

1 KAMALA D. HARRIS
Attorney General of California
2 DAVID CARR
State Bar No. 131672
3 Deputy Attorney General
CATHERINE E. SANTILLAN
4 Senior Legal Analyst
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5579
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10 In the Matter of the First Amended Accusation
11 and Petition to Revoke Probation Against:

12 **KIERAN COX**
13 **5240 Rocklin Road #106**
Rocklin, CA 95677

14 **Respiratory Care Practitioner License No.**
15 **28343**

16 Respondent.

Case No. D1 2007 571

FIRST AMENDED

ACCUSATION AND

PETITION TO REVOKE PROBATION

17
18 Complainant alleges:

19 PARTIES

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

23 2. On or about January 21, 2009, the Respiratory Care Board issued Respiratory Care
24 Practitioner License Number 28343 to Kieran Cox (Respondent). The Respiratory Care
25 Practitioner License was in full force and effect at all times relevant to the charges brought herein
26 and will expire on March 31, 2014, unless renewed.

1 DISCIPLINARY HISTORY

2 3. The Board filed Statement of Issues No. 1H 2007 571 against Respondent on October
3 10, 2008. Respondent entered into a stipulation for two years probation with terms and
4 conditions which was effective on or about January 21, 2009. Probation tolled on February 21,
5 2009 and resumed on September 20, 2010. Probation will expire on August 20, 2012.

6 JURISDICTION

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

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

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

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

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

23 8. Section 3755 of the Code states:
24 "The board may take action against any respiratory care practitioner who is charged with
25 unprofessional conduct in administering, or attempting to administer, direct or indirect respiratory
26 care. Unprofessional conduct includes, but is not limited to, repeated acts of clearly
27 administering directly or indirectly inappropriate or unsafe respiratory care procedures, protocols,
28 therapeutic regimens, or diagnostic testing or monitoring techniques, and violation of any

1 provision of Section 3750. The board may determine unprofessional conduct involving any and
2 all aspects of respiratory care performed by anyone licensed as a respiratory care practitioner."

3 COST RECOVERY

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

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

12 10. Section 3753.7 of the Code states:

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

16 11. Section 3753.1 of the Code states:

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

20 CAUSE FOR DISCIPLINE AND TO REVOKE PROBATION

21 (Unprofessional Conduct)

22 12. Respondent is subject to disciplinary action under code sections 3750, subdivision (g)
23 and 3755 [unprofessional conduct] in that his care and treatment of an elderly female patient on
24 or about April 16, 2011 constituted unprofessional conduct. The circumstances are as follows:

25 13. On or about April 16, 2011, Respondent was working as a respiratory care
26 practitioner at Sutter Roseville Medical Center (Sutter) in Roseville, California. He was assigned
27 to provide care and treatment to L.P., an 81 year old female patient. At approximately 7:45 p.m.
28 that day, A., L.P.'s granddaughter and B., L.P.'s son in law, visited L.P. at Sutter.

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

DATED: April 25, 2012

Original signed by Christine Molina for:

STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant

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