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7

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

10
11 In the Matter of the Accusation Against:
12 **RON CLARIN, RCP**
13 **1645 Amberwood Drive, #2**
South Pasadena, CA 91030
14
15 **Respiratory Care Practitioner No. 13215**
16 Respondent.

Case No. 1H 2008 598

OAH No. 2009040761

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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 Edmund G. Brown Jr., Attorney General of the State of California, by Colleen M.
23 McGurrin, Deputy Attorney General.

24 2. RON CLARIN, RCP, Respondent, is represented in this proceeding by attorney
25 Edward A. Torres, whose address is 510 S. Marengo Avenue, Pasadena, CA 91101.

26 3. On or about December 29, 1989, the Respiratory Care Board of California issued
27 Respiratory Care Practitioner No. 13215 to RON CLARIN, RCP. The Respiratory Care
28 Practitioner was in full force and effect at all times relevant to the charges brought in

1 Accusation No. 1H 2008 598 and will expire on October 31, 2009, unless renewed.

2 JURISDICTION

3 4. Accusation No. 1H 2008 598 was filed before the Respiratory Care Board (Board) ,
4 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
5 and all other statutorily required documents were properly served on Respondent on March 20,
6 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of
7 Accusation No. 1H 2008 598 is attached as exhibit A and incorporated herein by reference.

8 ADVISEMENT AND WAIVERS

9 5. Respondent has carefully read, fully discussed with counsel, and understands the
10 charges and allegations in Accusation No. 1H 2008 598. Respondent has also carefully read,
11 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
12 Disciplinary Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the right to a
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
15 his own expense; the right to confront and cross-examine the witnesses against him; the right to
16 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
17 the attendance of witnesses and the production of documents; the right to reconsideration and
18 court review of an adverse decision; and all other rights accorded by the California
19 Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
21 every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 1H 2008 598.

25 9. Respondent agrees that his Respiratory Care Practitioner license is subject to
26 discipline and he agrees to be bound by the Respiratory Care Board's imposition of discipline as
27 set forth in the Disciplinary Order below.

28 ///

1 CONTINGENCY

2 10. This stipulation shall be subject to approval by the Respiratory Care Board.
3 Respondent understands and agrees that counsel for Complainant and the staff of the Respiratory
4 Care Board of California may communicate directly with the Board regarding this stipulation and
5 settlement, without notice to or participation by Respondent or his counsel. By signing the
6 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
7 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
8 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
9 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
10 action between the parties, and the Board shall not be disqualified from further action by having
11 considered this matter.

12 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
13 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
14 effect as the originals.

15 12. In consideration of the foregoing admissions and stipulations, the parties agree that
16 the Board may, without further notice or formal proceeding, issue and enter the following
17 Disciplinary Order:

18 **DISCIPLINARY ORDER**

19 IT IS HEREBY ORDERED that Respiratory Care Practitioner No. 13215 issued to
20 Respondent, RON CLARIN, RCP is revoked. However, the revocation is stayed and Respondent
21 is placed on probation for five (5) years on the following terms and conditions.

22 1. WORK SCHEDULES Respondent shall be required to submit to the probation
23 monitor work schedules on a weekly/monthly basis for the length of probation. Respondent shall
24 ensure the Board has a copy of his current work schedule at all times for each place of
25 employment.

26 Failure to submit current work schedules on a continuous basis shall constitute a violation
27 of probation and shall result in the filing of an accusation and/or a petition to revoke probation
28 against Respondent's respiratory care practitioner license.

1 2. BIOLOGICAL FLUID TESTING Respondent, at his expense, shall participate in
2 random testing, including, but not limited to, biological fluid testing (i.e. urine, blood, saliva),
3 breathalyzer, hair follicle testing, or a drug screening program approved by the Board. Test costs
4 range from \$21.00 to \$200.00 each. The length of time shall be for the entire probation period.
5 The frequency and location of testing will be determined by the Board.

6 At all times, Respondent shall fully cooperate with the Board or any of its representatives,
7 and shall, when directed, appear for testing as requested and submit to such tests and samples for
8 the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances.

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

14 Failure to submit to testing or appear as requested by any Board representative for testing,
15 as directed shall constitute a violation of probation and shall result in the filing of an accusation
16 and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

17 3. ABSTENTION FROM USE OF ANY AND ALL MOOD ALTERING
18 SUBSTANCES Respondent shall completely abstain from the possession or use of alcohol,
19 controlled substances, dangerous drugs, and any and all other mood altering drugs, substances
20 and their associated paraphernalia, except when the drugs are lawfully prescribed by a licensed
21 practitioner as part of a documented medical treatment.

22 Respondent shall execute a release authorizing the release of pharmacy and prescribing
23 records as well as physical and mental health medical records. Respondent shall also provide
24 information of treating physicians, counselors or any other treating professionals as requested by
25 the Board.

26 Respondent shall ensure that he is not in the presence of or in the same physical location as
27 individuals who are using illegal substances, even if Respondent is not personally ingesting the
28 drug(s).

