

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

In the Matter of the Accusation Against:

Case No. 1H 2010 734

NATALIYA S. BUTENKO
2827 Weeping Willow Road
Chula Vista CA 91915

Respiratory Care Practitioner License No. 23463

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board of California, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on October 9, 2011.

It is so ORDERED September 29, 2011.

Original Signed by: _____

LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 SAMUEL K. HAMMOND
Deputy Attorney General
4 State Bar No. 141135
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2083
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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**
14 **Chula Vista, CA 91915**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

Respondent.

17
18 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Stephanie Nunez (Complainant) is the Executive Officer of the Respiratory Care
22 Board of California. She brought this action solely in her official capacity and is represented in
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Samuel K.
24 Hammond, Deputy Attorney General.

25 2. NATALIYA S. BUTENKO. R.C.P. (Respondent) is representing herself in this
26 proceeding and has chosen not to exercise her right to be represented by counsel.

27 ///

28 ///

1 1. **WORK SCHEDULES** Respondent shall be required to submit to the probation
2 monitor work schedules on a weekly/monthly basis for the length of probation for each and every
3 place of employment. Respondent shall ensure the Board has a copy of her current work schedule
4 at all times for each place of employment.

5 2. **RESTRICTION OF PRACTICE** Respondent may not be employed or function as
6 a member of a respiratory care management or supervisory staff during the entire length of
7 probation. This includes lead functions. Respondent is prohibited from working as part of a
8 transport team.

9 Respondent is prohibited from working in home care or for a registry. Respondent is also
10 prohibited from providing instruction or supervision to respiratory care students or applicants
11 whether in a clinical or classroom setting.

12 4. **OBEY ALL LAWS** Respondent shall obey all laws, whether federal, state, or local.
13 The Respondent shall also obey all regulations governing the practice of respiratory care in
14 California.

15 Respondent shall notify the Board in writing within three days of any incident resulting in
16 her arrest, or charges filed against, or a citation issued against, Respondent.

17 5. **QUARTERLY REPORTS** Respondent shall file quarterly reports of compliance
18 under penalty of perjury, on forms, to be provided to the probation monitor assigned by the
19 Board. Omission or falsification in any manner of any information on these reports shall
20 constitute a violation of probation and shall result in the filing of an accusation and/or a petition
21 to revoke probation against Respondent's respiratory care practitioner license.

22 Quarterly report forms will be provided by the Board. Respondent is responsible for
23 contacting the Board to obtain additional forms if needed. Quarterly reports are due for each year
24 of probation and the entire length of probation as follows:

25 For the period covering January 1st through March 31st, reports are to be completed and
26 submitted between April 1st and April 7th.

27 For the period covering April 1st through June 30th, reports are to be completed and
28 submitted between July 1st and July 7th.

1 For the period covering July 1st through September 30th, reports are to be completed and
2 submitted between October 1st and October 7th.

3 For the period covering October 1st through December 31st, reports are to be completed
4 and submitted between January 1st and January 7th.

5 6. **PROBATION MONITORING PROGRAM** Respondent shall comply with
6 requirements of the Board appointed probation monitoring program, and shall, upon reasonable
7 request, report to or appear to a local venue as directed.

8 Respondent shall claim all certified mail issued by the Board, respond to all notices of
9 reasonable requests timely, appear as requested by the Board, and submit Annual Reports,
10 Identification Update reports or other reports similar in nature, as requested and directed by the
11 Board or its representative.

12 Respondent shall provide to the Board the names, physical work addresses, work mailing
13 addresses, telephone numbers, and e-mail addresses of all employers, human resources personnel,
14 directors, managers, supervisors, and contractors, and any person providing direct supervision,
15 and shall give specific, written consent that the Respondent authorizes the Board and its
16 representatives and the employers, human resources personnel, directors, managers, supervisors,
17 and contractors, and any person providing direct supervision, to communicate regarding the
18 Respondent's work status, performance, and monitoring. Monitoring includes, but is not limited
19 to, any violation or potential violation of any probationary term and condition.

20 Respondent is encouraged to contact the Board's Probation Program at any time she has a
21 question or concern regarding her terms and conditions of probation.

22 7. **PROBATION MONITORING COSTS** All costs incurred for probation
23 monitoring during the entire probation shall be paid by the Respondent. The monthly cost may be
24 adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms and
25 conditions may also cause this amount to be increased. Probation monitoring costs will not be
26 tolled.

27 ///

28 ///

1 All payments for costs are to be sent directly to the Respiratory Care Board and must be
2 received by the date(s) specified. (Periods of tolling will not toll the probation monitoring costs
3 incurred.)

