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

12 In the Matter of the Accusation Against:

Case No. 7002016000352

13 **AKBAR SAID AFRIDI, RCP**
14 **19444 Calvert Street**
15 **Tarzana, CA 91335**
16 **Respiratory Care Practitioner License No.**
17 **RCP 17441,**

A C C U S A T I O N

Respondent.

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 23, 1994, the Respiratory Care Board issued Respiratory Care
24 Practitioner License Number RCP17441 to AKBAR SAID AFRIDI, RCP (Respondent). The
25 Respiratory Care Practitioner License was in full force and effect at all times relevant to the
26 charges brought herein and will expire on January 31, 2018, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Respiratory Care Board (Board), Department of
Consumer Affairs, under the authority of the following laws. All section references are to the

1 Business and Professions Code unless otherwise indicated.

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

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

7 6. Section 3750 of the Code states:

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

10 “... ”

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

14 “... ”

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

20 “... ”

21 7. Section 3750.5 of the Code states:

22 “In addition to any other grounds specified in this chapter, the board may deny, suspend,
23 place on probation, or revoke the license of any applicant or licenseholder who has done any of
24 the following:

25 “... ”

26 “(b) Used any controlled substance as defined in Division 10 (commencing with Section
27 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2
28 (commencing with Section 4015) of Chapter 9 of this code, or alcoholic beverages, to an extent or

1 in a manner dangerous or injurious to himself or herself, or to others, or that impaired his or her
2 ability to conduct with safety the practice authorized by his or her license.

3 “... ”

4 “(d) Been convicted of a criminal offense involving the consumption or self-administration
5 of any of the substances described in subdivisions (a) and (b), or the possession of, or falsification
6 of a record pertaining to, the substances described in subdivision (a), in which event the record of
7 the conviction is conclusive evidence thereof.

8 “... ”

9 8. Section 3752 of the Code states:

10 “A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
11 charge of any offense which substantially relates to the qualifications, functions, or duties of a
12 respiratory care practitioner is deemed to be a conviction within the meaning of this article. The
13 board shall order the license suspended or revoked, or may decline to issue a license, when the
14 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when
15 an order granting probation is made suspending the imposition of sentence, irrespective of a
16 subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or
17 her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
18 dismissing the accusation, information, or indictment.”

19 9. California Code of Regulations, title 16, section 1399.370, states:

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

25 “(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting the
26 violation of or conspiring to violate any provision or term of the Business and Professions Code.

27 “... ”

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1 “(c) Commission of an act or conviction of a crime involving driving under the influence or
2 reckless driving while under the influence.”

3 **FIRST CAUSE FOR DISCIPLINE**

4 (Conviction of Crimes Substantially Related

5 to the Qualifications of a Respiratory Care Practitioner)

6 10. Respondent’s license is subject to disciplinary action under sections 3750, subdivision
7 (d), 3750.5, subdivision (d), and 3752 of the Code, and California Code of Regulations, title 16,
8 section 1399.370, subdivision (c) in that:

9 September 1, 2015 Conviction

10 a. On or about September 1, 2015, in a criminal proceeding entitled *The People of*
11 *the State of California vs. Said Afridi* in the Superior Court of California, County of Los Angeles,
12 Case Number 5VY02087, Respondent was convicted by a plea of no contest to one count of
13 violating California Vehicle Code section 23152(b), driving with a blood alcohol level of .08 or
14 greater, a misdemeanor. The circumstances are as follows:

15 i. On or about May 16, 2015, Los Angeles Police Officers R. and C. were
16 assigned to the Van Nuys area patrol. The officers were driving south on Sepulveda Boulevard
17 and observed a white Acura making a right turn onto Sepulveda Boulevard. The driver of the
18 Acura completed the turn in an “extremely wide” manner, crossed into the second southbound
19 lane, and almost struck the officer’s patrol vehicle, in violation of California Vehicle Code section
20 21804. The Acura proceeded to travel south and straddled traffic lanes, in violation of California
21 Vehicle Code section 21658. The Acura then stopped abruptly and made a right turn.

22 ii. The officers then conducted a traffic stop based on the observed traffic
23 violations. The officers made contact with the driver of the Acura, who was identified as
24 Respondent. The officer observed that Respondent’s eyes were bloodshot and watery and his
25 speech was slurred. Based upon their training and experience, the officers recognized each
26 observation to be a sign and/or symptom of alcohol intoxication. However, Respondent denied
27 that he consumed any alcohol prior to driving. The officers decided to conduct a DUI
28 investigation.

1 iii. Officer C. asked Respondent to exit his vehicle to conduct field sobriety
2 tests (FST). Based upon Respondent's performance on the FSTs, Officer C. determined that
3 Respondent drove while under the influence of alcohol. Officer C. asked Respondent to submit to
4 a Preliminary Alcohol Screening Test (PAS) via a breath sample. Initially Respondent agreed to
5 provide the sample, but ultimately failed to follow the officer's instructions and intentionally
6 failed to provide a sample.

7 iv. Respondent was then arrested for driving under the influence, in violation
8 of California Vehicle Code section 23152(A). The officers transported Respondent to the Van
9 Nuys Police Station for booking. While at the station, Respondent provided two breath samples.
10 Both samples yielded a Blood Alcohol Concentration (BAC) of .13% at 4:05 a.m. and 4:07 a.m.

