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

11 In the Matter of the Accusation Against:

Case No. 1H-2010-734

12 **NATALIYA S. BUTENKO. R.C.P.**  
13 **2827 Weeping Willow Road**  
**Chula Vista, CA 91915**

**A C C U S A T I O N**

14 **Respiratory Care Practitioner**  
15 **License No. 23463**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about March 5, 2004, the Respiratory Care Board issued Respiratory  
24 Care Practitioner License Number 23463 to Nataliya S. Butenko. R.C.P. (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 July 31, 2011, unless renewed.

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**JURISDICTION**

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

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

8           5.    Section 3718 of the Code states: "The board shall issue, deny, suspend, and  
9 revoke 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  
12 of probationary conditions upon, a license issued under this chapter, for any of the  
13 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 any  
20 provision of Division 2 (commencing with Section 500), or violating, or attempting to  
21 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring  
22 to violate any provision or term of this chapter or of any provision of Division 2  
23 (commencing with Section 500).

24           "...

25           "(j) The commission of any fraudulent, dishonest, or corrupt act which is  
26 substantially related to the qualifications, functions, or duties of a respiratory care  
27 practitioner.

28           "..."



1 and prosecution of the case. A certified copy of the actual costs, or a good faith  
2 estimate of costs where actual costs are not available, signed by the official custodian  
3 of the record or his or her designated representative shall be prima facie evidence of  
4 the actual costs of the investigation and prosecution of the case."

5 10. Section 3753.7 of the Code states that for purposes of the for purposes of the  
6 Respiratory Care Practice Act, costs of prosecution shall include attorney general or other  
7 prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees."

8 11. Section 3753.1 of the Code states:

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

12 **FIRST CAUSE FOR DISCIPLINE**

13 (Conviction of a Crime)

14 12. Respondent is subject to disciplinary action under section 3750, as defined by  
15 section 3750, subdivisions (d) and (g) of the Code, and Title 16 of the California Code of  
16 Regulations, section 1399.370, subdivision (a) and (b), in that Respondent has been convicted of  
17 a crime substantially related to the qualifications, functions or duties of a respiratory care  
18 practitioner. The circumstances are as follows:

19 A. On or about October 12, 2010, in the San Diego County Superior Court in the  
20 case of *People of the State of California v. Nataliya S. Butenko*, Case No. S238976, respondent  
21 was convicted on her own guilty plea of one count of petty theft in violation of Penal Code  
22 section 484.

23 As a consequence of the conviction, respondent was granted summary probation for  
24 the period of three years with certain terms and conditions.

25 B. The circumstances of the conviction are as follows: On or about March 13,  
26 2010, respondent left a Macy's store without paying for merchandise worth \$373.58. Respondent  
27 was subsequently arrested for petty theft in violation of Penal Code section 488.

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1 On or about May 28, 2010, a criminal complaint was filed charging respondent with  
2 one count of petty theft in violation of Penal Code section 484.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Commission of a Fraudulent, Dishonest or Corrupt Act)

5 13. Respondent is further subject to disciplinary action under section 3750, as  
6 defined by 3750, subdivision (j) of the Code, and Title 16 of the California Code of Regulations,  
7 section 1399.370, subdivision (b), in that respondent was convicted of the crime of petty theft  
8 which is a crime that involves fraudulent, dishonest, or corrupt acts, as more particularly  
9 described in paragraph 12, above, which is incorporated by reference and realleged as if fully set  
10 forth herein.

11 **THIRD CAUSE FOR DISCIPLINE**

12 (Violation of Any Provision)

13 14. Respondent is further subject to disciplinary action under section 3750,  
14 subdivision (g) of the Code, and Title 16 of the California Code of Regulations, section 1399.370,  
15 subdivision (a), in that she violated a provision of the chapter, in that she was convicted of a  
16 crime and committed an act which are substantially related to the qualifications, functions and  
17 duties of a respiratory care practitioner, as more particularly described in paragraphs 12 and 13,  
18 above, which is hereby incorporated by reference and realleged as if fully set forth herein.

19 **DISCIPLINE CONSIDERATION**

20 15. To determine the degree of discipline, if any, to be imposed on Respondent,  
21 Complainant alleges that, in a prior Board's Decision and Order effective on or about March 5,  
22 2004, in the case entitled *In the Matter of the Statement of Issues Against Nataliya S. Butenko*,  
23 RCP Case Number S-328, respondent's Respiratory Care Practitioner License No. 23463 was  
24 publicly reprimanded. The public reprimand was the result of a Stipulated Settlement and  
25 Disciplinary Order adopted by the Board on or about February 27, 2004. The circumstances for  
26 the issuance of the public reprimand are as follows:

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1 On or about May 9, 2003, the Board received an application for a Respiratory Care  
2 Practitioner's license from respondent. On or about August 29, 2003, the Board denied  
3 respondent's application for licensure as a respiratory care practitioner. The basis for the denial  
4 was that, on or about September 17, 2002, a criminal complaint was filed in Superior Court of  
5 California, County of San Diego, East County Division, charging respondent with one count of  
6 violating Penal Code section 484 [petty theft]. On or about December 6, 2002, the complaint was  
7 amended by interlineation to add Penal Code section 602(j) [trespass]. On or about December 6,  
8 2002, respondent was convicted of one count of trespass in violation of Penal Code section  
9 602(j). As a consequence of the conviction, respondent was granted summary probation for the  
10 period of three years with certain terms and conditions. Count 1 was dismissed.

11 **PRAYER**

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

- 14 1. Revoking or suspending Respiratory Care Practitioner License Number 23463,  
15 issued to Nataliya S. Butenko, R.C.P.
- 16 2. Ordering Nataliya S. Butenko, R.C.P. to pay the Respiratory Care Board the  
17 costs of the investigation and enforcement of this case, and if placed on probation, the costs  
18 of probation monitoring;
- 19 3. Taking such other and further action as deemed necessary and proper.

20  
21 DATED: April 8, 2011

Original Signed by Liane Freels for:

22 STEPHANIE NUNEZ  
23 Executive Officer  
24 Respiratory Care Board of California  
25 Department of Consumer Affairs  
26 State of California  
27 *Complainant*

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