1 Any positive result that registers over the established laboratory cutoff level shall constitute
2 a violation of probation and shall result in the filing of an accusation and/or a petition to revoke
3 probation against Respondent's respiratory care practitioner license.

4 Respondent also understands and agrees that any positive result that registers over the
5 established laboratory cutoff level shall be reported to each of Respondent's employers.

6 4. RESTRICTION OF PRACTICE Respondent may not be employed or function as a
7 member of a respiratory care management or supervisory staff during the entire length of
8 probation. This includes lead functions.

9 Respondent is prohibited from working in home care unless it is under direct supervision
10 and personal observation.

11 Respondent is prohibited from working for a registry.

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

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

21 Respondent is ultimately responsible for ensuring his employer(s) submits complete and
22 timely reports. Failure to ensure each employer submits complete and timely reports shall
23 constitute a violation of probation.

24 6. OBEY ALL LAWS Respondent shall obey all laws, whether federal, state, or local.
25 Respondent shall also obey all regulations governing the practice of respiratory care in California.

26 Respondent shall notify the Board in writing within 14 days of any incident resulting in his
27 arrest, or charges filed against, or a citation issued against Respondent.

28 7. QUARTERLY REPORTS Respondent shall file quarterly reports of compliance

1 under penalty of perjury, on forms to be provided to the probation monitor assigned by the Board.
2 Omission or falsification in any manner of any information on these reports shall constitute a
3 violation of probation and shall result in the filing of an accusation and/or a petition to revoke
4 probation against Respondent's respiratory care practitioner license.

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

8 For the period covering January 1st through March 31st, reports are to be completed and
9 submitted between April 1st and April 7th. For the period covering April 1st through June 30th,
10 reports are to be completed and submitted between July 1st and July 7th. For the period covering
11 July 1st through September 30th, reports are to be completed and submitted between October 1st
12 and October 7th. For the period covering October 1st through December 31st, reports are to be
13 completed and submitted between January 1st and January 7th.

14 Failure to submit complete and timely reports shall constitute a violation of probation.

15 8. PROBATION MONITORING PROGRAM Respondent shall comply with
16 requirements of the Board appointed probation monitoring program, and shall, upon reasonable
17 request, report to or appear to a local venue as directed.

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

21 Respondent is encouraged to contact the Board's Probation Program at any time he has a
22 question or concern regarding his terms and conditions of probation.

23 Failure to appear for any scheduled meeting or examination, or cooperate with the
24 requirements of the program, including timely submission of requested information, shall
25 constitute a violation of probation and will result in the filing of an accusation and/or a petition to
26 revoke probation against Respondent's respiratory care practitioner license.

27 9. PROBATION MONITORING COSTS All costs incurred for probation monitoring
28 during the entire probation shall be paid by the Respondent. The monthly cost may be adjusted as

1 expenses are reduced or increased. Respondent's failure to comply with all terms and conditions
2 may also cause this amount to be increased.

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

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

10 Respondent understands that failure to submit costs timely is a violation of probation and
11 submission of evidence demonstrating financial hardship does not preclude the Board from
12 pursuing further disciplinary action. However, Respondent understands providing evidence and
13 supporting documentation of financial hardship may delay further disciplinary action.

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

17 The filing of bankruptcy by Respondent shall not relieve the Respondent of his
18 responsibility to reimburse the Board for costs incurred.

19 10. EMPLOYMENT REQUIREMENT Respondent shall be employed a minimum of
20 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of his probation period.

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

26 11. NOTICE TO EMPLOYER Respondent shall be required to inform his employer,
27 and each subsequent employer during the probation period, of the discipline imposed by this
28 decision by providing his supervisor and director and all subsequent supervisors and directors

1 with a copy of the decision and order, and the Statement(s) of Issues or Accusation(s) in this
2 matter prior to the beginning of or returning to employment or within 14 days from each change
3 in a supervisor or director.

4 If Respondent is employed by or through a registry [and is not restricted from working for a
5 registry], Respondent shall make each hospital or establishment to which he is sent aware of the
6 discipline imposed by this decision by providing his direct supervisor and administrator at each
7 hospital or establishment with a copy of this decision, and the Statement(s) of Issues or
8 Accusation(s) in this matter prior to the beginning of employment. This must be done each time
9 there is a change in supervisors or administrators.

10 The employer will then inform the Board, in writing, that he is aware of the discipline, on
11 forms to be provided to the Respondent. Respondent is responsible for contacting the Board to
12 obtain additional forms, if needed. All reports completed by the employer must be submitted
13 from the employer directly to the Board.

14 Respondent shall execute a release authorizing the Board or any of its representatives to
15 review and obtain copies of all employment records and discuss and inquire of the probationary
16 status with any of Respondent's supervisors or directors.

