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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 140

11 **VALERIE ANN CADWALLADER**
12 **6624 Woodward Drive**
13 **Magalia, CA 95954**

DEFAULT DECISION
AND ORDER

[Gov. Code §11520]

14 **Respiratory Care Practitioner License No.**
15 **22537**

16 Respondent

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18 FINDINGS OF FACT

19 1. On or about September 23, 2013, Complainant Stephanie Nunez, in her official
20 capacity as the Executive Officer of the Respiratory Care Board (Board) of California,
21 Department of Consumer Affairs, filed Accusation No. 1H 2012 140 against Valerie Ann
22 Cadwallader (Respondent) before the Board.

23 2. On or about August 28, 2002, the Board issued Respiratory Care Practitioner License
24 No. 22537 to Respondent. The Respiratory Care Practitioner License was in full force and effect
25 at all times relevant to the charges brought herein and will expire on November 30, 2013, unless
26 renewed. A true and correct copy of Respondent's Certificate of Licensure is attached as

27 **Exhibit 1.**
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1 3. On or about September 23, 2013, an employee of the Board served by Certified and
2 First Class Mail a copy of Accusation No. 1H 2012 140, Statement to Respondent, Notice of
3 Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7
4 to Respondent's address of record with the Board, which was and is 6624 Woodward Drive,
5 Magalia, CA 95954. A copy of the Accusation, the related documents, and Declaration of
6 Service are attached as **Exhibit 2**, and are incorporated herein by reference.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c).

9 On or about October 18, 2013, Larry Burdidi signed the certified mail receipt card for the
10 aforementioned documents mailed to Respondent's address of record. The original certified mail
11 receipt card is attached as **Exhibit 3**, and is incorporated herein by reference.

12 5. Government Code section 11506 states, in pertinent part:

13 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
14 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
15 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
16 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

17 Respondent failed to file a Notice of Defense within 15 days after service upon her of the
18 Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 1H 2012
19 140.

20 6. California Government Code section 11520 states, in pertinent part:

21 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
22 agency may take action based upon the respondent's express admissions or upon other evidence
23 and affidavits may be used as evidence without any notice to respondent."

24 August 27, 2013 Conviction of Penal Code section 273a(a)

25 and Penal Code section 12022.1 Enhancement

26 7. On or about July 29, 2012, a felony criminal complaint titled *People of the State of*
27 *California vs. Valerie Ann Cadwallader*, case number CM039318 was filed in Butte County
28 Superior Court. Count 1 charged Respondent with a felony violation of Penal Code section

1 273a(a) [child endangerment]. The criminal complaint alleged a special allegation that the
2 offense was committed while Respondent was released from custody on bail or on her own
3 recognizance within the meaning of Penal Code section 12022.1. Count 2 charged Respondent
4 with a felony violation of Penal Code section 29800(a)(1) [possession of a firearm by a felon].
5 This count also alleged a violation of Penal Code section 12022.1. Count 3 charged Respondent
6 with a felony violation of Penal Code section 30305(a)(1) [possession of ammunition] with a
7 special allegation that the crime was committed while Respondent was released from custody on
8 bail or on her own recognizance within the meaning of Penal Code section 12022.1.

9 8. On August 27, 2013, Respondent was convicted of a felony violation of Penal Code
10 section 273a(a) [child endangerment] and Penal Code section 12022.1. On October 15, 2013, she
11 was sentenced to state prison for a total unstayed term of 7 years and four months. She was
12 ordered to pay fines and restitution, drug and alcohol counseling was recommended, and she was
13 committed to Butte County Jail for six months concurrent to state prison. A true and correct copy
14 of the criminal complaint, Probation Report and Sentencing, and Felony Abstract of Judgment in
15 Butte County Superior Court case number CM039318 are attached as **Exhibit 4**.

16 May 7, 2013 Convictions

17 9. On or about February 17, 2012, a felony criminal complaint titled *People of the State*
18 *of California vs. Valerie Ann Cadwallader*, case number CM036127 was filed in Butte County
19 Superior Court. Count 1 charged Respondent with a felony violation of Penal Code section
20 273a(a) [child abuse]; Count 2 charged Respondent with a misdemeanor violation of Vehicle
21 Code section 23152(a) [driving under the influence of alcohol]; and Count 3 charged Respondent
22 with a misdemeanor violation of Vehicle Code section 23152(b) [driving with a blood alcohol
23 content of .08% or higher]. The criminal complaint contained a special allegation as to Counts 2
24 and 3 that Respondent's concentration of blood alcohol was 0.15% by weight and more, within
25 the meaning of Vehicle Code section 23578.

26 10. On or about February 15, 2012, a criminal complaint titled *People of the State of*
27 *California vs. Valerie Ann Cadwallader*, case no. SCR87272 was filed in Butte County Superior
28 Court. Count 1 charged Respondent with a misdemeanor violation of Vehicle Code section

1 23152(a) [driving under the influence of alcohol] and Count 2 charged Respondent with a
2 misdemeanor violation of Vehicle Code section 23152(b) [driving with a blood alcohol content of
3 .08% or higher].

4 11. Butte County case numbers CM036127 and SCR87272 were consolidated for
5 sentencing. On or about May 7, 2013, in case number CM036127, Respondent was convicted on
6 her plea of no contest to a felony violation of Penal Code section 273a(a) [child abuse] and
7 Vehicle Code section 23152(a) [driving under the influence of alcohol.] On or about May 7,
8 2013, in case number SCR87272, Respondent was convicted on her plea of no contest to violating
9 Vehicle Code section 23152(a). True and correct copies of the Complaints in Butte County case
10 numbers CM036127 and SCR87272, Plea of No Contest, Probation Report and Sentencing, and
11 Probation Conditions are attached as **Exhibit 5**.

12 12. Pursuant to its authority under Government Code section 11520, the Board finds
13 Respondent is in default. The Board will take action without further hearing and, based on
14 Respondent's express admissions by way of default and the evidence before it, contained in
15 Exhibits 1 through 5, finds that the allegations in Accusation No. 1H 2012 140 are true.

16 The Respiratory Care Board further finds that pursuant to Business and Professions
17 Code section 3753.5, the costs of investigation and enforcement of the case prayed for in the
18 Accusation total \$2,269.50, based on the Certification of Costs contained in **Exhibit 6**.

19 DETERMINATION OF ISSUES

20 1. Based on the foregoing findings of fact, Respondent Valerie Ann Cadwallader has
21 subjected her Respiratory Care Practitioner License No. 22537 to discipline.

22 2. Pursuant to its authority under California Government Code section 11520, and
23 based on the evidence before it, the Board hereby finds that the charges and allegations contained
24 in Accusation No. 1H 2012 140, and the Findings of Fact contained in paragraphs 1 through 12,
25 above, and each of them, separately and severally, are true and correct. A true and correct copy
26 of Accusation No. 1H 2012 140 and the related documents and declaration are attached.

27 3. The agency has jurisdiction to adjudicate this case by default.
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This Decision shall become effective on January 9, 2014.

It is so ORDERED December 10, 2013

Charles B. Spearman

CHARLES B. SPEARMAN, MEd, RCP, RRT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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