

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

In the Matter of the Statement of Issues
Against:

KENDRA LEE ATKINS
5622 Chestnut Cmn
Fremont, CA 94536

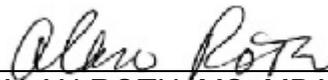
Case No. 7002016000062

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 June 28, 2016.

It is so ORDERED June 15, 2016.



ALAN ROTH, MS, MBA, RRT-NPS, FAARC
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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

10 In the Matter of the Statement of Issues
11 Against:

12 **KENDRA LEE ATKINS**

13 **5622 Chestnut Common**
14 **Fremont, CA 94538**

15 Respondent.

Case No. 7002016000062

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

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

24 2. Respondent Kendra Lee Atkins ("Respondent") is representing herself in this
25 proceeding and has chosen not to exercise her right to be represented by counsel.

26 3. On or about July 13, 2015, Respondent filed an application dated June 21, 2015, with
27 the Respiratory Care Board to obtain a Respiratory Care Practitioner License.

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1 signatures and, further, that copies shall have the same force and effect as originals.

2 15. In consideration of the foregoing admissions and stipulations, the parties agree the
3 Board may, without further notice to or opportunity to be heard by respondent, issue and enter the
4 following Disciplinary Order:

5 **DISCIPLINARY ORDER**

6 IT IS HEREBY ORDERED that the application for Respondent Kendra Lee Atkins for a
7 license as a Respiratory Care Practitioner is granted, however, the Respiratory Care Practitioner
8 License shall be and hereby is immediately revoked with the revocation stayed, and Respondent
9 placed on probation to the Board for a period of three (3) years from the effective date of this
10 Decision and order, based on the following terms and conditions:

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

14 Respondent shall notify the Board in writing within three (3) days of any incident resulting
15 in her arrest, or charges filed against, or a citation issued against, Respondent.

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

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

- 24 • For the period covering January 1st through March 31st, reports are to be
25 completed and submitted between April 1st and April 7th.
- 26 • For the period covering April 1st through June 30th, reports are to be completed
27 and submitted between July 1st and July 7th.
- 28 • For the period covering July 1st through September 30th, reports are to be

1 completed and submitted between October 1st and October 7th.

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

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

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

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

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

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

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

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

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

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

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

15 5. **EMPLOYMENT REQUIREMENT** Respondent shall be employed a minimum of
16 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of her probation period.

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

22 6. **NOTICE TO EMPLOYER** Respondent shall be required to inform all current and
23 subsequent employers, directors, managers, supervisors, and contractors during the probation
24 period, of the discipline imposed by this decision by providing her current and subsequent human
25 resources personnel, directors, managers, supervisors, and contractors with a complete copy of
26 the decision and order, and the Statement of Issues in this matter prior to the beginning of or
27 returning to employment or within three (3) days from each change in a supervisor or director.

28 If Respondent is employed by or through a registry [and is not restricted from working for a

1 registry], Respondent shall also make each hospital or establishment to which she is sent aware of
2 the discipline imposed by this decision by providing her human resources personnel, manager,
3 and supervisor for each shift, at each hospital or establishment with a copy of this decision, and
4 the Statement of Issues in this matter prior to the beginning of employment. This must be done
5 each time there is a change in supervisors or administrators.

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

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

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

- 16 • For the period covering January 1st through March 31st, reports are to be
17 completed and submitted between April 1st and April 7th.
- 18 • For the period covering April 1st through June 30th, reports are to be completed
19 and submitted between July 1st and July 7th.
- 20 • For the period covering July 1st through September 30th, reports are to be
21 completed and submitted between October 1st and October 7th.
- 22 • For the period covering October 1st through December 31st, reports are to be
23 completed and submitted between January 1st and January 7th.

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

26 **8. CHANGES OF EMPLOYMENT OR RESIDENCE** Respondent shall notify the
27 Board, and appointed probation monitor, in writing, of any and all changes of employment,
28 location, and address within three (3) days of such change. This includes but is not limited to

1 applying for employment, termination or resignation from employment, change in employment
2 status, change in supervisors, administrators or directors.

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

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

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

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

24 If the Respondent is ordered to cease practice, she may file a written appeal, within 10 days
25 of the date of the notice to cease practice, to provide additional evidence disputing the finding of
26 the violation(s) that was cause for the notice to cease practice. The Executive Officer will review
27 the appeal and make a determination in the matter, within 10 days from the date the written
28 appeal and all supporting evidence or documentation is received. The probationer shall be

1 notified of the outcome by certified mail.

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

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

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

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

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

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

22 14. **BIOLOGICAL FLUID TESTING** Respondent, at her expense, shall participate in
23 random testing, including but not limited to biological fluid testing (i.e. urine, blood, saliva),
24 breathalyzer, hair follicle testing, and/or any drug screening program approved by the Board.

