

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 ROSEMARY F. LUZON
Deputy Attorney General
4 State Bar No. 221544
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9074
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 7002017000127

13 **SHEBA J. ASLAM, R.C.P.**
14 **1171 Melia Place**
Placentia, CA 92870-5264

A C C U S A T I O N

15 **Respiratory Care Practitioner**
16 **License No. 24355,**

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 (Board).

24 2. On or about May 27, 2005, the Board issued Respiratory Care Practitioner License
25 No. 24355 to Sheba J. Aslam, R.C.P. (Respondent). The Respiratory Care Practitioner License
26 was in full force and effect at all times relevant to the charges brought herein and will expire on
27 September 30, 2018, unless renewed.

28 ///

JURISDICTION

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

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

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

10 6. Section 3750 of the Code states:¹

11 “The board may order the denial, suspension, or revocation of, or the imposition of
12 probationary conditions upon, a license issued under this chapter, for any of the following
13 causes:

14 “... ”

15 “(f) Negligence in his or her practice as a respiratory care practitioner.

16 “(g) Conviction of a violation of this chapter or of Division 2 (commencing with
17 Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or
18 abetting the violation of, or conspiring to violate this chapter or Division 2 (commencing
19 with Section 500).

20 “... ”

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

22 “(p) A pattern of substandard care or negligence in his or her practice as a respiratory
23 care practitioner, or in any capacity as a health care worker, consultant, supervisor, manager
24 or health facility owner, or as a party responsible for the care of another.

25 “... ”

26 ¹ Effective January 1, 2017, section 3750 of the Code was revised to amend section 3750,
27 subdivisions (c), (g), (j), and (n), and to add section 3750, subdivision (q). Because the charges
28 and allegations brought herein took place before January 1, 2017, these changes to section 3750
are not applicable to the instant case.

1 7. Section 3702 of the Code states in pertinent part:²

2 “Respiratory care as a practice means a health care profession employed under the
3 supervision of a medical director in the therapy, management, rehabilitation, diagnostic
4 evaluation, and care of patients with deficiencies and abnormalities which affect the
5 pulmonary system and associated aspects of cardiopulmonary and other systems functions,
6 and includes all of the following:

7 “(a) Direct and indirect pulmonary care services that are safe, aseptic, preventive,
8 and restorative to the patient.

9 “(b) Direct and indirect respiratory care services, including, but not limited to, the
10 administration of pharmacological and diagnostic and therapeutic agents related to
11 respiratory care procedures necessary to implement a treatment, disease prevention,
12 pulmonary rehabilitative, or diagnostic regimen prescribed by a physician and surgeon.

13 “(c) Observation and monitoring of signs and symptoms, general behavior, general
14 physical response to respiratory care treatment and diagnostic testing and (1) determination
15 of whether such signs, symptoms, reactions, behavior, or general response exhibits
16 abnormal characteristics; (2) implementation based on observed abnormalities of
17 appropriate reporting or referral or respiratory care protocols, or changes in treatment
18 regimen, pursuant to a prescription by a physician and surgeon or the initiation of
19 emergency procedures.”

20 “(d) The diagnostic and therapeutic use of any of the following, in accordance with
21 the prescription of a physician and surgeon: administration of medical gases, exclusive of
22 general anesthesia; aerosols; humidification; environmental control systems and
23 baromedical therapy; pharmacologic agents related to respiratory care procedures;
24 mechanical or physiological ventilatory support; bronchopulmonary hygiene;
25 cardiopulmonary resuscitation; maintenance of the natural airways; insertion without

26
27 ² Effective January 1, 2016, section 3702 of the Code was amended. Because the charges
28 and allegations brought herein took place before January 1, 2017, the amendments to section
3702 are not applicable to the instant case.

1 cutting tissues and maintenance of artificial airways; diagnostic and testing techniques
2 required for implementation of respiratory care protocols; collection of specimens of blood;
3 collection of specimens from the respiratory tract; analysis of blood gases and respiratory
4 secretions.”

5 “...”

6 8. Section 3755 of the Code states:³

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

15 9. California Code of Regulations, title 16, section 1399.370, states:

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

22 “(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting
23 the violation of or conspiring to violate any provision or term of the Business and
24 Professions Code.

25 “...”

