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

10
11 In the Matter of the Accusation Against:

Case No. 1H 2010 675

12 **WILEY L. ANGLIN**
191 Calle Magdalena Unit 290
13 **Encinitas, CA 92024**

AMENDED ACCUSATION

14 **Respiratory Care Practitioner**
15 **License No. 15044**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about March 10, 1992, the Respiratory Care Board issued Respiratory Care
23 Practitioner License Number 15044 to Wiley L. Anglin (Respondent). The Respiratory Care
24 Practitioner License was in full force and effect at all times relevant to the charges brought herein
25 and will expire on December 31, 2011, unless renewed.¹

26 _____
27 ¹ Respiratory Care Practitioner License Number 15044 is currently inactive with an
28 expiration date of December 31, 2011.

1 **JURISDICTION**

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 (Code) unless otherwise indicated.

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

11 "The board may order the denial, suspension or revocation of, or the
12 imposition of probationary conditions upon, a license issued under this chapter, for
13 any of the following causes:

14 "...

15 "(d) Conviction of a crime that substantially relates to the qualifications,
16 functions, or duties of a respiratory care practitioner. The record of conviction or a
17 certified copy thereof shall be conclusive evidence of the conviction.

18 "...

19 "(g) Conviction of a violation of any of the provisions of this chapter or of
20 any provision of Division 2 (commencing with Section 500), or violating, or
21 attempting to violate, directly or indirectly, or assisting in or abetting the violation
22 of, or conspiring to violate any provision or term of this chapter or of any
23 provision of Division 2(commencing with Section 500)."

24 "...

25 7. Section 3752 of the Code states:

26 "A plea or verdict of guilty or a conviction following a plea of *nolo*
27 *contendere* made to a charge of any offense which substantially relates to the
28 qualifications, functions, or duties of a respiratory care practitioner is deemed to be

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

9 8. Section 3752.6 of the Code states:

10 “For purposes of Division 1.5 (commencing with Section 475), and this
11 chapter, a crime involving sexual misconduct or attempted sexual misconduct,
12 whether or not with a patient, shall be considered a crime substantially related to
13 the qualifications, functions, or duties of a respiratory care practitioner.”

14 9. Section 3752.7 of the Code states (emphasis added):

15 “Notwithstanding Section 3750, any proposed decision or decision issued
16 under this chapter in accordance with the procedures set forth in Chapter 5
17 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
18 Government Code, that contains any finding of fact that the licensee or registrant
19 engaged in any act of sexual contact, as defined in Section 729, with a patient, or
20 has committed an act or been convicted of a sex offense as defined in Section
21 44010 of the Education Code,² shall contain an order of revocation. The
22 revocation shall not be stayed by the administrative law judge. For purposes of
23 this section, the patient shall no longer be considered a patient of the respiratory
24 care practitioner when the order for respiratory procedures is terminated,
25 discontinued, or not renewed by the prescribing physician and surgeon.”

26
27 ² Section 44010 of the Education Code defines a “sex offense” as any one or more of the
28 offenses listed below: “(e) Any offense involving lewd and lascivious conduct under Section 272
of the Penal Code committed on or after September 15, 1961.”-*

1 10. California Code of Regulations, title 16, section 1399.370, states, in pertinent part:

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

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

10 “. . .

11 “(e) Conviction of a crime involving lewd conduct, prostitution or
12 solicitation thereof, or pandering an/or indecent exposure, as defined by the Penal
13 Code.”

14 “. . .”

15 **COST RECOVERY**

16 11. Section 3753.1 of the Code states, in pertinent part:

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

20 12. Section 3753.5, subdivision (a) of the Code states:

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

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28 ///

1 13. Section 3753.7 of the Code states:

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

5 **FIRST CAUSE FOR DISCIPLINE**

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

8 14. Respondent has subjected his Respiratory Care Practitioner License No. 15044 to
9 disciplinary action under section 3750, as defined by section 3750, subdivision (d), section
10 3752.6, and section 1399.370, title 16 of the California Code of Regulations, subdivision (e), in
11 that he was convicted of a crime substantially related to the qualifications, functions or duties of a
12 respiratory care practitioner, as more particularly alleged hereinafter:

13 15. On or about January 27, 2010, Respondent willfully touched an intimate part of a
14 minor female child, under the age of 14, Jane Doe #1. On or about April of 2009, Respondent
15 willfully touched an intimate part of a minor female child, under the age of 14, Jane Doe #2.

16 16. On or about January 29, 2010, in the case entitled *The People of the State of*
17 *California vs. Wiley Lafayette Anglin*, Kern County Superior Court Case No. TM076975A,
18 Respondent was charged with:

19 (a) Count 1, a violation of Penal Code section 243.4(E)(1), a misdemeanor, against
20 Jane Doe #1, (sexual battery, touch for sexual arousal),

21 (b) Count 2, a violation of Penal Code section 647.6, a misdemeanor, against Jane
22 Doe #1, (annoying or molesting a child under the age of 18 years),

23 (c) Count 3, a violation of Penal Code section 243.4(E)(1) , a misdemeanor, against
24 Jane Doe #2, (sexual battery, touch for sexual arousal), and

25 (d) Count 4, violation of Penal Code section 647.6, a misdemeanor, against Jane Doe
26 #2, (annoying or molesting a child under the age of 18 years).

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

DATED: June 9, 2011

Original Signed by Liane Freels for:

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

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