OFFICE OF THE GENERAL COUNSEL Nevada State Board of Medical Examiner

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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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In The Matter of Charges and)	
Complaint Against)	Case No. 10-23244-1
MARILYN ATKINS, R.R.T.,)	FILED
Respondent.)	JAN 0 5 2010
	COMPLAINT	NEVADA STATE BOARD O MEDICAL EXAMINERS

COMPLAINI

The Investigative Committee of the Nevada State Board of Medical Examiners, composed at the time of approval of the filing of the instant complaint, of Charles N. Held, M.D., Benjamin Rodriguez, M.D. and Ms. Jean Stoess, having a reasonable basis to believe that Marilyn Atkins, R.R.T., hereinafter referred to as Ms. Atkins, has violated the provisions of NRS Chapter 630, hereby issues its formal Complaint, stating the Investigative Committee's charges and allegations, as follows:

- Ms. Atkins currently holds an active license to practice respiratory care (License no. RC802) and was so licensed on December 7, 2002 after appearing before the Board. Ms. Atkins received her license on the condition that she successfully continues to participate with the Nevada Health Professionals Assistance Foundation (NHPAF) due to concerns about past issues with prescription controlled substances.
- In February 2008, NHPAF indicated it could no longer advocate for Ms. Atkins due to Ms. Atkins only being in partial compliance with the program.
- 3. Ms. Atkins was ordered to submit to a urine and hair drug screen in March 2008 the results of which were negative.
- 4. Ms. Atkins returned to the NHPAF program in April 2008, however, in June 2008, the Board was once again notified that Ms. Atkins was out of compliance with the program. A patient drug utilization profile in July 2008 indicated that Ms. Atkins had been receiving

Reno, Nevada 89502

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hydrocodone prescriptions for the past several months and Ms. Atkins admitted to Board staff that she occasionally used the substance for various ailments.

- 5. In September 2008, Ms. Atkins was allowed to change drug treatment programs and was ordered by an Investigative Committee of the Board to present to the PRN program through Monte Vista Hospital and enter into a contract for drug treatment and monitoring. Ms. Atkins signed a treatment contract with the PRN program on October 15, 2008.
- 6. In June 2009, the PRN program terminated Ms. Atkins for failing to follow her contract with the program.
- A recent drug utilization profile indicates that Ms. Atkins has been receiving 7. prescriptions for hydrocodone between January 2009 through October 2009.

Count I

- 8. Nevada Revised Statute Section 630.3065(2)(a) provides that willful failure to comply with an order of the Board or of an investigative committee of the Board is grounds for initiating discipline against a licensee.
- Nevada Administrative Code Section 630.540(23) provides that disciplinary action 9. may be initiated against a respiratory therapist licensee if they have violated any provision that would subject a practitioner of medicine to discipline pursuant to NRS 630.301 to 630.3065 inclusive.
- 10. Ms. Atkins failed to follow the contract she entered into with the PRN program through Monte Vista Hospital and thus has violated NRS 630.3065(2)(a) and accordingly is subject to discipline by the Nevada State Board of Medical Examiners as provided in Section 630.555 of the Nevada Administrative Code.

Count II

- 11. Nevada Revised Statute Section 630.306(1) provides that the inability to practice medicine with reasonable skill and safety because of use of narcotics is grounds for initiating discipline against a licensee.
- Nevada Administrative Code Section 630.540(23) provides that disciplinary action 12. may be initiated against a respiratory therapist licensee if they have violated any provision that

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would subject a practitioner of medicine to discipline pursuant to NRS 630.301 to 630.3065 inclusive.

13. Ms. Atkins has not completed a treatment program for the use of narcotic prescription medication and continues to utilize them creating an inability to practice respiratory care with reasonable skill and safety and thus has violated NRS 630.306(1) and accordingly is subject to discipline by the Nevada State Board of Medical Examiners as provided in Section 630.555 of the Nevada Administrative Code.

WHEREFORE, the Investigative Committee prays:

- 1. That the Nevada State Board of Medical Examiners fix a time and place for a formal hearing;
- 2. That the Nevada State Board of Medical Examiners give Ms. Atkins notice of the charges herein against her, and when appropriate, the time and place set for the hearing, and the possible sanctions against her;
- 3. That the Nevada State Board of Medical Examiners determine what sanctions it wishes to impose for the violation or violations committed by Ms. Atkins;
- 4. That the Nevada State Board of Medical Examiners make, issue and serve on Ms. Atkins its findings of facts, conclusions of law and order, in writing, that includes the sanctions imposed; and
- 5. That the Nevada State Board of Medical Examiners take such other and further action as may be just and proper in these premises.

DATED this 5 day of January, 2010.

THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

General Counsel and Attorney for the Investigative Committee

OFFICE OF THE GENERAL COUNSEL Nevada State Board of Medical Examiners 1105 Terminal Way #301 Reno, Nevada 89502 (775) 688-2559

CERTIFICATE OF MAILING

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 5th day of January 2010, I served a file copy of the COMPLAINT, along with copy of appointment letter and Fingerprint Information, by mailing USPS certified mail to the following:

Marilyn Atkins, R.R.T. 5216 Falls Meadows Ave. Las Vegas, NV 89130

Dated this 5th day of January 2010.

Angelia L. Donohoe Legal Assistant