25 Respondent shall be required to make daily contact, to determine if she is required to
26 submit a specimen for testing, each day, including weekends, holidays, and vacations in or
27 outside of California, at a lab approved by the Board. Board representatives may also appear
28 unannounced, at any time to collect a specimen. All collections will be observed.

1 At all times, Respondent shall fully cooperate with the Board or any of its representatives,
2 and shall, when directed, appear for testing as requested and submit to such tests and samples for
3 the detection of alcohol, narcotics, hypnotic, dangerous drugs or other controlled substances. All
4 alternative testing sites, due to vacation or travel outside of California must be approved by the
5 Board, 30 days prior to the vacation or travel.

6 If Respondent is unable to provide a specimen in a reasonable amount of time from the
7 request, while at the work site, Respondent understands that any Board representative may
8 request from the supervisor, manager or director on duty to observe Respondent in a manner that
9 does not interrupt or jeopardize patient care in any manner until such time Respondent provides a
10 specimen acceptable to the Board.

11 If Respondent tests positive for a banned substance (including testing positive for ETG), the
12 Board will contact the Respondent and her employers, human resources personnel, directors,
13 managers, supervisors, and/or contractors and notify them of the positive test, including the
14 substance(s) and levels detected. Thereafter, the Board may contact the specimen collector,
15 laboratory, Respondent, treating physician, treatment provider and/or support group facilitators to
16 determine whether the positive test is evidence of prohibited use. If the Board determines the
17 positive test is not evidence of prohibited use, the Board shall inform the Respondent and others
18 previously contacted, that the positive test was not a violation of her probationary order.

19 **15. ABSTENTION FROM USE OF MOOD ALTERING SUBSTANCES** For
20 purposes of these terms and conditions, a banned substance includes alcohol, marijuana,
21 controlled substances and any and all other mood altering drugs and substances. Respondent
22 shall completely abstain from the possession or use of all banned substances and their associated
23 paraphernalia. Respondent may take other medication when lawfully prescribed by a licensed
24 practitioner as part of a documented medical treatment. Respondent shall provide the Board a
25 copy of a prescription within five (5) days of the date the prescription was filled.

26 Respondent shall execute a release authorizing the release of pharmacy and prescribing
27 records as well as physical and mental health medical records. Respondent shall also provide
28 information of treating physicians, counselors or any other treating professional as requested by

1 the Board.

2 Respondent shall ensure that she is not in the presence of or in the same physical location as
3 individuals who are using illegal substances, even if Respondent is not personally ingesting the
4 drug(s). Respondent shall also ensure she is not ingesting or using any product that contains trace
5 amounts of alcohol or any other banned substances (including but not limited to: cold/flu
6 medications, cough syrups, diet pills/products, mouth wash, skin care or hygiene products,
7 perfumes, poppy seeds, dessert or any foods, etc...).

8 Any positive result that registers over the established laboratory cutoff level for a banned
9 substance shall be reported to each of Respondent's employers.

10 16. **SUSPENSION** As part of probation, Respondent shall be suspended from the
11 practice of respiratory care for a period of 12 days, beginning the effective date of this decision.
12 Respondent shall ensure that each employer informs the Board, in writing, that it is aware of the
13 dates of suspension.

14 17. **RESTRICTION OF PRACTICE** Respondent may not be employed or function as
15 a member of respiratory care management or supervisory staff during the entire length of
16 probation. This includes lead functions. Respondent is prohibited from working as part of a
17 transport team. Respondent is also prohibited from providing instruction or supervision to
18 respiratory care students or applicants whether in a clinical or classroom setting.

19 18. **SURRENDER OF LICENSE** Following the effective date of this decision, if
20 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
21 the terms and conditions of probation, she may request the voluntary surrender of her license.
22 The Board reserves the right to evaluate Respondent's request and to exercise its discretion
23 whether or not to grant the request or to take any other action deemed appropriate and reasonable
24 under the circumstances. Upon formal acceptance of the surrender, within 15 calendar days
25 Respondent shall deliver her wallet and wall certificate to the Board or its designee and she shall
26 no longer practice respiratory care. Respondent will no longer be subject to the terms and
27 conditions of probation and surrender of Respondent's license shall be deemed disciplinary
28 action. If Respondent re-applies for a respiratory care license, the application shall be treated as a

1 petition for reinstatement of a revoked license.

2 ACCEPTANCE

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

7
8 DATED: 5/1/14


9 KENDRA LEE ATKINS
Respondent

10
11 ENDORSEMENT

12 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
13 submitted for consideration by the Respiratory Care Board.

14 Dated: 5/9/2014

15 Respectfully submitted,

16 KAMALA D. HARRIS
Attorney General of California
17 JANE ZACK SIMON
Supervising Deputy Attorney General



18 GREG W. CHAMBERS
19 Deputy Attorney General
20 *Attorneys for Complainant*

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