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

In the Matter of the Accusation Against**:** **WILLIAM GREGORY BRAGG** **2420 Sanctuary Drive** **Fairfield, CA 94534** **Respiratory Care Practitioner License No. 27770** Respondent.	Case No. 1H 2012 616 **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

2. On or about August 12, 2008, the Respiratory Care Board issued Respiratory Care Practitioner License Number 27770 to William Gregory Bragg (Respondent). Said license was suspended on November 28, 2012, when the Board issued a Cease Practice Order to California Code of Regulations section 1399.375.

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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 3750 of the Code states, in pertinent part:

"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:

> "(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

5. Section 3752 of the Code states:

"A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of any offense which substantially relates to the qualifications, functions, or duties of a respiratory care practitioner is deemed to be a conviction within the meaning of this article. The board shall order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment."

6. Section 3752.6 of the Code states:

"For purposes of Division 1.5 (commencing with Section 475), and this chapter [the Respiratory Care Practice Act], a crime involving sexual misconduct or attempted sexual misconduct, whether or not with a patient, shall be considered a crime substantially related to the qualifications, functions, or duties of a respiratory care practitioner."

7. Section 3752.7 of the Code states:

"Notwithstanding Section 3750, any proposed decision or decision issued under this chapter [Chapter 8.3, the Respiratory Care Practice Act] in accordance with the procedures set forth in

Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee or registrant engaged in any act of sexual contact, as defined in Section 729, with a patient, or has committed an act or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge. For purposes of this section, the patient shall no longer be considered a patient of the respiratory care practitioner when the order for respiratory procedures is terminated, discontinued, or not renewed by the prescribing physician and surgeon."

8. California Code of Regulations, title 16, section 1399.370, states in pertinent part:

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

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

"(e) Commission of an act or conviction of a crime involving lewd conduct, prostitution or solicitation thereof, or pandering and/or indecent exposure, as defined by the Penal Code."

COST RECOVERY

9. Section 3753.5 of the Code states:

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

10. Section 3753.7 of the Code states:

"For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative filing, and service fees."

11. Section 3753.1 of the Code states:

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

"(b) The board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section once a licensee has served his or her term of probation."

CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Sexual Misconduct/Criminal Conviction)

12. Respondent's license is subject to disciplinary action under sections 3750(d), 3752, 3752.6, and 3752.7, in that Respondent pled nolo contendere to a misdemeanor violation of Penal Code section 243.4(e)(1), sexual battery. The circumstances are as follows:

13. On or about August 22, 2012 at approximately 9:04 p.m., San Bruno Police officers responded to reports of an intoxicated male groping and sexually harassing three female victims, including a seven-year-old girl, at an apartment swimming pool. When officers arrived on scene, they spoke with the victims and witnesses to the incidents. Victim A[1] indicated that she and two of her co-workers (Victim B and Witness Rovaipicket) were in an apartment complex hot tub at around 7:00 p.m. At some point, Victims A and B went outside the building to smoke. While standing outside the building, a white male they did not know approached them—he was later identified as defendant Bragg. Defendant Bragg began talking to the two victims and asked them to "go inside and get naked." He then tried to grab and pull the towel worn around Victim B's midsection and grabbed her breasts. Defendant Bragg's actions of grabbing the towel exposed Victim B's breasts. He then tried to put his hands down Victim B's bikini bottoms. Victim B

[1] Victim names have not been used to protect identities. Respondent may obtain this information through discovery.

told defendant Bragg not to do that. Victims A and B went back inside the building to the hot tub.

14. Defendant Bragg followed the two back into the building and sat down next to them in the hot tub. He then put his hand down Victim A's bikini top and touched her left breast. Victim A pulled his hand out of her top and walked away from him. Defendant Bragg continued to follow Victim A, putting his arm around her leg and trying to hug her. As she pulled away, he again grabbed her bikini bottom and tried to pull her towards him. At this point, witness Rovaipicket approached defendant Bragg and told him to stop. Another witness also told defendant Bragg to leave the pool area, which he did.

15. The officers then talked with witness Lagafua, who indicated that at around 7:30 pm he was in the pool area with his pastor (Liulamaga) and Liulamaga's seven-year old daughter, Victim C. While he was in the pool, the seven-year-old girl was playing in the shallow end of the pool and defendant Bragg sat on the steps of the pool near her. Witness Lagafua then heard defendant Bragg say to the seven-year-old girl "show me your tits" and "let me see your nipples." A short time later, defendant Bragg left the pool area. When the officer spoke with Liulamaga, he indicated he did not hear what defendant Bragg said to his daughter because he was swimming with ear plugs in. He also indicated that his daughter was autistic and she was unable to tell the officers what happened.

16. When officers approached defendant Bragg they immediately smelled alcohol coming from his breath and his speech was slurred. The officers placed defendant under arrest for two counts of sexual battery. At the police station, defendant Bragg told officers that after working at United Airlines he went home to his apartment to sleep. When he woke at approximately 5:00 p.m. he drank a half a bottle of wine and watched television. Then about 10:00 p.m.[2] he went to the pool area of his apartment. Defendant Bragg believes he blacked out. Officers then told him what he allegedly did and he said "you can't sexually assault anyone if you're blacked out." He indicated that Victims A and B came on to him first and later stated "If I did that under the

[2] Respondent's timeline is obviously inaccurate given that officers responded to the scene at approximately 9:00 p.m.

influence, then lock me away and throw away the key." Officers gave defendant Bragg a preliminary alcohol screening test at 12:37 a.m. on August 23, 2012 and it registered 0.092 BAC.

17. On September 18, 2008, the District Attorney's Office for the Superior Court, County of San Mateo filed a misdemeanor complaint titled The People of the State of California v. William Gregory Bragg, case number NM413587, charging Respondent with violating: Penal Code section 243.4(e)(1) [sexual battery/unlawful touch of an intimate part]; Penal Code sections 664/243.4(e)(1) [attempted sexual battery/unlawful touch of an intimate part]; Penal Code section 242 [willfully and lawfully using force and violence]; and Penal Code section 647.6(a)(1) [annoying or molesting a child].

18. On November 28, 2012, the Superior Court of California, County of San Mateo entered an order following a stipulation, prohibiting Respondent from practicing respiratory care as a condition of his bail pursuant to Penal Code section 23. The condition remains in place until the completion of the criminal case.

19. On February 22, 2013, Respondent pled no contest to Count 1 of the Complaint, a misdemeanor violation of Penal Code section 243.4(e)(1) [sexual battery/unlawful touch of an intimate part]. The remaining charges were dismissed. The Waiver indicates that maximum county jail sentence would be 120 days, but all other terms remain up to the judge following review of the probation report.

20. Respondent is scheduled to be sentenced on May 31, 2013 at 9:00 a.m. in the Superior Court of San Mateo County.

PRAYER

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

1. Revoking or suspending Respiratory Care Practitioner License Number 27770, issued to William Gregory Bragg.

2. Ordering William Gregory Bragg to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;

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

DATED: April 24, 2013

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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