26
27 ³ Effective January 1, 2017, section 3755 of the Code was also amended. Because the
28 charges and allegations brought herein took place before January 1, 2017, the amendments to
section 3755 are not applicable to the instant case.

COST RECOVERY

10. 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.

“...”

11. 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.”

12. 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.

“...”

///

///

///

///

///

///

///

///

FACTS

1
2 13. Since on or about 2005 until August 2016, Respondent was employed as a
3 Respiratory Care Practitioner (RCP) by Placentia-Linda Hospital (PLH) in Placentia, California.

4 14. During Respondent's employment at PLH, PLH utilized two types of BiPAP
5 machines: (1) the Respironics V60 Ventilator (V60 BiPAP), which has a back-up battery pack;
6 and (2) the Respironics Vision BiPAP (Vision BiPAP), which does not have a back-up battery
7 pack. When the V60 BiPAP is disconnected from the power source, it will continue to provide
8 ventilatory support to the patient by using the back-up battery pack. In contrast, when the Vision
9 BiPAP is disconnected from the power source, it will shut off and will cease providing ventilatory
10 support to the patient.

11 15. On or about June 22, 2015, PLH's protocol for transporting patients from the
12 Emergency Department to other PLH departments read as follows: "When transfer of a patient
13 occurs and that patient is receiving a potentially lifesaving treatment modality[,] every effort
14 should be made to continue treatment as a patient safety measure. It is not acceptable to place the
15 patient on some other form of therapy." PLH's protocol further instructed: "On two occurrences
16 this year[,] a patient who was stabilized on BiPAP was transferred to ICU on some other form of
17 oxygen therapy and a delay occurred in receiving a new order. The patient's condition may have
18 been compromised. This is unacceptable and any occurrences of RT's making such decisions
19 will be considered negligent behavior resulting in progressive disciplinary action." (Brackets
20 added.) At all times relevant to the charges and allegations brought herein, Respondent was
21 aware of PLH's protocol for transporting patients from the Emergency Department to other PLH
22 departments.

23 16. On or about July 20, 2016, Respondent was on duty at PLH. During her shift,
24 Respondent was called to the Emergency Department to assist with the transport of a patient to
25 the Intensive Care Unit. The patient was an 83 year old male suffering from acute respiratory
26 failure requiring a BiPAP machine for ventilator support, among other serious ailments (Patient).⁴

27 ⁴ Medical records have been redacted to remove all identifying information regarding
28 Patient, including name, medical record number, and account number.

1 17. At or about the time of transport, Respondent and two Emergency Department nurses,
2 Nurse J.M. and Nurse K.S., were present to assist with Patient's transport. Patient was on the
3 Vision BiPAP, the type of BiPAP machine which does not have a back-up battery pack.
4 Respondent proceeded to unplug the Vision BiPAP from the power source, causing the machine
5 to immediately lose power and temporarily leaving Patient without oxygen and ventilatory
6 support. Respondent re-plugged the Vision BiPAP to the power source, initiated Patient's
7 previous settings, and reconnected Patient to the Vision BiPAP. Respondent stated that
8 something was wrong with the BiPAP machine's battery. Respondent then proceeded, for a
9 second time, to unplug the Vision BiPAP from the power source, causing the machine to again
10 immediately lose power and temporarily leaving Patient without oxygen and ventilatory support.
11 Once again, Respondent re-plugged the Vision BiPAP to the power source and the machine began
12 working as previously programmed.

13 18. Prior to arriving at the Emergency Department, Respondent was working in the
14 Intensive Care Unit and noticed that there were multiple V60 BiPAP machines in use or on the
15 floor. Nevertheless, Respondent asked Nurse K.S. if Patient could be transported via a non re-
16 breather mask, and Nurse K.S. agreed. Nurse J.M. instructed Nurse K.S. to ensure that they had
17 an Ambu bag and a full tank of oxygen during transport in the event Patient would require
18 assisted ventilation. Patient was subsequently placed on a non re-breather mask and transported
19 to the Intensive Care Unit. Patient was not on any ventilatory support during the transport.

20 19. Upon arriving at the Intensive Care Unit, the PLH Director of Cardiopulmonary,
21 J.M., began assisting with the transport of Patient to his new bed. As Respondent placed Patient
22 back on the Vision BiPAP machine, Respondent stated to J.M. that the Vision BiPAP's back-up
23 battery was not working, and that she could not transport Patient while connected to the BiPAP
24 machine.

