

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

In the Matter of the Accusation Against:

Case No. 1H 2012 132

EDUARD T. BAON
1965 Coulston Street, Apt. #40
Loma Linda, CA 92354

Respiratory Care Practitioner License No. 23857

DECISION AND ORDER

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

This Decision shall become effective on April 5, 2013.

It is so ORDERED March 26, 2013.

Original signed by:

CHARLES B. SPEARMAN, MEd, RCP, RRT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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

11 In the Matter of the Accusation Against:

Case No. 1H-2012-132

12 **EDUARD T. BAON, R.C.P.**
13 **1965 Coulston Street, Apt. 40**
14 **Loma Linda, CA 92354**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 **Respiratory Care Practitioner**
16 **License No. 23857**

Respondent.

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18 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Stephanie Nunez (Complainant) is the Executive Officer of the Respiratory Care
22 Board of California. She brought this action solely in her official capacity and is represented in
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Samuel K.
24 Hammond, Deputy Attorney General.

25 2. Eduard T. Baon, R.C.P. (Respondent) is representing himself in this proceeding and
26 has chosen not to exercise his right to be represented by counsel.

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1 transport team. Respondent is also prohibited from providing instruction or supervision to
2 respiratory care students or applicants whether in a clinical or classroom setting.

3 2. **OBEY ALL LAWS** Respondent shall obey all laws, whether federal, state, or local.
4 The Respondent shall also obey all regulations governing the practice of respiratory care in
5 California.

6 Respondent shall notify the Board in writing within three (3) days of any incident resulting
7 in his arrest, or charges filed against, or a citation issued against, Respondent.

8 3. **QUARTERLY REPORTS** Respondent shall file quarterly reports of compliance
9 under penalty of perjury, on forms to be provided, to the probation monitor assigned by the
10 Board. Omission or falsification in any manner of any information on these reports shall
11 constitute a violation of probation and shall result in the filing of an accusation and/or a petition
12 to revoke probation against Respondent's respiratory care practitioner license.

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

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

24 4. **PROBATION MONITORING PROGRAM** Respondent shall comply with
25 requirements of the Board appointed probation monitoring program, and shall, upon reasonable
26 request, report to or appear to a local venue as directed.

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

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1 Respondent shall provide to the Board the names, physical work addresses, work mailing
2 addresses, telephone numbers, and e-mail addresses of all employers, human resources personnel,
3 directors, managers, supervisors, and contractors, and any person providing direct supervision,
4 and shall give specific, written consent that the Respondent authorizes the Board and its
5 representatives and the employers, human resources personnel, directors, managers, supervisors,
6 and contractors, and any person providing direct supervision, to communicate regarding the
7 Respondent's work status, performance, and monitoring. Monitoring includes, but is not limited
8 to, any violation or potential violation of any probationary term and condition.

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

11 **5. PROBATION MONITORING COSTS** All costs incurred for probation
12 monitoring during the entire probation shall be paid by the Respondent. The monthly cost may be
13 adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms and
14 conditions may also cause this amount to be increased. Probation monitoring costs will not be
15 tolled.

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

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

23 Respondent understands that failure to submit costs timely is a violation of probation and
24 submission of evidence demonstrating financial hardship does not preclude the Board from
25 pursuing further disciplinary action. However, Respondent understands that by providing
26 evidence and supporting documentation of financial hardship it may delay further disciplinary
27 action.

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

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

6 **6. EMPLOYMENT REQUIREMENT** Respondent shall be employed a minimum of
7 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of his probation period.

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

13 **7. NOTICE TO EMPLOYER** Respondent shall be required to inform all current and
14 subsequent employers, directors, managers, supervisors, and contractors during the probation
15 period, of the discipline imposed by this decision by providing his current and subsequent human
16 resources personnel, directors, managers, supervisors, and contractors with a complete copy of
17 the decision and order, and the Accusation in this matter prior to the beginning of or returning to
18 employment or within three (3) days from each change in a supervisor or director.

19 If Respondent is employed by or through a registry [and is not restricted from working for a
20 registry], Respondent shall also make each hospital or establishment to which he is sent aware of
21 the discipline imposed by this decision by providing his human resources personnel, manager,
22 and supervisor for each shift, at each hospital or establishment with a copy of this decision, and
23 the Accusation in this matter prior to the beginning of employment. This must be done each time
24 there is a change in supervisors or administrators.

25 The employer will then inform the Board, in writing, that he/she is aware of the discipline,
26 on forms to be provided to the Respondent. Respondent is responsible for contacting the Board to
27 obtain additional forms if needed. All reports completed by the employer must be submitted from
28 the employer directly to the Board.

