

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

In the Matter of the Statement of Issues
Against:

MATTHEW JONATHAN BECK
148 Harness Lane
Cibolo TX 78108-3744

Case No.: 1H 2010 517

EFFECTIVE DATE OF DECISION AND ORDER

Having met all licensure requirements, the attached Decision and Order adopted by the Respiratory Care Board of California, Department of Consumer Affairs, on June 22, 2011 shall become effective on July 30, 2011.

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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7
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:

Case No. 1H 2010 517

12 **MATTHEW JONATHAN BECK**
13 **3704 Wensley Court**
Bakersfield, CA 93311

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

14 Applicant/Respondent.
15

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. She brought this action solely in her official capacity and is represented in
21 this matter by Kamala D. Harris, Attorney General of the State of California, by Catherine E.
22 Santillan, Senior Legal Analyst.

23 2. Respondent Matthew Jonathan Beck (Respondent) is represented in this proceeding
24 by attorney Brett V. Myers, Esq., whose address is: P.O. Box 40760, Bakersfield, CA 93384.

25 3. On or about July 6, 2010, the Board received Respondent's application dated June 28,
26 2010, to obtain a Respiratory Care Practitioner License.

1 CONTINGENCY

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

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

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

17 **DISCIPLINARY ORDER**

18 IT IS HEREBY ORDERED that Respondent Matthew Jonathan Beck be issued a
19 conditional license to practice respiratory care, which shall be on probation to the Board for a
20 period of four (4) years on the following terms and conditions:

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

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

28 2. BIOLOGICAL FLUID TESTING Respondent, at his expense, shall participate in

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

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

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

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

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

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

25 Respondent shall ensure that he is not in the presence of or in the same physical location as
26 individuals who are using illegal substances, even if Respondent is not personally ingesting the
27 drug(s).

28 Any positive result that registers over the established laboratory cutoff level shall constitute

1 a violation of probation and shall result in the filing of an accusation and/or a petition to revoke
2 probation against Respondent's respiratory care practitioner license.

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

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

8 Respondent is prohibited from working in home care unless it is under direct supervision
9 and personal observation.

10 Respondent is prohibited from working for a registry.

11 5. DIRECT SUPERVISION During the period of probation, Respondent shall be under
12 the direct supervision of a person holding a current and valid non-restricted Board license.

13 "Under the direct supervision" means assigned to a respiratory care practitioner who is on duty
14 and immediately available in the assigned patient area. The Board shall be informed in writing of
15 and approve the level of supervision provided to the Respondent while he is functioning as a
16 licensed respiratory care practitioner. The appropriate level of supervision must be approved by
17 the Board prior to commencement of work.

18 6. SUPERVISOR QUARTERLY REPORTS Supervisor Quarterly Reports of
19 Performance are due for each year of probation and the entire length of probation from each
20 employer, as follows:

21 For the period covering January 1st through March 31st, reports are to be completed and
22 submitted between April 1st and April 7th. For the period covering April 1st through June 30th,
23 reports are to be completed and submitted between July 1st and July 7th. For the period covering
24 July 1st through September 30th, reports are to be completed and submitted between October 1st
25 and October 7th. For the period covering October 1st through December 31st, reports are to be
26 completed and submitted between January 1st and January 7th.

27 Respondent is ultimately responsible for ensuring his employer(s) submits complete and
28 timely reports. Failure to ensure each employer submits complete and timely reports shall

1 constitute a violation of probation.

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

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

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

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

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

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

21 9. PROBATION MONITORING PROGRAM Respondent shall comply with
22 requirements of the Board appointed probation monitoring program, and shall, upon reasonable
23 request, report to or appear to a local venue as directed.

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

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

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

5 10. PROBATION MONITORING COSTS All costs incurred for probation monitoring
6 during the entire probation shall be paid by the Respondent. The monthly cost may be adjusted as
7 expenses are reduced or increased. Respondent's failure to comply with all terms and conditions
8 may also cause this amount to be increased.

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

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

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

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

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

25 11. EMPLOYMENT REQUIREMENT Respondent shall be employed a minimum of
26 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of his probation period.

27 Respondent may substitute successful completion of a minimum of thirty (30) additional
28 continuing education hours, beyond that which is required for license renewal, for each 8 months

1 of employment required. Respondent shall submit proof to the Board of successful completion of
2 all continuing education requirements. Respondent is responsible for paying all costs associated
3 with fulfilling this term and condition of probation.

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

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

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

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

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

28 Respondent shall also notify his probation monitor AND the Board IN WRITING of any

1 changes of residence or mailing address within 14 days. P.O. Boxes are accepted for mailing
2 purposes, however the Respondent must also provide his physical residence address as well.

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

14 15. COST RECOVERY Respondent shall pay to the Board a sum not to exceed the
15 costs of the investigation and prosecution of this case. That sum shall be \$1,000.00 and shall be
16 paid in full directly to the Board, in equal quarterly payments, within 12 months from the
17 effective date of this decision. Cost recovery will not be tolled.

18 If Respondent is unable to submit costs timely, he shall be required instead to submit an
19 explanation of why he is unable to submit these costs in part or in entirety, and the date(s) he will
20 be able to submit the costs including payment amount(s). Supporting documentation and
21 evidence of why the Respondent is unable to make such payment(s) must accompany this
22 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 providing evidence
26 and supporting documentation of financial hardship may delay further disciplinary action.

27 Consideration to financial hardship will not be given should Respondent violate this term
28 and condition, unless an unexpected AND unavoidable hardship is established from the date of

1 this order to the date payment(s) is due.

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

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

11 17. VALID LICENSE STATUS Respondent shall maintain a current, active and valid
12 license for the length of the probation period. Failure to pay all fees and meet Continuing
13 Education requirements prior to his license expiration date shall constitute a violation of
14 probation.

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

22 19. COMPLETION OF PROBATION Upon successful completion of probation,
23 Respondent's license shall be fully restored.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Brett V. Myers. I understand the stipulation and the effect it will have on my Respiratory Care Practitioner 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: April 4, 2011 Original Signed by: _____
MATTHEW JONATHAN BECK
Respondent

I have read and fully discussed with Respondent Matthew Jonathan Beck the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: April 29, 2011 Original Signed by: _____
Brett V. Myers
Attorney for Respondent

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: May 4, 2011

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General

Original Signed by: _____
CATHERINE E. SANTILLAN
Senior Legal Analyst
Attorneys for Complainant

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