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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 2010 783

11 **VALENCIA BENITA BENJAMIN**

12 **33937 Ninth Street**
13 **Union City, CA 94587**

A C C U S A T I O N

14 **Respiratory Care Practitioner License No.**
15 **19721**

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 22, 1997, the Respiratory Care Board issued Respiratory Care
24 Practitioner License Number 19721 to Valencia Benita Benjamin (Respondent). The Respiratory
25 Care Practitioner License was in full force and effect at all times relevant to the charges brought
26 herein and will expire on July 31, 2013, unless renewed.

1 the official custodian of the record or his or her designated representative shall be prima facie
2 evidence of the actual costs of the investigation and prosecution of the case."

3 9. Section 3753.7 of the Code states:

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

7 10. Section 3753.1 of the Code states:

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

11 FACTS

12 11. Respondent is subject to disciplinary action under code section 3750(f) [negligence]
13 in that the respiratory care and treatment she provided to two patients was below the standard of
14 care. The circumstances are as follows:

15 PATIENT A

16 12. On or about September 27, 2010, Respondent was working on a twelve hour night
17 shift as a respiratory therapist at Eden Medical Center (EMC.) She was assigned to provide
18 respiratory care and treatment to Patient A, an 85 year old woman who had been in a motor
19 vehicle accident on September 17, 2010. Due to a lung contusion and her worsening pulmonary
20 status, Patient A was intubated and placed on a mechanical ventilator.

21 13. On September 23, 2010 at 1:50 p.m., physician's orders were written for "PS /CPAP
22 Rest on A/C after 8 PM" meaning that the patient would be placed on CPAP with pressure
23 support during the day, and in the evening the patient would be placed back on a respiratory rate
24 (A/C or assist control) for the evening to rest.

25 14. On September 27, 2010, Respondent did not follow the physician's orders. On the
26 ventilator flow sheets, she charted that the patient was on CPAP at 9:25 pm and 11:35 p.m. She
27 did not make a chart entry regarding the reason she failed to follow the physician's orders and
28 continued the patient on CPAP after 8:00 pm.

1 PATIENT B

2 15. On September 24, 2009, Patient B, a 54 year old woman with pulmonary disease and
3 several other medical conditions, was admitted through the Emergency Department (ED) at EMC.
4 She presented to ED with abdominal pain and low oxygen saturations. She had oxygen at home
5 and used BiPAP, a non-invasive form of ventilation. Blood gas test results showed that Patient B
6 had a high carbon dioxide level. On September 24, 2009 at 6:50 p.m., physician's orders were:
7 "goal oxygen saturation greater than 92%."

8 16. On September 24, 2009, Respondent was assigned to provide respiratory care and
9 treatment to Patient B. At 11:55 p.m., Respondent placed Patient B on 70% oxygen. On
10 September 25, 2009, at 2:20 a.m. and 3:30 a.m., Respondent charted that she continued Patient B
11 on 70% oxygen. Respondent's act of placing the patient on 70% oxygen was inappropriate for
12 Patient B, given the patient's documented carbon dioxide retention. When questioned about the
13 oxygen level, Respondent claimed that she was acting in accordance with physician's orders;
14 however, no such order existed.

15 FIRST CAUSE FOR DISCIPLINE

16 (Negligence)

17 17. Paragraphs 12 through 16 are incorporated herein.

18 18. Respondent's license is subject to discipline because on September 25, 2009 and
19 September 27, 2010, she failed to follow physician's orders for Patients A and B which is below
20 the standard of care and constitutes negligence in violation of code section 3750(f).

21 SECOND CAUSE FOR DISCIPLINE

22 (Unprofessional conduct)

23 19. Paragraphs 12 through 16 are incorporated herein.

24 20. Respondent's failure to follow physician's orders on September 25, 2009 and
25 September 27, 2010 for Patients A and B constitutes unprofessional conduct in violation of code
26 section 3755.

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1 PRAYER

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

4 1. Revoking or suspending Respiratory Care Practitioner License Number 19721, issued
5 to Valencia Benita Benjamin;

6 2. Ordering Valencia Benita Benjamin to pay the Respiratory Care Board the costs of
7 the investigation and enforcement of this case, and if placed on probation, the costs of probation
8 monitoring;

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

10
11 DATED: December 16, 2011

Original Signed by Liane Freels for:

12 STEPHANIE NUNEZ
13 Executive Officer
14 Respiratory Care Board of California
15 Department of Consumer Affairs
16 State of California
17 *Complainant*

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