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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:

Case No. 1H 2008 463

11 ANWAR CATANO  
12 2245 W Corak St.  
13 West Covina, CA 91790

**STIPULATION FOR A  
PROBATIONARY LICENSE**

14 Applicant.

15  
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
17 above-entitled proceedings that the following matters are true:

18 PARTIES

19 1. Stephanie Nunez (Complainant) is the Executive Officer of the  
20 Respiratory Care Board of California (Board). She brought this action solely in her official  
21 capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State  
22 of California, by Tan N. Tran, Deputy Attorney General.

23 2. Anwar Catano (Applicant) is representing himself in this proceeding and  
24 has chosen not to exercise his right to be represented by counsel.

25 3. On or about July 7, 2008, Applicant filed an application dated June 20,  
26 2008, with the Board to obtain a license as a Respiratory Care Practitioner (License).

27 JURISDICTION

28 4. Statement of Issues No. 1H 2008 463 was filed before the Board,

1 Department of Consumer Affairs, and is currently pending against Applicant. The Statement of  
2 Issues and all other statutorily required documents were properly served on Applicant on April 7,  
3 2009. Applicant timely filed his Notice of Defense contesting the Statement of Issues. A copy  
4 of Statement of Issues No. 1H 2008 463 is attached as exhibit A and incorporated herein by  
5 reference.

6 ADVISEMENT AND WAIVERS

7 5. Applicant has carefully read, and understands the charges and allegations  
8 in Statement of Issues No. 1H 2008 463. Applicant has also carefully read, and understands the  
9 effects of this Stipulation for a Probationary License (Stipulation).

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

17 7. Applicant voluntarily, knowingly, and intelligently waives and gives up  
18 each and every right set forth above.

19 CULPABILITY

20 8. Applicant admits the truth of each and every charge and allegation in  
21 Statement of Issues No. 1H 2008 463.

22 9. Applicant agrees that his License is subject to denial and he agrees to be  
23 bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

24 CIRCUMSTANCES IN MITIGATION

25 10. Applicant is admitting responsibility at an early stage in the proceedings.

26 RESERVATION

27 11. The admissions made by Applicant herein are only for the purposes of this  
28 proceeding, or any other proceedings in which the Board or other professional licensing agency

1 is involved, and shall not be admissible in any other criminal or civil proceeding.

2 CONTINGENCY

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

12 13. The parties understand and agree that facsimile copies of this Stipulation,  
13 including facsimile signatures thereto, shall have the same force and effect as the originals.

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

17 DISCIPLINARY ORDER

18 IT IS HEREBY ORDERED that Applicant be issued a License on a probationary  
19 basis, and that his License be placed on three (3) years probation, on the following terms and  
20 conditions.

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

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

28 2. BIOLOGICAL FLUID TESTING Applicant, at his expense, shall

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

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

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

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

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

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

27 Applicant shall ensure that he is not in the presence of or in the same physical  
28 location as individuals who are using illegal substances, even if Applicant is not personally

1 ingesting the drug(s).

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

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

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

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

12 5. SUPERVISOR QUARTERLY REPORTS Supervisor Quarterly Reports  
13 of 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 1<sup>st</sup> through March 31<sup>st</sup>, reports are to be  
16 completed and submitted between April 1<sup>st</sup> and April 7<sup>th</sup>. For the period covering April 1<sup>st</sup>  
17 through June 30<sup>th</sup>, reports are to be completed and submitted between July 1<sup>st</sup> and July 7<sup>th</sup>. For  
18 the period covering July 1<sup>st</sup> through September 30<sup>th</sup>, reports are to be completed and submitted  
19 between October 1<sup>st</sup> and October 7<sup>th</sup>. For the period covering October 1<sup>st</sup> through December 31<sup>st</sup>,  
20 reports are to be completed and submitted between January 1<sup>st</sup> and January 7<sup>th</sup>.

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

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

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

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

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

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

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

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

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

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

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

1           9.     PROBATION MONITORING COSTS All costs incurred for probation  
2 monitoring during the entire probation shall be paid by the Applicant. The monthly cost may be  
3 adjusted as expenses are reduced or increased. Applicant's failure to comply with all terms and  
4 conditions may also cause this amount to be increased.

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

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

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

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

21           The filing of bankruptcy by Applicant shall not relieve the Applicant of his  
22 responsibility to reimburse the Board for costs incurred.

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

26           Applicant may substitute successful completion of a minimum of thirty (30)  
27 additional continuing education hours, beyond that which is required for license renewal, for  
28 each 8 months of employment required. Applicant shall submit proof to the Board of successful

1 completion of all continuing education requirements. Applicant is responsible for paying all  
2 costs associated with fulfilling this term and condition of probation.

3           11.    NOTICE TO EMPLOYER Applicant shall be required to inform his  
4 employer, and each subsequent employer during the probation period, of the discipline imposed  
5 by this decision by providing his supervisor and director and all subsequent supervisors and  
6 directors with a copy of the decision and order, and the Statement(s) of Issues or Accusation(s)  
7 in this matter prior to the beginning of or returning to employment or within 14 days from each  
8 change in a supervisor or director.

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

15           The employer will then inform the Board, in writing, that he is aware of the  
16 discipline, on forms to be provided to the Applicant. Applicant is responsible for contacting the  
17 Board to obtain additional forms, if needed. All reports completed by the employer must be  
18 submitted from the employer directly to the Board.

