BEFORE THE BOARD OF RESPIRATORY CARE OF THE STATE OF IOWA

IN THE MATTER OF)	NO. 08-002
)	
EMILY L. THOMPSON,)	NOTICE OF HEARING
)	AND STATEMENT OF CHARGES
RESPONDENT.)	

COMES NOW the Iowa Board of Respiratory Care (hereinafter "Board") and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent was issued Iowa license number 002307 on July 9, 2007. Respondent's license is current and will next expire on March 31, 2010. Respondent's address as reported to the Board is 2513 Sagebrush Avenue, Apartment 103, Cheyenne, Wyoming, 82009.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on July 28, 2008, before the Board. The hearing shall begin at 10:00 a.m. and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Room 526, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Respiratory Care, 5th Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

<u>Presiding Officer</u>. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

<u>Pre-hearing Conference</u>. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: Heather L. Palmer, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, 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.

B. LEGAL AUTHORITY AND JURISDICTION

<u>Jurisdiction</u>. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 152B, and 272C.

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, 152B, and 272C and 645 IAC chapter 263.

<u>Default</u>. 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. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

Respondent is charged pursuant to Iowa Code sections 147.55(4) and 272C.10(4) and 645 IAC 263.2(6) with habitual intoxication, including the inability to practice with reasonable skills and safety by reason of the excessive use of alcohol on a continuing basis.

Count II

Respondent is charged pursuant to 645 IAC 263.2(30) with violation of the terms of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

D. FACTUAL CIRCUMSTANCES

- In 2004 Respondent was convicted of Operating a Motor Vehicle while Intoxicated.
- In 2006, Respondent received a second conviction for Operating a Motor Vehicle while Intoxicated.
 - Respondent applied for a license with the Board in 2007.

- On April 24, 2007, the Board referred Respondent to the impaired practitioner review committee (hereinafter "IPRC").
 - The IPRC determined Respondent was impaired due to alcohol dependence.
- On September 6, 2007, Respondent entered into an Impaired Practitioner
 Recovery Contract (hereinafter "Contract") with the IPRC.
- As a condition of her Contract, Respondent agreed to participate in a chemical screening program, which requires daily telephone contact and random urinalysis testing.
- On October 23, 2007, Respondent missed calling into FirstLab, the collection agency.
 - On February 20, 2008, Respondent received a positive test result for alcohol.
- 10. The IPRC made a referral to a medical review officer and Respondent admitted to consuming alcohol.
- In April 2008, The IPRC voted to nullify Respondent's Contract for noncompliance with the terms of her Contract.

E. SETTLEMENT

This matter may be resolved by settlement agreement. 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 Heather L. Palmer, Assistant Attorney General, at 515.281,6858.

F. PROBABLE CAUSE FINDING

On this 10th day of June, 2008, the Iowa Board of Respiratory Care found probable cause to file this Notice of Hearing and Statement of Charges.

This notice of hearing and statement of charges is approved by the board on June 10, 2008.