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

10 In the Matter of the Accusation Against:

Case No. 1H 2012 197

11 **CHERI ANN BOSWORTH**
12 **1437 Kruger Drive, Apt C**
13 **Modesto, CA 95355**

A C C U S A T I O N

14 **Respiratory Care Practitioner License No.**
15 **13662**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about September 20, 1990, the Respiratory Care Board issued Respiratory Care
24 Practitioner License Number 13662 to Cheri Ann Bosworth (Respondent). The Respiratory Care
25 Practitioner License was in full force and effect at all times relevant to the charges brought herein
26 and will expire on January 31, 2014, unless renewed.

JURISDICTION

1
2 3. This Accusation is brought before the Respiratory Care Board (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

5 4. Section 3710 of the Code states: "The Respiratory Care Board of California, hereafter
6 referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory
7 Care Practice Act]."

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

10 6. Section 3750 of the Code states:
11 "The board may order the denial, suspension or revocation of, or the imposition of
12 probationary conditions upon, a license issued under this chapter, for any of the following causes:

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

18 "(k) Falsifying, or making grossly incorrect, grossly inconsistent, or
19 unintelligible entries in any patient, hospital, or other record.

20 7. Section 3750.5 of the Code states:
21 "In addition to any other grounds specified in this chapter, the board may deny, suspend,
22 place on probation, or revoke the license of any applicant or licenseholder who has done any of
23 the following:

24 "(b) Used any controlled substance as defined in Division 10 (commencing with Section
25 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2
26 (commencing with Section 4015) of Chapter 9 of this code, or alcoholic beverages, to an extent or
27 in a manner dangerous or injurious to himself or herself, or to others, or that impaired his or her
28 ability to conduct with safety the practice authorized by his or her license.

1 11. Section 3753.7 of the Code states:

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

5 12. Section 3753.1 of the Code states:

6 "(a) An administrative disciplinary decision imposing terms of probation may include,
7 among other things, a requirement that the licensee probationer pay the monetary costs associated
8 with monitoring the probation. "

9 FACTS

10 13. On or about February 17, 2012, Respondent was scheduled to work from 6:30 p.m.
11 until 7:00 a.m. at Doctors Medical Center (DMC) in Modesto, California. She clocked in to work
12 at 6:30 p.m. and was removed from her shift due to reports that she appeared to be under the
13 influence of alcohol and/or drugs. The circumstances are as follows:

14 14. Respondent's co-workers observed that she staggered as she walked, she was very
15 unsteady on her feet and swayed. Her speech was slow, slurred, and incoherent at times. A
16 Nursing House Supervisor and a Respiratory Care Manager assessed Respondent, and they
17 observed that her eyes were glassy, her eyelids were drooping, she appeared forgetful, her thought
18 process was slow, and she had difficulty completing forms. Respondent admitted that she drank
19 alcohol earlier that day before coming in to work. In their opinion, Respondent was not safe to
20 perform respiratory care treatment. She was removed from her shift at approximately 10:30 p.m.,
21 and was sent home.

22 15. On February 17, 2012, at approximately 11:00 p.m., T.S., Respondent's direct
23 supervisor, reported to work to cover Respondent's patient load. He reviewed Respondent's chart
24 notes for the evening, and noticed the following:

25 A. For Patient A., at 8:00 p.m., Respondent charted oxygen saturation rates in the nursing
26 Intake & Outflow page, which was the incorrect area for respiratory charting. T.S. noted that
27 Respondent had charted oxygen saturation rates of 88 at 8:00 p.m. and 71 at 9:00 p.m. which
28 seemed abnormally low, and when he assessed the patient, he observed rates of 95.8 and 104.4,

1 respectively. Also, T.S. noted that Respondent signed the patient assessment document but did
2 not enter any assessment information on the chart.

3 B. DMC policies and procedures required respiratory therapists to chart oxygen and
4 ventilator rates hourly. For Patient B., Respondent did not chart any patient information between
5 8:00 p.m. and 10:13 p.m. Respondent signed the patient assessment document but she did not
6 enter any assessment information on Patient B's chart.

7 C. For Patient C., an ABG test had been ordered but Respondent did not chart that she
8 had performed the ABG test. T.S. found a quality control slip for an ABG at the patient's bedside
9 regarding the ABG sample, and an ABG syringe on top of a sharps disposal container with no
10 identifying patient information. Respondent signed the patient assessment document but she did
11 not enter any assessment information on the chart.

12 FIRST CAUSE FOR DISCIPLINE

13 (Used alcohol in a manner dangerous to self or others)

14 16. Paragraphs 13 through 15 are incorporated herein.

15 17. Respondent is subject to disciplinary action under code sections 3750.5(b) in that on
16 February 17, 2012, she used alcohol in a manner dangerous to herself or others, or that impaired
17 her ability to conduct with safety her duties as a respiratory therapist.

18 SECOND CAUSE FOR DISCIPLINE

19 (Worked under the influence of alcohol)

20 18. Paragraphs 13 through 15 are incorporated herein.

21 19. Respondent is subject to disciplinary action under code section 3750.5(c) in that on
22 February 17, 2012, she was under the influence of alcohol during her shift as a respiratory
23 therapist.

24 THIRD CAUSE FOR DISCIPLINE

25 (Grossly Incorrect Chart Entries)

26 20. Paragraphs 13 through 15 are incorporated herein.