25 ///

26 ///

27 ///

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(General Unprofessional Conduct)**

3 24. Respondent has subjected her Respiratory Care Practitioner License No. 24355 to
4 disciplinary action under section 3755 of the Code in that Respondent engaged in unprofessional
5 conduct by violating one or more provisions of section 3750 of the Code, as more particularly
6 alleged in paragraphs 13 to 20, above, which are hereby incorporated by reference and realleged
7 as if fully set forth herein.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Violating or Attempting to Violate, Directly or Indirectly, Any Provision or Provisions, or**
10 **Any Term or Terms, of the Act)**

11 25. Respondent has subjected her Respiratory Care Practitioner License No. 24355 to
12 disciplinary action under section 3750, subdivision (g), of the Code, and section 1399.370,
13 subdivision (a), of title 16 of the California Code of Regulations, in that Respondent has violated
14 or attempted to violate, directly or indirectly, provisions or terms of the Respiratory Care Practice
15 Act of California, as more particularly alleged in paragraphs 13 to 24, above, which are hereby
16 incorporated by reference and realleged as if fully set forth herein.

17 **PRAYER**

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

20 1. Revoking or suspending Respiratory Care Practitioner License No. 24355, issued to
21 Respondent Sheba J. Aslam, R.C.P.;

22 2. Ordering Respondent Sheba J. Aslam, R.C.P. to pay the Respiratory Care Board the
23 costs of the investigation and enforcement of this case, and if placed on probation, the costs of
24 probation monitoring; and

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DATED: May 2, 2017

Original signed by Liane Freels for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant

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

In the Matter of the Accusation Against:

SHEBA J. ASLAM
1171 Melia Place
Placentia, CA 92870-5264

Respiratory Care Practitioner License No.
24355

Case No. 7002017000127

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 September 30, 2017.

It is so ORDERED September 20, 2017.

Original signed by: _____

STEPHANIE NUNEZ
EXECUTIVE OFFICER, RESPIRATORY CARE
BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 ROSEMARY F. LUZON
Deputy Attorney General
4 State Bar No. 221544
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9074
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 7002017000127

14 **SHEBA J. ASLAM, R.C.P.**
15 **1171 Melia Place**
Placentia, CA 92870-5264

**STIPULATED SURRENDER OF
LICENSE AND DISCIPLINARY ORDER**

16 **Respiratory Care Practitioner**
17 **License No. 24355**

18 Respondent.

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

21 **PARTIES**

22 1. Stephanie Nunez (Complainant) is the Executive Officer of the Respiratory Care
23 Board of California, Department of Consumer Affairs (Board). She brought this action solely in
24 her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the
25 State of California, by Rosemary F. Luzon, Deputy Attorney General.

26 2. Respondent Sheba J. Aslam (Respondent) is representing herself in this proceeding
27 and has chosen not to exercise her right to be represented by counsel.

28 *///*

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 7002017000127, agrees that cause exists for discipline, and hereby surrenders her
4 Respiratory Care Practitioner License No. 24355 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation she enables the Board to issue
6 an order accepting the surrender of her Respiratory Care Practitioner License No. 24355 without
7 further process to, or opportunity to be heard by, Respondent.

8 CONTINGENCY

9 10. This Stipulated Surrender of License and Disciplinary Order shall be subject to
10 approval of the Executive Officer on behalf of the Board. The parties agree that this Stipulated
11 Surrender of License and Disciplinary Order shall be submitted to the Executive Officer for her
12 consideration in the above-entitled matter and, further, that the Executive Officer shall have a
13 reasonable period of time in which to consider and act on this Stipulated Surrender of License and
14 Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands
15 and agrees that she may not withdraw her agreement or seek to rescind this stipulation prior to the
16 time the Executive Officer, on behalf of the Board, considers and acts upon it.

