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

12 **In the Matter of the Accusation Against:**

13 **WILEY L. ANGLIN**
14 **191 Calle Magdalena, Unit 290**
Encinitas, CA 92024

15 **Respiratory Care Practitioner License**
16 **No. 15044**

17 Respondent.

Case No. 1H 2010 675

OAH No. 2011090518

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18
19 FINDINGS OF FACT

20 1. On or about March 10, 2011, Complainant Stephanie Nunez, in her official capacity
21 as the Executive Officer of the Respiratory Care Board of California, Department of Consumer
22 Affairs, filed Accusation No. 1H 2010 675 against Wiley L. Anglin, (Respondent) before the
23 Respiratory Care Board.

24 2. On or about March 10, 1992, the Respiratory Care Board issued Respiratory Care
25 Practitioner License No. 15044 to Respondent. Said License No. 15044 expired on December 31,
26 2011 and has not been renewed. A true and correct copy of Respondent's license history is

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1 attached as Exhibit 1, in the separate accompanying “Default Decision Evidence Packet”¹ and
2 incorporated by reference as if fully set forth herein.²

3 3. On or about March 10, 2011, Stephanie M. Aguirre, an employee of the complainant
4 agency, served a true and correct copy of Accusation No. 1H 2010 675, the Statement to
5 Respondent, Notice of Defense (two copies), Request for Discovery, and Government Code
6 sections 11507.5, 11507.6, and 11507.7 to Respondent by both United States Postal Service
7 Certified Mail and First Class Mail to Respondent’s address of record, which was and is:
8 191 Calle Magdalena, Unit 290, Encinitas, California 92024. (Exh. 2.)

9 4. Service of the Accusation No. 1H 2010 675 was effective upon mailing, as a matter
10 of law under Government Code section 11505, subdivision (c).

11 5. “Government Code section 11506, subdivision (c) states:

12 “(c) The respondent shall be entitled to a hearing on the merits if the
13 respondent files a notice of defense, and the notice shall be deemed a specific
14 denial of all parts of the accusation not expressly admitted. Failure to file a notice
15 of defense shall constitute a waiver of respondent’s right to a hearing, but the
16 agency in its discretion may nevertheless grant a hearing.”

17 6. On or about March 15, 2011 Respondent returned a signed Notice of Defense within
18 15 days after service of the Accusation No. 1H 2010 675. (Exh. 3.)

19 7. On or about June 9, 2011, the Board filed and served its First Amended Accusation
20 No. 1H 2010 675 upon Respondent. (Exh. 4.)

21 8. On or about September 20, 2011, Veronica R. Cruz, an employee of the Office of the
22 Attorney General, served by both United States Postal Service Certified Mail and First Class Mail
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25 ¹ The exhibits referred to herein, each of which are true and correct copies of the originals,
26 are contained in the separate accompanying “Default Decision Evidence Packet” and will be
27 identified by “Exh.” followed by the specific exhibit number.

28 ² Business and Professions Code Section 118, subsection (b) provides that the expiration
of a license issued by a board does not deprive the board of its authority to institute or continue a
disciplinary proceeding against the licensee.

1 a Notice of Hearing in case No. 1H 2010 675, to Respondent's address of record. The Notice of
2 Hearing set forth a hearing date, time and place as follows:

3 "YOU ARE HEREBY NOTIFIED that a hearing in this matter will
4 commence on **Thursday, December 22, 2011, at 9:00 a.m.** before an
5 Administrative Law Judge at the address listed below.

6 **Office of Administrative Hearings**
7 **1350 Front Street, Suite 3005**
8 **San Diego, CA 92101**

9 "The hearing will be conducted before the Respiratory Care Board,
10 Department of Consumer Affairs by an Administrative Law Judge of the Office of
11 Administrative Hearings, upon the charges made in Accusation No. 1H 2010 675
12 served upon you."

13 (Exh. 5.)

14 9. On or about September 21, 2011, the Certified Domestic Return Receipt was signed.

15 (Exh. 6.)

16 10. On or about December 22, 2011, Respondent failed to appear at the duly noticed
17 hearing on First Amended Accusation No. 1H 2010 675.

18 11. California Government Code section 11520, subdivision (a) states:

19 "If the respondent either fails to file a notice of defense or to appear at the
20 hearing, the agency may take action based upon the respondent's express
21 admissions or upon other evidence and affidavits may be used as evidence without
22 any notice to respondent; and where the burden of proof is on the respondent to
23 establish that the respondent is entitled to the agency action sought, the agency
24 may act without taking evidence."

25 12. True and correct certified copies of the complaint and Superior Court Register of
26 Actions/Docket in Kern County, Maricopa-Taft Judicial District, Superior Court Case No.
27 TM076975A, entitled *The People of the State of California vs. Wiley Lafayette Anglin*, the police
28 reports and the probable cause declaration are jointly attached as Exhibit 7, and allege the
following:

1 (a) On or about January 27, 2010, Respondent willfully touched an intimate part of a minor
2 female child, under the age of 14, Jane Doe #1; and

3 (b) On or about April of 2009, Respondent willfully touched an intimate part of a minor
4 female child, under the age of 14, Jane Doe #2.

5 13. On or about June 23, 2010, the complaint was amended to include Count 5, a
6 violation of Penal Code section 272, a misdemeanor, contributing to the delinquency of a minor.

7 14. On or about June 23, 2010, Respondent was convicted and found guilty on his plea of
8 *nolo contendere* to Count 5, a violation of Penal Code section 272. Counts 1, 2, 3 and 4 were
9 dismissed by the People.

10 15. On or about June 23, 2010, Respondent was placed on three years probation
11 with terms and conditions including 10 days in custody.

12 16. Pursuant to its authority under Government Code section 11520, the Board finds
13 Respondent is in default. The Board will take action without further hearing and, based on
14 Respondent's express admissions by way of default, and the evidence before it, contained in
15 Exhibits 1, 2, 3, 4, 5, 6 and 7, hereby finds that the allegations contained in First Amended
16 Accusation No. 1H 2010 675, and each of them separately and severally, are true and correct.

17 17. The Respiratory Care Board further finds that pursuant to Business and Professions
18 Code section 3753.5, the costs of investigation and enforcement of the case prayed for in the Case
19 No. 1H 2010 675 total \$4415.00 based on the declaration of Stephanie Nunez, in support of
20 Complainant's request for cost recovery. (Exh. 8.)

21 DETERMINATION OF ISSUES

22 1. Based on the foregoing findings of fact, Respondent Wiley L. Anglin, R.C.P. has
23 subjected his Respiratory Care Practice License No. 15044 to discipline.

24 2. A true and correct copy of First Amended Accusation No. 1H 2010 675 and the
25 related documents and Declarations of Service are attached.

26 3. The Board has jurisdiction to adjudicate this case by default.

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The Decision shall become effective on April 5, 2012.

IT IS SO ORDERED March 6, 2012.

Original signed by:
MURRAY L. OLSON, RCP, RRT-NPS, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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