19           Applicant shall execute a release authorizing the Board or any of its  
20 representatives to review and obtain copies of all employment records and discuss and inquire of  
21 the probationary status with any of Applicant's supervisors or directors.

22           12.    CHANGES OF EMPLOYMENT OR RESIDENCE Applicant shall  
23 notify the Board, and appointed probation monitor, in writing, of any and all changes of  
24 employment, location, and address within 14 days of such change. This includes, but is not  
25 limited to, applying for employment, termination or resignation from employment, change in  
26 employment status, change in supervisors, administrators or directors.

27           Applicant shall also notify his probation monitor AND the Board IN WRITING  
28 of any changes of residence or mailing address within 14 days. P.O. Boxes are accepted for

1 mailing purposes, however the Applicant must also provide his physical residence address as  
2 well.

3           13.     SURRENDER OF LICENSE Following the effective date of this  
4 decision, if Applicant ceases practicing due to retirement, health reasons or is otherwise unable  
5 to satisfy the terms and conditions of probation, he may request the voluntary surrender of his  
6 license. The Board reserves the right to evaluate Applicant's request and to exercise its  
7 discretion whether or not to grant the request or to take any other action deemed appropriate and  
8 reasonable under the circumstances. Upon formal acceptance of the surrender, within 15  
9 calendar days Applicant shall deliver his wallet and wall certificate to the Board or its designee  
10 and he shall no longer practice respiratory care. Applicant will no longer be subject to the terms  
11 and conditions of probation and the surrender of Applicant's license shall be deemed disciplinary  
12 action. If Applicant re-applies for a respiratory care license, the application shall be treated as a  
13 petition for reinstatement of a revoked license.

14           14.     COST RECOVERY Applicant shall pay to the Board a sum not to  
15 exceed the costs of the investigation and prosecution of this case. That sum shall be \$2,291.00  
16 and shall be paid in full directly to the Board, in equal quarterly payments, within 12 months  
17 from the effective date of this decision. Cost recovery will not be tolled.

18           If Applicant is unable to submit costs timely, he shall be required instead to  
19 submit an explanation of why he is unable to submit these costs in part or in entirety, and the  
20 date(s) he will be able to submit the costs including payment amount(s). Supporting  
21 documentation and evidence of why the Applicant is unable to make such payment(s) must  
22 accompany this submission.

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

28           Consideration to financial hardship will not be given should Applicant violate this

1 term and condition, unless an unexpected AND unavoidable hardship is established from the  
2 date of this order to the date payment(s) is due.

3           The filing of bankruptcy by the Applicant shall not relieve the Applicant of his  
4 responsibility to reimburse the Board for these costs.

5           15.    TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE

6 Periods of residency or practice outside California, whether the periods of residency or practice  
7 are temporary or permanent, will toll the probation period, but will not toll the cost recovery  
8 requirement, nor the probation monitoring costs incurred. Travel out of California for more than  
9 30 days must be reported to the Board in writing prior to departure. Applicant shall notify the  
10 Board, in writing, within 14 days, upon his return to California and prior to the commencement  
11 of any employment where representation as a respiratory care practitioner is/was provided.

12           16.    VALID LICENSE STATUS Applicant shall maintain a current, active

13 and valid license for the length of the probation period. Failure to pay all fees and meet  
14 Continuing Education requirements prior to his license expiration date shall constitute a  
15 violation of probation.

16           17.    VIOLATION OF PROBATION If Applicant violates any term of the

17 probation in any respect, the Board, after giving Applicant notice and the opportunity to be  
18 heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to  
19 revoke probation is filed against Applicant during probation, the Board shall have continuing  
20 jurisdiction and the period of probation shall be extended until the matter is final. No petition for  
21 modification of penalty shall be considered while there is an accusation or petition to revoke  
22 probation or other penalty pending against Applicant.

23           18.    COMPLETION OF PROBATION Upon successful completion of

24 probation, Applicant's license shall be fully restored.

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ACCEPTANCE

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I have carefully read the Stipulation. I understand the stipulation and the effect it will have on my License. I enter into this Stipulation voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Respiratory Care Board of California.

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DATED: April 27, 2009.

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Original signed by: \_\_\_\_\_  
ANWAR CATANO  
Applicant

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ENDORSEMENT

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The foregoing Stipulation is hereby respectfully submitted for consideration by the Respiratory Care Board of California, Department of Consumer Affairs.

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DATED: May 1, 2009

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EDMUND G. BROWN JR., Attorney General  
of the State of California

ROBERT MCKIM BELL  
Supervising Deputy Attorney General

Original signed by: \_\_\_\_\_  
TAN N. TRAN  
Deputy Attorney General

Attorneys for Complainant

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DOJ Matter ID: LA2009505007  
catano\_a\_stip.wpd

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

In the Matter of the Statement of Issues Against:

Case No. 1H 2008 463

ANWAR CATANO  
2245 W Corak St.  
West Covina, CA 91790

Applicant.

**DECISION AND ORDER**

The attached Stipulation is hereby adopted by the Respiratory Care Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 18, 2009.

It is so ORDERED July 6, 2009.

Original signed by: \_\_\_\_\_

LARRY L. RENNER, BS, RRT, RCP, RPFT  
PRESIDENT, RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA