

**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 2012 520

TREVON EMEAL BUYARD
3341 Chester Lane
Bakersfield, CA 93309

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 July 23, 2013 shall become effective on August 9, 2013 .

Original Signed by: _____

CHARLES B. SPEARMAN, MEd, RCP, RRT
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 **TREVON EMEAL BUYARD**
13 1000 El Sereno Drive
Bakersfield, CA 93304

14 Respondent.

Case No. 1H-2012-520

OAH No. 2013030642

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

19 **PARTIES**

20 1. Stephanie Nunez (Complainant) is the Executive Officer of the Respiratory Care
21 Board of California ("Board"). She brought this action solely in her official capacity and is
22 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
23 Steve Diehl, Deputy Attorney General.

24 2. Respondent Trevon Emeal Buyard (Respondent) is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about June 14, 2012, Respondent filed an application dated May 7, 2012, with
27 the Board to obtain a Respiratory Care Practitioner License. On or about November 8, 2012,
28 Respondent's application for licensure was denied.

1 **JURISDICTION**

2 4. Statement of Issues No. 1H-2012-520 was filed before the Board, and is currently
3 pending against Respondent. The Statement of Issues and all other statutorily required
4 documents were properly served on Respondent on February 14, 2013. Respondent timely filed
5 his Notice of Defense contesting the Statement of Issues.

6 5. A copy of Statement of Issues No. 1H-2012-520 is attached as Exhibit A and
7 incorporated herein by reference.

8 **ADVISEMENT AND WAIVERS**

9 6. Respondent has carefully read, and understands the charges and allegations in
10 Statement of Issues No. 1H-2012-520. Respondent has also carefully read, and understands the
11 effects of this Stipulated Settlement and Disciplinary Order.

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

19 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
20 every right set forth above.

21 **CULPABILITY**

22 9. Respondent admits the truth of each and every charge and allegation in Statement of
23 Issues No. 1H-2012-520.

24 10. Respondent agrees that his Respiratory Care Practitioner application is subject to
25 denial and he agrees to be bound by the Board's probationary terms as set forth in the
26 Disciplinary Order below.

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1 **CONTINGENCY**

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

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

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

18 **DISCIPLINARY ORDER**

19 **IT IS HEREBY ORDERED** that Respondent Trevon Emeal Buyard be issued a
20 conditional license to practice respiratory care, which shall be on probation to the Board for a
21 period of three (3) years on the following terms and conditions:

22 1. **RESTRICTION OF PRACTICE** Respondent may not be employed or function as
23 a member of respiratory care management or supervisory staff during the entire length of
24 probation. This includes lead functions. Respondent is prohibited from working as part of a
25 transport team. Respondent is also prohibited from providing instruction or supervision to
26 respiratory care students or applicants whether in a clinical or classroom setting.

27 2. **OBEY ALL LAWS** Respondent shall obey all laws, whether federal, state, or local.
28 The Respondent shall also obey all regulations governing the practice of respiratory care in

1 California. Respondent shall notify the Board in writing within three days of any incident
2 resulting in his arrest, or charges filed against, or a citation issued against, Respondent.

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

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

11 • For the period covering January 1st through March 31st, reports are to be completed and
12 submitted between April 1st and April 7th.

13 • For the period covering April 1st through June 30th, reports are to be completed and
14 submitted between July 1st and July 7th.

15 • For the period covering July 1st through September 30th, reports are to be completed
16 and submitted between October 1st and October 7th.

17 • For the period covering October 1st through December 31st, reports are to be completed
18 and submitted between January 1st and January 7th.

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

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

26 Respondent shall provide to the Board the names, physical work addresses, work mailing
27 addresses, telephone numbers, and e-mail addresses of all employers, human resources personnel,
28 directors, managers, supervisors, and contractors, and any person providing direct supervision,

1 and shall give specific, written consent that the Respondent authorizes the Board and its
2 representatives and the employers, human resources personnel, directors, managers, supervisors,
3 and contractors, and any person providing direct supervision, to communicate regarding the
4 Respondent's work status, performance, and monitoring. Monitoring includes, but is not limited
5 to, any violation or potential violation of any probationary term and condition.

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

8 5. **PROBATION MONITORING COSTS** All costs incurred for probation
9 monitoring during the entire probation shall be paid by the Respondent. The monthly cost may be
10 adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms and
11 conditions may also cause this amount to be increased. Probation monitoring costs will not be
12 tolled.

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

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

20 Respondent understands that failure to submit costs timely is a violation of probation and
21 submission of evidence demonstrating financial hardship does not preclude the Board from
22 pursuing further disciplinary action. However, Respondent understands that by providing
23 evidence and supporting documentation of financial hardship it may delay further disciplinary
24 action.

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

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

3 6. **EMPLOYMENT REQUIREMENT** Respondent shall be employed a minimum of
4 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of his probation period.

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

10 7. **NOTICE TO EMPLOYER** Respondent shall be required to inform all current and
11 subsequent employers, directors, managers, supervisors, and contractors during the probation
12 period, of the discipline imposed by this decision by providing his current and subsequent human
13 resources personnel, directors, managers, supervisors, and contractors with a complete copy of
14 the decision and order, and the Accusation in this matter prior to the beginning of or returning to
15 employment or within 3 days from each change in a supervisor or director.