17 11. The parties agree that this Stipulated Surrender of License and Disciplinary Order
18 shall be null and void and not binding upon the parties unless approved and adopted by the
19 Executive Officer on behalf of the Board, except for this paragraph, which shall remain in full
20 force and effect. Respondent fully understands and agrees that in deciding whether or not to
21 approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive
22 Officer and/or the Board may receive oral and written communications from its staff and/or the
23 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the
24 Executive Officer, the Board, any member thereof, and/or any other person from future
25 participation in this or any other matter affecting or involving Respondent. In the event that the
26 Executive Officer on behalf of the Board does not, in her discretion, approve and adopt this
27 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it
28 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied

1 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees
2 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason
3 by the Executive Officer on behalf of the Board, Respondent will assert no claim that the
4 Executive Officer, the Board, or any member thereof, was prejudiced by its/his/her review,
5 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or
6 of any matter or matters related hereto.

7 **ADDITIONAL PROVISIONS**

8 12. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
9 herein to be an integrated writing representing the complete, final and exclusive embodiment of
10 the agreements of the parties in the above-entitled matter.

11 13. The parties agree that copies of this Stipulated Surrender of License and Disciplinary
12 Order, including copies of the signatures of the parties, may be used in lieu of original documents
13 and signatures and, further, that such copies shall have the same force and effect as originals.

14 14. In consideration of the foregoing admissions and stipulations, the parties agree the
15 Executive Officer of the Board may, without further notice to or opportunity to be heard by
16 Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

17 **DISCIPLINARY ORDER**

18 IT IS HEREBY ORDERED that Respiratory Care Practitioner License No. 24355, issued to
19 Respondent Sheba J. Aslam, is surrendered and accepted by the Respiratory Care Board.

20 1. The surrender of Respondent's Respiratory Care Practitioner License No. 24355 and
21 the acceptance of the surrendered license by the Board shall constitute the imposition of
22 discipline against Respondent. This stipulation constitutes a record of the discipline and shall
23 become a part of Respondent's license history with the Respiratory Care Board of California.

24 2. Respondent shall lose all rights and privileges as a Respiratory Care Practitioner in
25 California as of the effective date of the Board's Decision and Disciplinary Order.

26 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was
27 issued, her wall certificate on or before the effective date of the Decision and Disciplinary Order.

28 ///

1 4. If Respondent ever files an application for licensure, or petitions the Board for
2 reinstatement of her surrendered Respiratory Care Practitioner License No. 24355, or applies or
3 reappplies to the Board for a new license or certificate, which application or petition cannot be
4 filed until at least three years after the effective date of the Board's Decision and Disciplinary
5 Order, the Board shall treat it as a petition for reinstatement of a revoked license and Respondent
6 must comply with all the laws, regulations and procedures for licensure in effect at the time the
7 application or petition is filed, and the charges and allegations contained in Accusation No.
8 7002017000127, and each of them, separately and severally, shall be deemed to be true, correct
9 and fully admitted by Respondent when the Board determines whether to grant or deny the
10 petition.

11 5. If Respondent ever applies or reappplies to any other health care licensing agency in
12 the State of California for a new license or certification, all of the charges and allegations
13 contained in Accusation No. 7002017000127, and each of them, separate and severally, shall be
14 deemed to be true, correct, and fully admitted by Respondent for the purpose of any Statement of
15 Issues or any other proceeding seeking to deny or restrict licensure.

16 6. Respondent shall pay the Board its costs of investigation and enforcement in Case
17 No. 7002017000127, pursuant to Business and Professions Code sections 3753.5, subdivision (a),
18 and 3753.7, in the amount of \$4,340.00 within three years from the effective date of the Board's
19 Decision and Disciplinary Order.

20 ACCEPTANCE

21 I have carefully read the Stipulated Surrender of License and Disciplinary Order. I
22 understand the stipulation and the effect it will have on my Respiratory Care Practitioner License
23 No. 24355. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily,
24 knowingly, and intelligently, and agree to be bound by the Decision and Disciplinary Order of the
25 Respiratory Care Board.

26 DATED:

9-8-17


SHEBA J. ASLAM
Respondent

9-8-17

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

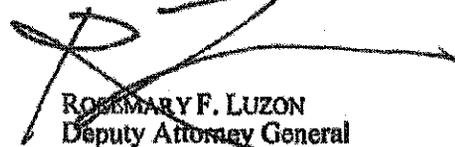
ENDORSEMENT

The foregoing Stipulated Surrender of License and Disciplinary Order is hereby respectfully submitted for consideration by the Respiratory Care Board of the Department of Consumer Affairs.

Dated: 9/18/17

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General



ROSEMARY F. LUZON
Deputy Attorney General
Attorneys for Complainant