11 v. On or about May 20, 2015, a criminal complaint was filed against
12 Respondent that alleged violations of California Vehicle Code sections 23152(a), driving under
13 the influence of alcohol or a drug, and 23152(b), driving with a blood alcohol level of .08 or
14 greater. On or about June 10, 2015, Respondent was arraigned and entered pleas of not guilty as
15 to both counts. On or about September 1, 2015, Respondent entered a plea of no contest as to
16 count two, a violation of California Vehicle Code section 23152(b). The remaining count was
17 dismissed. Respondent was sentenced to three years of informal probation with relevant terms
18 and conditions (including a prohibition against driving a motor vehicle with any detectible
19 amount of alcohol in his blood and an affirmative obligation to submit to testing when requested
20 by a peace officer), ordered to pay various fines and fees, and to complete a first offender alcohol
21 program.

22 March 28, 2016 Conviction

23 b. On or about March 28, 2016, in a criminal proceeding entitled *The People of*
24 *the State of California vs. Said Akbar Afridi* in the Superior Court of California, County of Los
25 Angeles, Case Number 5VY04750, Respondent was convicted by a plea of no contest to one
26 count of violating California Vehicle Code section 23152(b), driving with a blood alcohol level of
27 .08 or greater, a misdemeanor. Additionally, Respondent admitted he was previously convicted of
28 driving under the influence on September 1, 2015. The circumstances are as follows:

1 i. On or about December 7, 2015, Officers D. and C. were assigned to the
2 Van Nuys Division patrol. The officers were driving southbound on Sepulveda Boulevard when
3 they were nearly struck by a black Toyota Prius. The officers observed that the vehicle straddled
4 traffic lanes, in violation of California Vehicle Code section 21658(a). The officers continued to
5 observe the vehicle and paced it at approximately 42 miles per hour, which exceeded the speed
6 limit in violation of California Vehicle Code section 22350. The officers further observed the
7 vehicle swerve within its lane.

8 ii. The officers then conducted a traffic stop based on the observed traffic
9 violations. The officers made contact with the driver of the Prius, who was identified as
10 Respondent. The officers observed that Respondent's eyes were bloodshot and watery, his speech
11 was slurred, his face was flushed, and a strong odor of alcohol emanated from his person.
12 Respondent denied that he consumed any alcohol prior to driving. Additionally, Respondent
13 stated that he had been arrested for DUI previously and that he was driving home. Based upon
14 their training and experience, the officers recognized each observation to be a sign and/or
15 symptom of alcohol intoxication. Therefore, the officers conducted a DUI investigation.

16 iii. Officer C. asked Respondent to exit his vehicle to conduct FSTs. Based
17 upon Respondent's performance on the FSTs, Officer C. determined that Respondent was driving
18 under the influence of alcohol. Officer C. requested that Respondent submit to a PAS test via a
19 breath sample. Respondent refused to comply with the officer's request.

20 iv. Respondent was then arrested for driving under the influence, in violation
21 of California Vehicle Code section 23152(A). The officers transported Respondent to the Van
22 Nuys Police Station for booking. While at the station, Respondent elected to provide a blood
23 sample. Registered Nurse J.D. obtained the blood sample from Respondent. The blood sample
24 yielded a BAC of .13%.

25 v. On or about December 18, 2015, a criminal complaint was filed against
26 Respondent that alleged violations of California Vehicle Code sections 23152(a), driving under
27 the influence of alcohol or a drug, and 23152(b), driving with a blood alcohol level of .08 or
28 greater. Additionally, both counts contained a sentencing enhancement based upon a prior

1 conviction. On or about January 12, 2016, Respondent was arraigned and entered pleas of not
2 guilty as to both counts and denials as to the sentencing enhancements. On or about March 28,
3 2016, Respondent entered a plea of no contest as to count two, a violation of California Vehicle
4 Code section 23152(b). Further, Respondent admitted he was previously convicted of driving
5 under the influence on September 1, 2015. The remaining count and enhancement were
6 dismissed. Respondent was sentenced to serve four years of informal probation with relevant
7 terms and conditions, ordered to serve 96 hours in the Los Angeles County Jail, ordered to
8 complete 15 days of community work service, ordered to pay various fines and fees, and to
9 complete an 18-month second offender alcohol program.

10 **SECOND CAUSE FOR DISCIPLINE**

11 (Use of Alcoholic Beverages in a Dangerous Manner)

12 11. Respondent's license is further subject to disciplinary action under section 3750.5,
13 subdivision (b), in that he used alcohol, to an extent, or in a manner dangerous or injurious to
14 himself or others, as more particularly alleged in paragraph 10, above, which is hereby
15 incorporated by reference and realleged as if fully set forth herein.

16 **DISCIPLINE CONSIDERATIONS**

17 12. On or about February 26, 2001, the Board issued a warning letter to Respondent
18 regarding a June 28, 2000 conviction for violating California Penal Code section 602(j)
19 (trespassing). The warning letter noted that the conviction arose from an arrest for a violation of
20 California Penal Code section 647(b) (disorderly conduct/prostitution).

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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 Number RCP 17441, issued to Akbar Said Afridi, RCP.

2. Ordering Akbar Said Afridi, RCP 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: June 30, 2016

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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