17 12. CHANGES OF EMPLOYMENT OR RESIDENCE Respondent shall notify the
18 Board, and appointed probation monitor, in writing, of any and all changes of employment,
19 location, and address within 14 days of such change. This includes, but is not limited to, applying
20 for employment, termination or resignation from employment, change in employment status,
21 change in supervisors, administrators or directors.

22 Respondent shall also notify his probation monitor AND the Board IN WRITING of any
23 changes of residence or mailing address within 14 days. P.O. Boxes are accepted for mailing
24 purposes, however the Respondent must also provide his physical residence address as well.

25 13. SURRENDER OF LICENSE Following the effective date of this decision, if
26 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
27 the terms and conditions of probation, he may request the voluntary surrender of his license. The
28 Board reserves the right to evaluate Respondent's request and to exercise its discretion whether or

1 not to grant the request or to take any other action deemed appropriate and reasonable under the
2 circumstances. Upon formal acceptance of the surrender, within 15 calendar days Respondent
3 shall deliver his wallet and wall certificate to the Board or its designee and he shall no longer
4 practice respiratory care. Respondent will no longer be subject to the terms and conditions of
5 probation and the surrender of Respondent's license shall be deemed disciplinary action. If
6 Respondent re-applies for a respiratory care license, the application shall be treated as a petition
7 for reinstatement of a revoked license.

8 14. COST RECOVERY Respondent shall pay to the Board a sum not to exceed the
9 costs of the investigation and prosecution of this case. That sum shall be \$3,785.00 and shall be
10 paid in full directly to the Board, in equal quarterly payments, within 12 months from the
11 effective date of this decision. Cost recovery will not be tolled.

12 If Respondent is unable to submit costs timely, he shall be required instead to submit an
13 explanation of why he is unable to submit these costs in part or in entirety, and the date(s) he will
14 be able to submit the costs including payment amount(s). Supporting documentation and
15 evidence of why the Respondent is unable to make such payment(s) must accompany this
16 submission.

17 Respondent understands that failure to submit costs timely is a violation of probation, and
18 submission of evidence demonstrating financial hardship does not preclude the Board from
19 pursuing further disciplinary action. However, Respondent understands that providing evidence
20 and supporting documentation of financial hardship may delay further disciplinary action.

21 Consideration to financial hardship will not be given should Respondent violate this term
22 and condition, unless an unexpected AND unavoidable hardship is established from the date of
23 this order to the date payment(s) is due.

24 The filing of bankruptcy by the Respondent shall not relieve the Respondent of his
25 responsibility to reimburse the Board for these costs.

26 15. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE Periods of
27 residency or practice outside California, whether the periods of residency or practice are
28 temporary or permanent, will toll the probation period, but will not toll the cost recovery

1 requirement, nor the probation monitoring costs incurred. Travel out of California for more than
2 30 days must be reported to the Board in writing prior to departure. Respondent shall notify the
3 Board, in writing, within 14 days, upon his return to California and prior to the commencement of
4 any employment where representation as a respiratory care practitioner is/was provided.

5 16. VALID LICENSE STATUS Respondent shall maintain a current, active and valid
6 license for the length of the probation period. Failure to pay all fees and meet Continuing
7 Education requirements prior to his license expiration date shall constitute a violation of
8 probation.

9 17. VIOLATION OF PROBATION If Respondent violates any term of the probation in
10 any respect, the Board, after giving Respondent notice and the opportunity to be heard, may
11 revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke
12 probation is filed against Respondent during probation, the Board shall have continuing
13 jurisdiction and the period of probation shall be extended until the matter is final. No petition for
14 modification of penalty shall be considered while there is an accusation or petition to revoke
15 probation or other penalty pending against Respondent.

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

18 ACCEPTANCE

19 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
20 discussed it with my attorney, Edward A. Torres. I understand the stipulation and the effect it
21 will have on my Respiratory Care Practitioner. I enter into this Stipulated Settlement and
22 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
23 Decision and Order of the Respiratory Care Board.

24
25 DATED: September 24, 2009

Original signed by:

26 RON CLARIN, RCP
Respondent

27 / / /

1 I have read and fully discussed with Respondent RON CLARIN, RCP the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4
5 DATED: September 25, 2009

Original signed by: _____

EDWARD A. TORRES, ESQ.
Attorney for Respondent

6
7
8 ENDORSEMENT

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
10 submitted for consideration by the Respiratory Care Board of the Department of Consumer
11 Affairs.

Respectfully Submitted,

12
13 Dated: September 25, 2009

EDMUND G. BROWN JR.
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

14
15
16 Original signed by: _____

COLLEEN M. MCGURRIN
Deputy Attorney General
Attorneys for Complainant

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

In the Matter of the Accusation Against:

**RON CLARIN, RCP
1645 Amberwood Drive, #2
South Pasadena, CA 91030
Respiratory Care Practitioner No. 13215**

Respondent.

Case No. 1H 2008 598

OAH No. 2009040761

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on January 9, 2010.

It is so ORDERED December 30, 2009.

Original signed by: _____
LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA