

BEFORE THE IOWA BOARD OF
RESPIRATORY CARE EXAMINERS

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|-------------------|---|------------------------|
| IN THE MATTER OF: |) | Case number 05-003 |
| |) | |
| Tammara Sue Lutz, |) | NOTICE OF HEARING AND |
| |) | STATEMENT OF CHARGES |
| Respondent. |) | IN A DISCIPLINARY CASE |

COMES NOW the Iowa Board of Respiratory Care Examiners and files this Notice of Hearing pursuant to Iowa Code section 17A.12(2). Respondent was issued Iowa Respiratory Care license no. 306-01307 on November 7, 1997. Respondent's license is scheduled for renewal March 31, 2008.

A. TIME, PLACE AND NATURE OF HEARING,
AND HEARING PROCEDURES

1. **Hearing.** A disciplinary contested case hearing be held before the Board on the 22nd day of January 2007, at 10:00 a.m. at the Lucas State Office Building, 5th Floor, 321 E. 12th Street, Des Moines, Iowa 50319.
2. **Answer.** Within twenty (20) days of the date you are served this Notice of Hearing you must file an answer to the charges in 645 Iowa Administrative Code 11.12.
3. **Presiding Officer.** The Board shall serve as presiding officer at the hearing, pursuant to Iowa Code section 272C.6(1) and 645 Iowa Administrative Code 11.8. The Board may request an Administrative Law Judge make initial rulings on prehearing matters and be present to assist and advise the Board at hearing as described in 645 Iowa Administrative Code (IAC) 11.8.

4. **Hearing Procedures.** Board rules on hearing procedures are found at 645 IAC chapter 11. You have the right to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. If you need to request an alternative time or date for hearing, you must review the requirements in 645 IAC 11.18. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

5. **Prosecution.** The officer of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings shall be filed with the Board, with copies mailed to: John Baty, Assistant Attorney General, Iowa Department of Justice, General Counsel Division, 800 Lincoln Way, Ames, Iowa 50010. Phone: 515-239-1368; Fax: 515-239-1609.

6. **Respondent's Counsel.** Copies of all pleadings filed with the Board shall be provided to the following counsel, unless Respondent or counsel notifies the Board to the contrary. No counsel currently designated by Respondent.

7. **Settlement.** The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General John Baty.

8. **Communications.** You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file

with the Board office and serve upon all parties in the case. You should direct any questions to Assistant Attorney General John Baty or Ella Mae Baird, Board Administrator at 515-281-5234.

B. LEGAL AUTHORITY AND JURISDICTION

9. **Jurisdiction.** The board has jurisdiction in this matter pursuant to Iowa Code Chapters 17A.147, 152B, and 272C (2005).

10. **Legal Authority.** If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 152C and 272C (2005) and 645 IAC chapter 263.

11. **Default.** If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 645 IAC 11.21.

C. CHARGES AND STATUTES AND RULES INVOLVED

COUNT I

12. Respondent is charged under Iowa Code sections 147.55(2),(3); 152B.12; 272C.3, 272C.10(2), (3), and 645 IAC sections 263.2(2)(b-d), 263.2(3), 263.2(8) and 263.2(10) by incompetently and negligently failing to perform a client assessment and then unethically falsifying the client's records.

COUNT II

13. Respondent is charged pursuant to Iowa Code sections 147.55(3),(5); 152B.12; 272C.3; 272C.10(3), (5), (8); 645 IAC 263.2(3) and 263.2(11) by being convicted of a felony related to the practice of respiratory care and by engaging in unethical conduct or practice harmful or detrimental to the public.

COUNT III

14. Respondent is charged pursuant to Iowa Code sections 147.55(3); 152B.12; 272C.3; 272C.10(3); Chapter 126 (particularly section 126.3(10)) and 645 IAC 263.2(3) by engaging in unethical conduct or practice harmful or detrimental to the public in selling or assisting in selling a medical device whose labeling was destroyed or obliterated.

D. STATEMENT OF MATTERS ASSERTED

15. A short and plain Statement of the Matters Asserted was reviewed and approved by the Board at the time this Notice of Hearing was filed. A Statement of the Matters Asserted shall be furnished to Respondent as an attachment to this Notice. However, this short and plain statement of the matters asserted is not a public record.

E. PROBABLE CAUSE FINDING

16. On this 23th day of October, the Iowa Board of Respiratory Care Examiners found probable cause to file this Notice of Hearing.

This notice of hearing and statement of charges in a disciplinary case is approved by the board on October 23, 2006.