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7
8 **BEFORE THE**
RESPIRATORY CARE BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of The Statement of Issues Against:
11 ANWAR CATANO
12 2245 West Corak Street
13 West Covina, California 91790,
14 Applicant.

Case No. 1H 2008 463

STATEMENT OF ISSUES

15 Complainant alleges:

16 **PARTIES**

17 1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in
18 her official capacity as the Executive Officer of the Respiratory Care Board of California
19 (Board).

20 2. On or about July 7, 2008, the Board received an application for licensure
21 as a Respiratory Care Practitioner (the Application) from Anwar Catano (hereafter, the
22 Applicant). On or about June 20, 2008, the Applicant certified under penalty of perjury to the
23 truthfulness of all statements, answers, and representations in his Application. The Board denied
24 the Application on December 9, 2008. The Applicant requested a hearing contesting the denial
25 on or about December 15, 2008.

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JURISDICTION

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2 3. This Statement of Issues is brought before the Board under the authority of
3 the following provisions of the California Business and Professions Code unless otherwise
4 specified.

5 4. Section 3710 of the Code states: “The Respiratory Care Board of
6 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
7 8.3, the Respiratory Care Practice Act].”

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

10 6. Section 3732 of the Code states:

11 “

12 (b) The board may deny an application, or may order the issuance of a license
13 with terms and conditions, for any of the causes specified in this chapter for suspension or
14 revocation of a license”

15 7. Section 3750 of the Code states:

16 “The board may order the denial, suspension or revocation of, or the imposition of
17 probationary conditions upon, a license issued under this chapter, for any of the following
18 causes:

19 “

20 “(d) Conviction of a crime that substantially relates to the qualifications,
21 functions, or duties of a respiratory care practitioner. The record of conviction or a
22 certified copy thereof shall be conclusive evidence of the conviction. . . .

23 “(g) Conviction of a violation of any of the provisions of this chapter or of any
24 provision of Division 2 (commencing with Section 500), or violating, or attempting to
25 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to
26 violate any provision or term of this chapter or of any provision of Division 2
27 (commencing with Section 500)

28 “(j) The commission of any fraudulent, dishonest, or corrupt act which is

1 substantially related to the qualifications, functions, or duties of a respiratory care
2 practitioner . . .”

3 8. Section 3752 of the Code states:

4 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
5 made to a charge of any offense which substantially relates to the qualifications,
6 functions, or duties of a respiratory care practitioner is deemed to be a conviction within
7 the meaning of this article. The board shall order the license suspended or revoked, or
8 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
9 conviction has been affirmed on appeal or when an order granting probation is made
10 suspending the imposition of sentence, irrespective of a subsequent order under Section
11 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
12 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
13 accusation, information, or indictment.”

14 9. Section 490 of the Code states:

15 “A board may suspend or revoke a license on the ground that the licensee has
16 been convicted of a crime, if the crime is substantially related to the qualifications,
17 functions, or duties of the business or profession for which the license was issued. A
18 conviction within the meaning of this section means a plea or verdict of guilty or a
19 conviction following a plea of nolo contendere. Any action that a board is permitted to
20 take following the establishment of a conviction may be taken when the time for appeal
21 has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order
22 granting probation is made suspending the imposition of sentence, irrespective of a
23 subsequent order under the provisions of Section 1203.4 of the Penal Code.”

24 10. California Code of Regulations, Title 16, section 1399.370, states:

25 “For the purposes of denial, suspension, or revocation of a license, a crime or act
26 shall be considered to be substantially related to the qualifications, functions or duties of
27 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
28 perform the functions authorized by his or her license or in a manner inconsistent with the

1 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
2 those involving the following:

3 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
4 abetting the violation of or conspiring to violate any provision or term of the Act.

5 “(b) Conviction of a crime involving fiscal dishonesty, theft, or larceny.

6 “(c) Conviction of a crime involving driving under the influence or reckless
7 driving while under the influence . . . ”

8 COST RECOVERY

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

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

14 12. Section 3753.7 of the Code states:

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

18 13. Section 3753.1, subdivision (a) of the Code states:

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

22 CAUSE FOR DENIAL OF APPLICATION

23 (Conviction of Crimes)

24 14. The Application is subject to denial under sections 3750, subdivision (d)
25 (g) (j), 3752, 490, and 3752 of the Code, and California Code of Regulations, Title 16, section
26 1399.370, subdivisions (a) (b) (c), in that Anwar Catano was convicted of crimes substantially
27 related to the qualifications, functions or duties of a respiratory care practitioner. The
28 circumstances are as follows:

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

DATED: April 7, 2009

Original signed by Colleen Whitestine for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
State of California
Complainant

LA2009505007

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