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8

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

12 In the Matter of the Accusation Against:

Case No. 7002014000471

13 **BHANU BHALLA, R.C.P.**
14 **1803 Doubleday Lane**
Bakersfield, CA 93311

A C C U S A T I O N

15 **Respiratory Care Practitioner License**
16 **No. 27107**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about January 16, 2008, the Respiratory Care Board issued Respiratory Care
25 Practitioner License Number 27107 to Bhanu Bhalla, R.C.P. (Respondent). The Respiratory Care
26 Practitioner License was in full force and effect at all times relevant to the charges brought herein
27 and expired on March 31, 2017, unless renewed.

28 ///

JURISDICTION

1
2 3. This Accusation is brought before the Respiratory Care Board (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

5 4. Section 3710 of the Code states:

6 “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce
7 and administer this chapter.” [Chapter 8.3, the Respiratory Care Practice Act].

8 5. Section 3718 of the Code states:

9 “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as
10 provided in this chapter.”

11 6. Section 3750 of the Code states:

12 “The board may order the denial, suspension or revocation of, or the imposition of
13 probationary conditions upon, a license issued under this chapter, for any of the 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 “(f) Negligence in his or her practice as a respiratory care practitioner.

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

25 “ . . .

26 “(o) Incompetence in his or her practice as a respiratory care practitioner.

27 “ . . . ”

28 7. Section 3752 of the Code states:

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 11. 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 12. 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 **FIRST CAUSE FOR DISCIPLINE**

12 **(Negligence)**

13 13. Respondent’s license is subject to disciplinary action under section 3750, subdivision
14 (f), of the Code for negligence in his practice as a Respiratory Care Practitioner by abandoning
15 patients and leaving his shift nearly three and one-half hours early without permission. The
16 circumstances are as follows:

17 14. On or about January 23, 2014, Respondent worked for Health South Rehabilitation
18 Hospital in Bakersfield and advised his supervisor that he would be available to work February 3,
19 4, 13, 14, 19, 20 and 21, 2014. On or about January 27, 2014, the schedule for respiratory care
20 therapists at Health South Rehabilitation Hospital was finalized and posted. It was revised and
21 re-posted on February 4, 2014. Respondent was scheduled to work February 2, 3, 4, 13, 14, 20
22 and 21, 2014. On February 13 and 14, 2014, Respondent was scheduled to work from 2:00 p.m.
23 until 10:30 p.m.

24 15. On or around February 10 or 11, 2014, Respondent requested to be removed from the
25 schedule for February 14, 2014. Respondent’s supervisor denied the request but advised that if
26 Respondent could find someone to switch shifts with or cover his shift then she would approve it.
27 Respondent failed to find anyone to switch shifts with him or to cover his shift but he continued
28 to request to be removed from the schedule for February 14, 2014. His requests were denied. On

1 February 14, 2014, Respondent clocked in to begin his shift at 2:02 p.m. Without approval or
2 permission from anyone in authority in his chain of command, Respondent clocked out and left
3 his shift at 7:06 p.m. The department was busy and Respondent left another respiratory care
4 therapist alone to handle treatments and patient admits for sick and compromised patients for
5 nearly three and one-half hours.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Incompetence)**

8 16. Respondent's license is further subject to disciplinary action under section 3750,
9 subdivision (o), of the Code for incompetence in his practice as a Respiratory Care Practitioner by
10 abandoning patients and leaving his shift nearly three and one-half hours early without
11 permission. The circumstances are as follows:

12 17. Paragraphs 14 and 15 above are incorporated herein as if fully set forth.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Conviction of a Crime Substantially Related to the Qualifications,
15 Functions, or Duties of a Respiratory Care Practitioner)**

16 18. Respondent's license is further subject to disciplinary action under Code sections
17 3750, subdivision (d), 3752 and 3752.5, in that he has been convicted of a crime substantially
18 related to the qualifications, functions, or duties of a respiratory care practitioner. The
19 circumstances are as follows:

20 19. On or about the afternoon of Thursday, January 1, 2015, Respondent was home with
21 his wife and two children. In the kitchen, an argument ensued between the Respondent and his
22 wife and he hit her in the back of her head. After she reached for a cordless phone to call the
23 police, he grabbed it from her to prevent her from calling the police. He used the side of his torso
24 and hip to push her, grabbed her around her upper arms and pushed her onto the couch in the
25 family living room. There, he continued to hold her down against her will.

