

**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 2009 529

STACY RENE BERZON
1248 Marion Avenue
Lancaster CA 93535

Respiratory Care Practitioner License No. 30545

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 September 17, 2010 .

It is so ORDERED September 9, 2010 .

Original Signed by: _____

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

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

10 In the Matter of the Statement of Issues
11 Against:

12 **STACY RENE BERZON**
13 **39234 Botticelli Dr.**
Palmdale, CA 93551

14 Applicant.

Case No. 1H 2009 529

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

18 PARTIES

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

23 2. Respondent STACY RENE BERZON (Applicant) is representing herself in this
24 proceeding and has chosen not to exercise her right to be represented by counsel.

25 3. On or about August 19, 2009, Applicant filed an application dated July 19, 2009, with
26 the Board to obtain a Respiratory Care Practitioner License (License).

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1 JURISDICTION

2 4. Statement of Issues No. 1H 2009 529 was filed before the Board, and is currently
3 pending against Applicant. The Statement of Issues and all other statutorily required documents
4 were properly served on Applicant on June 9, 2010. Applicant timely filed her Notice of Defense
5 contesting the Statement of Issues. A copy of Statement of Issues No. 1H 2009 529 is attached as
6 exhibit A and incorporated herein by reference.

7 ADVISEMENT AND WAIVERS

8 5. Applicant has carefully read, and understands the charges and allegations in
9 Statement of Issues No. 1H 2009 529. Applicant has also carefully read, and understands the
10 effects of this Stipulated Settlement and Disciplinary Order.

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

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

20 CULPABILITY

21 8. Applicant admits the truth of each and every charge and allegation in Statement of
22 Issues No. 1H 2009 529.

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

25 CIRCUMSTANCES IN MITIGATION

26 10. Applicant STACY RENE BERZON has never been the subject of any disciplinary
27 action. She is admitting responsibility at an early stage in the proceedings.

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

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

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

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

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

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

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

1 Applicant shall ensure that she is not in the presence of or in the same physical location as
2 individuals who are using illegal substances, even if Applicant is not personally ingesting the
3 drug(s).

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

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

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

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

21 Applicant is ultimately responsible for ensuring her employer(s) submits complete and
22 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, or local.
25 Applicant shall also obey all regulations governing the practice of respiratory care in California.

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

28 7. QUARTERLY REPORTS Applicant shall file quarterly reports of compliance under

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

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

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

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

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

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

21 Applicant is encouraged to contact the Board's Probation Program at any time she has a
22 question or concern regarding her terms and conditions of probation.

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

27 9. PROBATION MONITORING COSTS All costs incurred for probation monitoring
28 during the entire probation shall be paid by the Applicant. The monthly cost may be adjusted as

1 expenses are reduced or increased. Applicant's failure to comply with all terms and conditions
2 may also cause this amount to be increased.

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

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

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

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

17 The filing of bankruptcy by Applicant shall not relieve the Applicant of her responsibility to
18 reimburse the Board for costs incurred.

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

21 Applicant may substitute successful completion of a minimum of thirty (30) additional
22 continuing education hours, beyond that which is required for license renewal, for each 8 months
23 of employment required. Applicant shall submit proof to the Board of successful completion of
24 all continuing education requirements. Applicant is responsible for paying all costs associated
25 with fulfilling this term and condition of probation.

26 11. NOTICE TO EMPLOYER Applicant shall be required to inform her employer, and
27 each subsequent employer during the probation period, of the discipline imposed by this decision
28 by providing her supervisor and director and all subsequent supervisors and directors with a copy

1 of the decision and order, and the Statement(s) of Issues or Accusation(s) in this matter prior to
2 the beginning of or returning to employment or within 14 days from each change in a supervisor
3 or director.

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

10 The employer will then inform the Board, in writing, that she is aware of the discipline, on
11 forms to be provided to the Applicant. Applicant is responsible for contacting the Board to obtain
12 additional forms, if needed. All reports completed by the employer must be submitted from the
13 employer directly to the Board.

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

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

22 Applicant shall also notify her probation monitor AND the Board IN WRITING of any
23 changes of residence or mailing address within 14 days. P.O. Boxes are accepted for mailing
24 purposes, however the Applicant must also provide her physical residence address as well.

25 13. SURRENDER OF LICENSE Following the effective date of this decision, if
26 Applicant ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the
27 terms and conditions of probation, she may request the voluntary surrender of her license. The
28 Board reserves the right to evaluate Applicant's request and to exercise its discretion whether or

1 not to grant the request or to take any other action deemed appropriate and reasonable under the
2 circumstances. Upon formal acceptance of the surrender, within 15 calendar days Applicant shall
3 deliver her wallet and wall certificate to the Board or its designee and she shall no longer practice
4 respiratory care. Applicant will no longer be subject to the terms and conditions of probation and
5 the surrender of Applicant's license shall be deemed disciplinary action. If Applicant re-applies
6 for a respiratory care license, the application shall be treated as a petition for reinstatement of a
7 revoked license.

8 14. COST RECOVERY Applicant shall pay to the Board a sum not to exceed the costs
9 of the investigation and prosecution of this case. That sum shall be \$3780.25 and shall be paid in
10 full directly to the Board, in equal quarterly payments, within 12 months from the effective date
11 of this decision. Cost recovery will not be tolled.

12 If Applicant is unable to submit costs timely, she shall be required instead to submit an
13 explanation of why she is unable to submit these costs in part or in entirety, and the date(s) she
14 will be able to submit the costs including payment amount(s). Supporting documentation and
15 evidence of why the Applicant is unable to make such payment(s) must accompany this
16 submission.

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

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

24 The filing of bankruptcy by the Applicant shall not relieve the Applicant of her
25 responsibility to reimburse the Board for these costs.

26 15. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE Periods of
27 residency or practice outside California, whether the periods of residency or practice are
28 temporary or permanent, will toll the probation period, but will not toll the cost recovery

1 requirement, nor the probation monitoring costs incurred. Travel out of California for more than
2 30 days must be reported to the Board in writing prior to departure. Applicant shall notify the
3 Board, in writing, within 14 days, upon her return to California and prior to the commencement of
4 any employment where representation as a respiratory care practitioner is/was provided.

5 16. VALID LICENSE STATUS Applicant shall maintain a current, active and valid
6 license for the length of the probation period. Failure to pay all fees and meet Continuing
7 Education requirements prior to her license expiration date shall constitute a violation of
8 probation.

9 17. VIOLATION OF PROBATION If Applicant violates any term of the probation in
10 any respect, the Board, after giving Applicant notice and the opportunity to be heard, may revoke
11 probation and carry out the disciplinary order that was stayed. If a petition to revoke probation is
12 filed against Applicant during probation, the Board shall have continuing jurisdiction and the
13 period of probation shall be extended until the matter is final. No petition for modification of
14 penalty shall be considered while there is an accusation or petition to revoke probation or other
15 penalty pending against Applicant.

16 18. COMPLETION OF PROBATION Upon successful completion of probation,
17 Applicant's license shall be fully restored.

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ACCEPTANCE

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

DATED: June 17, 2010 Original Signed by: _____
STACY RENE BERZON
Applicant

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: June 18, 2010

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General 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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