and other administrative, filing, and service fees."

28 13. Section 3753.1 of the Business and Professions Code states:

1 "An administrative disciplinary decision imposing terms of probation may
2 include, among other things, a requirement that the licensee-probationer pay the
3 monetary costs associated with monitoring the probation and further provides that
4 the board shall not renew or reinstate a license whose holder has failed to pay all
5 of the costs order under this section once a licensee has served his or her term of
6 probation."

7 **CAUSE FOR DISCIPLINE**

8 (Use of a Controlled Substance)

9 11. Respondent is subject to disciplinary action under section 3750.5(b) in
10 that Respondent did use a controlled substance, to wit, cocaine. The facts and circumstances
11 are as follows:

12 A. On or about September 15, 2008, Respondent submitted a urine sample as
13 part of his pre-employment physical examination at Little Company of Mary Medical
14 Center. Respondent's urine specimen was collected and forwarded to the Pathology
15 Associates Medical Laboratories for analysis.

16 B. On or about September 16, 2008, Respondent's urine sample was
17 analyzed at the Pathology Associates Medical Laboratories. After a review of the
18 confirmatory analysis data collected from Respondent's urine specimen, it was
19 concluded that the specimen contained cocaine metabolite, benzoylecgonine, at a
20 concentration at or above the confirmatory cutoff of 150ng/ml.

21 **PRAYER**

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

24 1. Revoking or suspending Respiratory Care Practitioner Number 13215,
25 issued to Ron Clarin, RCP.

26 2. Ordering him to pay the Respiratory Care Board the costs of the
27 investigation and enforcement of this case, and if placed on probation, the costs of probation
28 monitoring;

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

DATED: March 20, 2009

Original signed by Colleen Whitestine for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant

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