26 20. Police were notified and responded. Respondent was arrested for violating Penal
27 Code section 243(e)(1), spousal battery, and 591.5, preventing use of a wireless phone to call for
28 assistance. He was taken to the Kern County Jail and booked.

1 21. On or about January 9, 2015, in the case of *The People of the State of California v.*
2 *Bhanu Bhalla*, Kern County Superior Court, Bakersfield Judicial District, Case Number 855428,
3 a complaint was filed charging Respondent with a misdemeanor violation of Penal Code section
4 243(e)(1), willfully and unlawfully committing battery on his wife. Additionally, Respondent
5 was charged with a felony violation of Penal Code section 136.1(b)(1), willfully and unlawfully
6 attempting to prevent or dissuade his wife from reporting the crime to police.

7 22. On or about June 4, 2015, after having remained free under the condition that he use
8 no force or violence upon his victim, the complaint was amended to add a third count,
9 misdemeanor violation of Penal Code section 242, willfully and unlawfully using force or
10 violence upon another person. The first two counts against Respondent were dismissed and
11 Respondent pled nolo contendere to the third count. The Court found a factual basis for the plea
12 and found Respondent guilty.

13 23. Subsequently, on or about June 4, 2015, Respondent was granted conditional
14 dismissal for a year. A hearing regarding conditional dismissal was scheduled for a year later, on
15 June 7, 2016. Respondent agreed that if he violated any term or condition within the year, he
16 would be sentenced to 60 days jail with work release, the standard fine and 3 years of probation.
17 Terms for the conditional dismissal required that Respondent complete 52 weeks of domestic
18 violence counseling, commit no new misdemeanors or felonies, and obey all orders pertaining to
19 a domestic violence criminal protective order against him.

20 24. Last, on or about June 4, 2015, a criminal protective order against Respondent was
21 issued and filed. The Court ordered that Respondent must not harass, strike, threaten, assault
22 (sexually or otherwise), follow, stalk, molest, destroy or damage personal or real property, disturb
23 the peace, keep under surveillance or block movements of the protected person. The Court's
24 protective order prohibited Respondent from owning, possessing, buying, trying to receive, or
25 otherwise obtaining a firearm or ammunition during the year. The Court further ordered that
26 Respondent shall not attempt to or actually prevent or dissuade any victim or witness from
27 attending a hearing or testifying or making a report to any law enforcement agency or person.
28 Additionally, the Court ordered that the protected person may record any prohibited

1 communication by Respondent to her. A copy of the protective order was to be provided to
2 Respondent, the district attorney, law enforcement and the protected person. Further, it was to be
3 entered into C.L.E.T.S. (California Law Enforcement Telecommunications System, a law
4 enforcement criminal record database).

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(General Unprofessional Conduct)**

7 25. Respondent's license is further subject to disciplinary action under section 3755 for
8 general unprofessional conduct by his negligence in his practice as a Respiratory Care
9 Practitioner by abandoning patients and leaving his shift nearly three and one-half hours early
10 without permission and by his violent criminal behavior against his wife and subsequent
11 misdemeanor battery conviction. The circumstances are as follows:

12 26. Paragraphs 14 through 24 above are incorporated herein as if fully set forth.

13 **PRAYER**

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

16 1. Revoking or suspending Respiratory Care Practitioner License Number 27107, issued
17 to Respondent Bhanu Bhalla, R.C.P.;

18 2. Ordering Respondent Bhanu Bhalla, R.C.P. to pay the Respiratory Care Board the
19 costs of the investigation and enforcement of this case, and if placed on probation, the costs of
20 probation monitoring; and

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

22
23 DATED: October 8, 2015

Original Signed by Liane Freels for:

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

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