1 In addition, any employer, director, manager, supervisor or contractor, shall report to the
2 Board immediately, within 24 hours, if he/she suspects Respondent is under the influence of
3 alcohol or any substance or has had any occurrence of substance abuse.

4 **8. SUPERVISOR QUARTERLY REPORTS** Supervisor Quarterly Reports of
5 Performance are due for each year of probation and the entire length of probation from each
6 employer, as follows:

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

15 Respondent is ultimately responsible for ensuring his employer(s) submits complete and
16 timely reports.

17 **9. 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 three (3) days of such change. This includes but is not limited to
20 applying for employment, termination or resignation from employment, change in employment
21 status, 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 three (3) days. P.O. Boxes are accepted for
24 mailing purposes, however the Respondent must also provide his physical residence address as
25 well.

26 **10. COST RECOVERY** Respondent shall pay to the Board a sum not to exceed the
27 costs of the investigation and prosecution of this case. That sum shall be \$ 2,170.00 and shall be
28 paid in full directly to the Board, in equal quarterly payments, within 12 months from the
effective date of this decision. Cost recovery will not be tolled.

If Respondent is unable to submit costs timely, he shall be required, instead to submit an
explanation of why he is unable to submit these costs in part or in entirety, and the date(s) he will

1 be able to submit the costs including payment amount(s). Supporting documentation and
2 evidence of why the Respondent is unable to make such payment(s) must accompany this
3 submission.

4 Respondent understands that failure to submit costs timely is a violation of probation and
5 submission of evidence demonstrating financial hardship does not preclude the Board from
6 pursuing further disciplinary action. However, Respondent understands that by providing
7 evidence and supporting documentation of financial hardship may delay further disciplinary
8 action.

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

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

14 **11. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE** Periods of
15 residency or practice outside California, whether the periods of residency or practice are
16 temporary or permanent, will toll the probation period but will not toll the obey all laws, quarterly
17 reports, probation monitoring program, probation monitoring costs, or cost recovery
18 requirements. Travel out of California for more than 30 days must be reported to the Board in
19 writing prior to departure. Respondent shall notify the Board, in writing, within three (3) days,
20 upon his return to California and prior to the commencement of any employment where
21 representation as a respiratory care practitioner is/was provided.

22 Respondent's license shall automatically be cancelled if respondent's cumulative period
23 tolling is greater than five years. However, the cancellation of the license does not relieve the
24 respondent from outstanding cost recovery or probation monitoring costs.

25 **12. VALID LICENSE STATUS** Respondent shall maintain a current, active and valid
26 license for the length of the probation period. Failure to pay all fees and meet CE requirements
27 prior to his license expiration date shall constitute a violation of probation.

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1 13. **VIOLATION OF PROBATION** If Respondent commits a "Major Violation," as
2 identified in the Disciplinary Guidelines, incorporated by reference pursuant to section 1399.374,
3 he shall receive a notice to cease the practice of respiratory care, as directed by the Board. The
4 Board shall attempt to contact Respondent by electronic and/or telephonic means to advise him of
5 the notice to cease practice and shall deliver such notice by certified and regular mail. The Board
6 shall update its licensing database to reflect the status of the license.

7 If the Respondent is ordered to cease practice, he may file a written appeal, within 10 days
8 of the date of the notice to cease practice, to provide additional evidence disputing the finding of
9 the violation(s) that was cause for the notice to cease practice. The Executive Officer will review
10 the appeal and make a determination in the matter, within 10 days from the date the written
11 appeal and all supporting evidence or documentation is received. The probationer shall be
12 notified of the outcome by certified mail.

13 Respondent shall not resume the practice of respiratory care until a final decision on an
14 accusation and/or petition to revoke probation is made or until such time as the Board delivers
15 written notification that the notice to cease practice has been dissolved. The cessation of practice
16 shall not apply to the reduction of the probationary time period.

17 The Board will contact the Respondent and his employers, human resources personnel,
18 directors, managers, supervisors, and contractors and notify them that Respondent has been issued
19 a notice to cease practice.

20 In addition, if Respondent violates any term of the probation in any respect, the Board, after
21 giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the
22 disciplinary order that was stayed.

23 If a petition to revoke probation is filed against Respondent during probation, the Board
24 shall have continuing jurisdiction and the period of probation shall be extended until the matter is
25 final. No petition for modification of penalty shall be considered while there is an accusation or
26 petition to revoke probation or other penalty pending against Respondent.

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ENDORSEMENT

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

Dated: February 25, 2013

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General

Original signed by:
SAMUEL K. HAMMOND
Deputy Attorney General
Attorneys for Complainant

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