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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-2012-132

12 **EDUARD T. BAON, R.C.P.**
13 **1965 Coulston Street, Apt. 40**
14 **Loma Linda, CA 92354**

A C C U S A T I O N

15 **Respiratory Care Practitioner**
16 **License No. 23857**

Respondent.

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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 August 27, 2004, the Respiratory Care Board issued Respiratory Care
24 Practitioner License Number 23857 to Eduard T. Baon, R.C.P. (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 September 30, 2013, unless renewed.

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JURISDICTION

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 Business and Professions Code unless otherwise indicated.

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

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

6. Section 3750 of the Code states:
"The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

...

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

...

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

"(k) Falsifying, or making grossly incorrect, grossly inconsistent, or unintelligible entries in any patient, hospital, or other record."

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1 7. Section 3755 of the Code states:

2 "The board may take action against any respiratory care practitioner who is
3 charged with unprofessional conduct in administering, or attempting to administer,
4 direct or indirect respiratory care. Unprofessional conduct includes, but is not limited
5 to, repeated acts of clearly administering directly or indirectly inappropriate or unsafe
6 respiratory care procedures, protocols, therapeutic regimens, or diagnostic testing or
7 monitoring techniques, and violation of any provision of Section 3750. The board
8 may determine unprofessional conduct involving any and all aspects of respiratory
9 care performed by anyone licensed as a respiratory care practitioner."

10 8. California Code of Regulations, title 16, section 1399.370, states:

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

17 "(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting
18 the violation of or conspiring to violate any provision or term of the Act."

19 **COST RECOVERY**

20 9. Section 3753.5, subdivision (a) of the Code states:

21 "In any order issued in resolution of a disciplinary proceeding before the board,
22 the board or the administrative law judge may direct any practitioner or applicant
23 found to have committed a violation or violations of law or any term and condition of
24 board probation to pay to the board a sum not to exceed the costs of the investigation
25 and prosecution of the case. A certified copy of the actual costs, or a good faith
26 estimate of costs where actual costs are not available, signed by the official custodian
27 of the record or his or her designated representative shall be prima facie evidence of
28 the actual costs of the investigation and prosecution of the case."

1 C. On or about January 31, 2012, the surveillance video recorded respondent
2 arriving at the TKSH employee breakroom at 0011 and departing at 0115. However, on this same
3 date, respondent charted in the patients' respiratory care flowsheet that between 0010 and 0020,
4 he provided care to patient #435 and was at the patient's bedside for 10 minutes. Also on this
5 same date, respondent charted that between 0020 and 0035, he provided care to patient #675 and
6 that he spent 10 minutes at the patient's bedside. These entries are false in that, in truth and in
7 fact, as recorded on the surveillance video, respondent was in the employee breakroom during the
8 times he charted he provided care to these patients.

9 D. On or about January 31, 2012, the surveillance video recorded respondent
10 arriving at the TKSH employee breakroom at 0146 and departing at 0240. However, on this same
11 date, respondent charted in the patients' respiratory care flowsheet, that at 0145 he provided care
12 to patient #664 and was at the patient's bedside for 5 minutes. Also on this same date, respondent
13 charted at 0200 he provided care to patient #415 and was at the patient's bedside for 10 minutes.
14 These entries are false in that, in truth and in fact, as recorded on the surveillance video,
15 respondent was in the employee breakroom during the times he charted he provided care to these
16 patients.

17 E. On or about January 31, 2012, the surveillance video recorded respondent
18 arriving at the TKSH employee breakroom at 0242 (two minutes after departing at 0240 – see
19 paragraph D, above) and departing at 0316. However, on this same date, respondent charted in
20 the patients' respiratory care flowsheet, that between 0300 and 0310, he provided care to patient
21 #605 and was at the patient's bedside for 10 minutes. Also on this same date, respondent charted
22 that between 0310 and 0320, he provided care to patient #682 and was at the patient's bedside for
23 10 minutes. These entries are false in that, in truth and in fact, as recorded on the surveillance
24 video, respondent was in the employee breakroom during the times he charted he provided care to
25 these patients.

26 F. On or about January 31, 2012, the surveillance video recorded respondent
27 arriving in the TKSH employee breakroom at 0418 and departing at 0420. The surveillance video
28 recorded respondent returning into the breakroom at 0424 and departing at 0449. Additionally,

1 the surveillance video recorded respondent again returning to the breakroom 15 seconds later and
2 departing the breakroom at 0503. However, on this same date, respondent charted in the patients'
3 respiratory care flowsheet, between 0410 and 0420 he provided care to patient #435 and was at
4 the patient's bedside for 10 minutes. Also, on this same date, respondent charted that between
5 0420 and 0430, he provided care to patient #431 and was at the patient's bedside for 10 minutes.
6 These entries are false in that, in truth and in fact, as recorded on the surveillance video,
7 respondent was in the employee breakroom during the times he charted he provided care to these
8 patients.

9 **SECOND CAUSE FOR DISCIPLINE**

10 (Commission of Fraudulent, Dishonest or Corrupt Act)

11 13. Respondent is further subject to disciplinary action under section 3750, as defined by
12 3750 subdivision (j), and Title 16 of the California Code of Regulations, section 1399.370,
13 subdivision (a), in that he committed a dishonest act when he charted patient care during times the
14 surveillance video recorded him in the TKSH employee breakroom, as more particularly
15 described in paragraph 12, above, which is incorporated herein by reference.

16 **THIRD CAUSE FOR DISCIPLINE**

17 (Unprofessional Conduct)

18 14. Respondent is further subject to disciplinary action under section 3755 in that he
19 engaged in unprofessional conduct when he charted patient care during times the surveillance
20 video recorded him in the TKSH employee breakroom, as more as more particularly described in
21 paragraphs 12 and 13, above, which is incorporated herein by reference.

22 **PRAYER**

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

25 1. Revoking or suspending Respiratory Care Practitioner License Number 23857, issued
26 to Eduard T. Baon, R.C.P.;

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1 2. Ordering Eduard T. Baon, R.C.P. to pay the Respiratory Care Board the costs of the
2 investigation and enforcement of this case, and if placed on probation, the costs of probation
3 monitoring; and

4 3. Taking such other and further action as deemed necessary and proper.
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6 DATED: November 6, 2012

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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