4 If Respondent is unable to submit costs for any month, she shall be required, instead to
5 submit an explanation of why she is unable to submit the costs, and the date(s) she will be able to
6 submit the costs including payment amount(s). Supporting documentation and evidence of why
7 the Respondent is unable to make such payment(s) must accompany this submission.

8 Respondent understands that failure to submit costs timely is a violation of probation and
9 submission of evidence demonstrating financial hardship does not preclude the Board from
10 pursuing further disciplinary action. However, Respondent understands that by providing
11 evidence and supporting documentation of financial hardship may delay further disciplinary
12 action.

13 In addition to any other disciplinary action taken by the Board, an unrestricted license will
14 not be issued at the end of the probationary period and the respiratory care practitioner license
15 will not be renewed, until such time all probation monitoring costs have been paid.

16 The filing of bankruptcy by the Respondent shall not relieve the Respondent of her
17 responsibility to reimburse the Board for costs incurred.

18 8. **EMPLOYMENT REQUIREMENT** Respondent shall be employed a minimum of
19 24 hours per week as a respiratory care practitioner for a minimum of 2/3 her probation period.

20 Respondent may substitute successful completion of a minimum of thirty (30) additional
21 continuing education hours, beyond that which is required for license renewal, for each 8 months
22 of employment required. Respondent shall submit proof to the Board of successful completion of
23 all continuing education requirements. Respondent is responsible for paying all costs associated
24 with fulfilling this term and condition of probation

25 9. **NOTICE TO EMPLOYER** Respondent shall be required to inform all current and
26 subsequent employers, directors, managers, supervisors, and contractors during the probation
27 period, of the discipline imposed by this decision by providing her current and subsequent human
28 resources personnel, directors, managers, supervisors, and contractors, with a complete copy of

1 the decision and order, and the Statement(s) of Issues or Accusation(s) in this matter prior to the
2 beginning of or returning to employment or within 3 days from each change in a supervisor or
3 director.

4 The employer will then inform the Board, in writing, that she is aware of the discipline, on
5 forms to be provided to the Respondent. Respondent is responsible for contacting the Board to
6 obtain additional forms if needed. All reports completed by the employer must be submitted from
7 the employer directly to the Board.

8 In addition, any employer, director, manager, supervisor or contractor, shall report to the
9 Board immediately, within 24 hours, if he/she suspects Respondent is under the influence of
10 alcohol or any substance or has had any occurrence of substance abuse.

11 10. **SUPERVISOR QUARTERLY REPORTS** Supervisor Quarterly Reports of
12 Performance are due for each year of probation and the entire length of probation from each
13 employer, as follows:

14 For the period covering January 1st through March 31st, reports are to be completed and
15 submitted between April 1st and April 7th.

16 For the period covering April 1st through June 30th, reports are to be completed and
17 submitted between July 1st and July 7th.

18 For the period covering July 1st through September 30th, reports are to be completed and
19 submitted between October 1st and October 7th.

20 For the period covering October 1st through December 31st, reports are to be completed
21 and submitted between January 1st and January 7th.

22 Respondent is ultimately responsible for ensuring her employer(s) submits complete and
23 timely reports.

24 11. **CHANGES OF EMPLOYMENT OR RESIDENCE** Respondent shall notify the
25 Board, and appointed probation monitor, in writing, of any and all changes of employment,
26 location, and address within 3 days of such change. This includes but is not limited to applying
27 for employment, termination or resignation from employment, change in employment status,
28 change in supervisors, administrators or directors.

1 Respondent shall also notify her probation monitor AND the Board IN WRITING of
2 any changes of residence or mailing address within 3 days. P.O. Boxes are accepted for mailing
3 purposes, however the Respondent must also provide her physical residence address as well.

4 12. **SURRENDER OF LICENSE** Following the effective date of this decision, if
5 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
6 the terms and conditions of probation, she may request the voluntary surrender of her license.
7 The Board reserves the right to evaluate Respondent's request and to exercise its discretion
8 whether or not to grant the request or to take any other action deemed appropriate and reasonable
9 under the circumstances. Upon formal acceptance of the surrender, within 15 calendar days
10 Respondent shall deliver her wallet and wall certificate to the Board or its designee and she shall
11 no longer practice respiratory care. Respondent will no longer be subject to the terms and
12 conditions of probation and the surrender of Respondent's license shall be deemed disciplinary
13 action. If Respondent re-applies for a respiratory care license, the application shall be treated as a
14 petition for reinstatement of a revoked license.

