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

11 In the Matter of the Petition to Revoke  
Probation Against,  
12 SANDERSON GEDA BENASFRE, RCP  
13 24704 South Avalon Blvd.  
Wilmington, CA 90744  
14  
15 Respiratory Care Practitioner License No. RCP  
32602,  
16 Respondent.

Case No. 7002016000817

PETITION TO REVOKE PROBATION

17  
18 Complainant alleges:

19 PARTIES

20 1. Stephanie Nunez (Complainant) brings this Petition to Revoke Probation solely in her  
21 official capacity as the Executive Officer of the Respiratory Care Board of California,  
22 Department of Consumer Affairs.

23 2. On or about April 18, 2012, the Respiratory Care Board issued Respiratory Care  
24 Practitioner License Number RCP 32602 to Sanderson Geda Benasfre, RCP (Respondent). The  
25 Respiratory Care Practitioner License is currently suspended and will expire on August 31, 2017,  
26 unless renewed.

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1 DISCIPLINARY HISTORY

2 3. In a disciplinary action entitled "In the Matter of Statement of Issues Against  
3 Sanderson Geda Benasfre, RCP," Case No. 1H 2010 829, the Respiratory Care Board, issued a  
4 decision, effective April 18, 2012, in which Respondent was issued Respiratory Care Practitioner  
5 License No. 32602, and it was immediately revoked. However, the revocation was stayed and  
6 Respondent's Respiratory Care Practitioner License was placed on probation for a period of five  
7 (5) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and  
8 is incorporated by reference.

9 JURISDICTION

10 4. This Petition to Revoke Probation is brought before the Respiratory Care Board  
11 (Board), Department of Consumer Affairs, under the authority of the following laws. All section  
12 references are to the Business and Professions Code unless otherwise indicated.

13 5. Section 3710 of the Code states, in relevant part: "The Respiratory Care Board of  
14 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter  
15 8.3, the Respiratory Care Practice Act]."

16 6. Section 3710.1, of the Code states: "Protection of the public shall be the highest  
17 priority for the Respiratory Care Board of California in exercising its licensing, regulatory, and  
18 disciplinary functions. Whenever the protection of the public is inconsistent with other interests  
19 sought to be promoted, the protection of the public shall be paramount."

20 7. Section 3718 of the Code states: "The board shall issue, deny, suspend, and revoke  
21 licenses to practice respiratory care as provided in this chapter."

22 8. Section 3754 of the Code states, in pertinent part:  
23 "The board may deny an application for, or issue with terms and conditions, or suspend or  
24 revoke, or impose probationary conditions upon, a licensee in any decision made after a hearing,  
25 as provided in Section 3753."

26 COST RECOVERY

27 9. Section 3753.5, subdivision (a) of the Code states:  
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1 "In any order issued in resolution of a disciplinary proceeding before the board, the board or  
2 the administrative law judge may direct any practitioner or applicant found to have committed a  
3 violation or violations of law or any term and condition of board probation to pay to the board a  
4 sum not to exceed the costs of the investigation and prosecution of the case. A certified copy of  
5 the actual costs, or a good faith estimate of costs where actual costs are not available, signed by  
6 the official custodian of the record or his or her designated representative shall be prima facie  
7 evidence of the actual costs of the investigation and prosecution of the case."

8 10. Section 3753.7 of the Code states:

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

12 11. Section 3753.1, of the Code states:

13 "(a) An administrative disciplinary decision imposing terms of probation may include,  
14 among other things, a requirement that the licensee-probationer pay the monetary costs associated  
15 with monitoring the probation."

16 FIRST CAUSE TO REVOKE PROBATION

17 (Failure to participate in biological fluid testing)

18 12. At all times after the effective date of Respondent's probation, Condition 14 stated:

19 "**BIOLOGICAL FLUID TESTING** Respondent, at his/her expense, shall participate in  
20 random testing, including but not limited to biological fluid testing (i.e. urine, blood, saliva),  
21 breathalyzer, hair follicle testing, or any drug screening program approved by the Board. Test  
22 costs range from \$21.00 to \$200.00 each. The length of time shall be for the entire probation  
23 period. The frequency and location of testing will be determined by the Board.

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

27 "If Respondent is unable to provide a specimen in a reasonable amount of time from the  
28 request, while at the work site, Respondent understands that any Board representative may

1 request from the supervisor, manager or director on duty to observe Respondent in a manner that  
2 does not interrupt or jeopardize patient care in any manner until such time Respondent provides a  
3 specimen acceptable to the Board.

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

7 13. Respondent's probation is subject to revocation because he failed to comply with  
8 Probation Condition 14, referenced above. The facts and circumstances regarding this violation  
9 are as follows:

10 A. On or about February 8, 2013, May 26, 2013, September 20, 2013, May 11, 2014,  
11 June 15, 2014, July 18, 2014, August 2, 2015, September 24, 2015 and April 17, 2016,  
12 Respondent failed to make daily contact as required pursuant to probation Condition 14.

13 B. Pursuant to California Code of Regulations section 1399.375, on each of the  
14 occasions set forth above Respondent was issued a Cease Practice Order for committing a  
15 "major" violation of probation. In response, Respondent submitted appeals to each of the Cease  
16 Practice Orders. For the first eight (8) violations, the Cease Practice Orders were lifted and  
17 Respondent was issued warning letters reminding him of his probationary condition requirement  
18 to make daily contact. However, based on the number of violations, and after failing to adhere to  
19 multiple warnings, the appeal of the Cease Practice Order issued to Respondent on May 4, 2016,  
20 was denied and the Cease Practice Order was upheld and remains in effect.

21 SECOND CAUSE TO REVOKE PROBATION

22 (Failure to pay probation monitoring costs)

23 14. At all times after the effective date of Respondent's probation, Condition 4 stated:

24 “**PROBATION MONITORING COSTS** All costs incurred for probation monitoring  
25 during the entire probation shall be paid by the Respondent. The monthly cost may be adjusted as  
26 expenses are reduced or increased. Respondent's failure to comply with all terms and conditions  
27 may also cause this amount to be increased.





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3. Ordering Sanderson Geda Benasfre, RCP to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, the cost recovery amounts currently in arrears, and if probation is continued or extended, the costs of probation monitoring, and;

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

DATED: September 22, 2016

Original signed by Christine Molina for:

STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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