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

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| In the Matter of the Petition to Revoke Probation Against**:**<br><br>**TAMATHA L. BODEWIG**<br>**2825 Monterey Road**<br>**Atascadero, CA 93422**<br><br>**Respiratory Care Practitioner License No. 21197**<br><br>Respondent. | Case No. R-2012/D1 2005 581<br><br>PETITION TO REVOKE PROBATION |

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about December 30, 1999, the Respiratory Care Board issued Respiratory Care Practitioner License Number 21197 to Tamatha L. Bodewig (Respondent). The Respiratory Care Practitioner License was in effect at all times relevant to the charges brought herein and will expire on February 28, 2011, unless renewed.

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3. In a disciplinary action entitled “In the Matter of Accusation Against Tamatha L. Bodewig,” Case No. R-2012, the Respiratory Care Board issued a decision effective September 21, 2006, in which Respondent’s Respiratory Care Practitioner License was revoked. However, the revocation was stayed and Respondent’s license was placed on probation for a period of three (3) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

4. This Petition to Revoke Probation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 3710 of the Code states: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

6. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

COST RECOVERY

7. Section 3753.5, subdivision (a) of the Code states:

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case."

8. Section 3753.7 of the Code states:

"For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees."

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9. Section 3753.1 of the Code states:

"(a) An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation. "

FIRST CAUSE TO REVOKE PROBATION

(Biological Fluid Testing)

10. Probation Condition 2 of the Decision and Order in case R-2012 stated:

"Respondent, at her expense, shall participate in random testing, including, but not limited to, biological fluid testing..."

11. Respondent‘s probation is subject to revocation because she failed to comply with Probation Condition 2. The facts and circumstances regarding this violation are as follows:

A. Compass Vision Inc. (CVI) administers the Board’s random testing program. Respondent is required to telephone CVI on a daily basis to determine if she is selected to provide a specimen for testing and analysis. The date and time of all calls made to the system are logged into CVI’s database. Respondent was provided with written materials explaining the procedures. She failed to telephone CVI on the following dates in 2007: February 28, March 2, June 3, August 10, 11, 13-31, September 1 – 5, 13, 15, 16, 19, 21, 22, 24, 25, 27, 30, October 3; in 2008: March 15, May 11, 23, June 21, July 20, August 27, September 29, October 27, November 27; in 2009: January 13, 26, February 9, 14, 15, 16, 18, 19, 23, 26, March 1, 3, 4, 5, 6, 8, 9, 10, 12, 13, 14, 17, 19, 25 and 30, April 3, 11, 18, 19, 21 – 30, May 1 – 31, June 1 – 30, July 1 - 3.

B. Respondent was selected to provide a biological fluid sample at a CVI field office, but failed to appear on the following dates: November 26, 2008, January 12, 2009, February 6 and 17 2009, March 10, 2009, April 10, May 12, and June 22.

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SECOND CAUSE TO REVOKE PROBATION

(Quarterly Reports)

12. Probation Condition 6 stated:

"Respondent shall file quarterly reports of compliance under penalty of perjury..."

13. Respondent‘s probation is subject to revocation because she failed to comply with Probation Condition 6. The facts and circumstances regarding this violation are as follows:

Respondent did not submit quarterly reports for October 1, 2008 – December 31, 2008 and for January 1, 2009 through March 31, 2009.

THIRD CAUSE TO REVOKE PROBATION

(Probation Costs)

14. Probation Condition 8 stated:

" All costs incurred for probation monitoring during the entire probation shall be paid by Respondent."

15. Respondent‘s probation is subject to revocation because she failed to comply with Probation Condition 8. The facts and circumstances regarding this violation are as follows:

Respondent has not submitted monthly probation costs since June 27, 2008 and currently owes $1,700.00.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking the probation that was granted in Case No. R-2012 and imposing the disciplinary order that was stayed, thereby revoking Respiratory Care Practitioner License No. 21197 issued to Tamatha L. Bodewig;

2. Revoking or suspending Respiratory Care Practitioner License No. 21197, issued to Tamatha L. Bodewig;

3. Ordering Tamatha L. Bodewig to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if probation is continued or extended, the costs of probation monitoring;

4. Taking such other and further action as deemed necessary and proper.

DATED: July 16, 2009

Original signed by Liane Freels for :
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
*Complainant*

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