15 13. **COST RECOVERY** Respondent shall pay to the Board a sum not to exceed the
16 costs of the investigation and prosecution of this case. That sum shall be \$840.00 and shall be
17 paid in full directly to the Board, in equal quarterly payments, within 12 months from the
18 effective date of this decision. Cost recovery will not be tolled.

19 If Respondent is unable to submit costs timely, she shall be required, instead to submit an
20 explanation of why she is unable to submit these costs in part or in entirety, and the date(s) she
21 will be able to submit the costs including payment amount(s). Supporting documentation and
22 evidence of why the Respondent is unable to make such payment(s) must accompany this
23 submission.

24 Respondent understands that failure to submit costs timely is a violation of probation and
25 submission of evidence demonstrating financial hardship does not preclude the Board from
26 pursuing further disciplinary action. However, Respondent understands that by providing
27 evidence and supporting documentation of financial hardship may delay further disciplinary
28 action.

1 Consideration to financial hardship will not be given should Respondent violate this term
2 and condition, unless an unexpected AND unavoidable hardship is established from the date of
3 this order to the date payment(s) is due.

4 The filing of bankruptcy by the Respondent shall not relieve the Respondent of her
5 responsibility to reimburse the Board for these costs.

6 14. **TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE** Periods of
7 residency or practice outside California, whether the periods of residency or practice are
8 temporary or permanent, will toll the probation period but will not toll the obey all laws,
9 quarterly reports, probation monitoring program, probation monitoring costs, or cost recovery
10 requirements. Travel out of California for more than 30 days must be reported to the Board in
11 writing prior to departure. Respondent shall notify the Board, in writing, within 3 days, upon her
12 return to California and prior to the commencement of any employment where representation as a
13 respiratory care practitioner is/was provided.

14 Respondent's license shall automatically be cancelled if respondent's cumulative period
15 tolling is greater than five years. However, the cancellation of the license does not relieve the
16 respondent from outstanding cost recovery or probation monitoring costs.

17 15. **VALID LICENSE STATUS** Respondent shall maintain a current, active and valid
18 license for the length of the probation period. Failure to pay all fees and meet CE requirements
19 prior to her license expiration date shall constitute a violation of probation.

20 16. **VIOLATION OF PROBATION** If Respondent commits a "Major Violation," as
21 identified in the Disciplinary Guidelines, incorporated by reference pursuant to section 1399.374,
22 she shall receive a notice to cease the practice of respiratory care, as directed by the Board. The
23 Board shall attempt to contact Respondent by electronic and/or telephonic means to advise her of
24 the notice to cease practice and shall deliver such notice by certified and regular mail. The Board
25 shall update its licensing database to reflect the status of the license.

26 If the Respondent is ordered to cease practice, she may file a written appeal, within ten days
27 of the date of the notice to cease practice, to provide additional evidence disputing the finding of
28 the violation(s) that was cause for the notice to cease practice. The Executive Officer will review

1 the appeal and make a determination in the matter, within ten days from the date the written
2 appeal and all supporting evidence or documentation is received. The probationer shall be
3 notified of the outcome by certified mail.

4 Respondent shall not resume the practice of respiratory care until a final decision on an
5 accusation and/or petition to revoke probation is made or until such time as the Board delivers
6 written notification that the notice to cease practice has been dissolved. The cessation of practice
7 shall not apply to the reduction of the probationary time period.

8 The Board will contact the Respondent and her employers, human resources personnel,
9 directors, managers, supervisors, and contractors and notify them that Respondent has been issued
10 a notice to cease practice.

11 In addition, if Respondent violates any term of the probation in any respect, the Board, after
12 giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the
13 disciplinary order that was stayed.

14 If a petition to revoke probation is filed against Respondent during probation, the Board
15 shall have continuing jurisdiction and the period of probation shall be extended until the matter is
16 final. No petition for modification of penalty shall be considered while there is an accusation or
17 petition to revoke probation or other penalty pending against Respondent.

18 17. **COMPLETION OF PROBATION** Upon successful completion of probation,
19 Respondent's license shall be fully restored.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Respiratory Care Practitioner License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Respiratory Care Board.

DATED: June 20, 2011 Original Signed by: _____
NATALIYA S. BUTENKO, R.C.P.
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Respiratory Care Board of the Department of Consumer Affairs.

Dated: July 19, 2011 Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General

Original Signed by: _____
SAMUEL K. HAMMOND
Deputy Attorney General
Attorneys for Complainant

SD2011700671
80503566.doc