16 If Respondent is employed by or through a registry, Respondent shall also make each
17 hospital or establishment to which he is sent aware of the discipline imposed by this decision by
18 providing his human resources personnel, manager, and supervisor for each shift, at each hospital
19 or establishment with a copy of this decision, and the Statement of Issues in this matter prior to
20 the beginning of employment. This must be done each time there is a change in supervisors or
21 administrators.

22 The employer will then inform the Board, in writing, that he/she is aware of the discipline,
23 on forms to be provided to the Respondent. Respondent is responsible for contacting the Board to
24 obtain additional forms if needed. All reports completed by the employer must be submitted from
25 the employer directly to the Board.

26 In addition, any employer, director, manager, supervisor or contractor, shall report to the
27 Board immediately, within 24 hours, if he/she suspects Respondent is under the influence of
28 alcohol or any substance or has had any occurrence of substance abuse.

1 8. **SUPERVISOR QUARTERLY REPORTS** Supervisor Quarterly Reports of
2 Performance are due for each year of probation and the entire length of probation from each
3 employer, as follows:

4 • For the period covering January 1st through March 31st, reports are to be completed and
5 submitted between April 1st and April 7th.

6 • For the period covering April 1st through June 30th, reports are to be completed and
7 submitted between July 1st and July 7th.

8 • For the period covering July 1st through September 30th, reports are to be completed
9 and submitted between October 1st and October 7th.

10 • For the period covering October 1st through December 31st, reports are to be completed
11 and submitted between January 1st and January 7th.

12 Respondent is ultimately responsible for ensuring his employer(s) submits complete and
13 timely reports.

14 9. **CHANGES OF EMPLOYMENT OR RESIDENCE** Respondent shall notify the
15 Board, and appointed probation monitor, in writing, of any and all changes of employment,
16 location, and address within 3 days of such change. This includes but is not limited to applying
17 for employment, termination or resignation from employment, change in employment status,
18 change in supervisors, administrators or directors.

19 Respondent shall also notify his probation monitor AND the Board IN WRITING of any
20 changes of residence or mailing address within 3 days. P.O. Boxes are accepted for mailing
21 purposes, however the Respondent must also provide his physical residence address as well.

22 10. **COST RECOVERY** Respondent shall pay to the Board a sum not to exceed the
23 costs of the investigation and prosecution of this case. That sum shall be \$1,572.50 and shall be
24 paid in full directly to the Board, in equal quarterly payments, within 12 months from the
25 effective date of this decision. Cost recovery will not be tolled.

26 If Respondent is unable to submit costs timely, he shall be required, instead to submit an
27 explanation of why he is unable to submit these costs in part or in entirety, and the date(s) he will
28

1 be able to submit the costs including payment amount(s). Supporting documentation and evidence
2 of why the Respondent is unable to make such payment(s) must accompany this submission.

3 Respondent understands that failure to submit costs timely is a violation of probation and
4 submission of evidence demonstrating financial hardship does not preclude the Board from
5 pursuing further disciplinary action. However, Respondent understands that by providing
6 evidence and supporting documentation of financial hardship may delay further disciplinary
7 action.

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

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

13 11. **TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE** Periods of
14 residency or practice outside California, whether the periods of residency or practice are
15 temporary or permanent, will toll the probation period but will not toll the obey all laws, quarterly
16 reports, probation monitoring program, probation monitoring costs, or cost recovery
17 requirements. Travel out of California for more than 30 days must be reported to the Board in
18 writing prior to departure. Respondent shall notify the Board, in writing, within 3 days, upon his
19 return to California and prior to the commencement of any employment where representation as a
20 respiratory care practitioner is/was provided.

21 Respondent's license shall automatically be cancelled if Respondent's cumulative period
22 tolling is greater than five years. However, the cancellation of the license does not relieve the
23 Respondent from outstanding cost recovery or probation monitoring costs.

24 12. **VALID LICENSE STATUS** Respondent shall maintain a current, active and valid
25 license for the length of the probation period. Failure to pay all fees and meet CE requirements
26 prior to his license expiration date shall constitute a violation of probation.

27 13. **VIOLATION OF PROBATION** If Respondent commits a "Major Violation," as
28 identified in the Disciplinary Guidelines, incorporated by reference pursuant to section 1399.374,

1 he shall receive a notice to cease the practice of respiratory care, as directed by the Board. The
2 Board shall attempt to contact Respondent by electronic and/or telephonic means to advise him of
3 the notice to cease practice and shall deliver such notice by certified and regular mail. The Board
4 shall update its licensing database to reflect the status of the license.

5 If the Respondent is ordered to cease practice, he may file a written appeal, within 10 days
6 of the date of the notice to cease practice, to provide additional evidence disputing the finding of
7 the violation(s) that was cause for the notice to cease practice. The Executive Officer will review
8 the appeal and make a determination in the matter, within 10 days from the date the written
9 appeal and all supporting evidence or documentation is received. The probationer shall be
10 notified of the outcome by certified mail.

11 Respondent shall not resume the practice of respiratory care until a final decision on an
12 accusation and/or petition to revoke probation is made or until such time as the Board delivers
13 written notification that the notice to cease practice has been dissolved. The cessation of practice
14 shall not apply to the reduction of the probationary time period.

15 The Board will contact the Respondent and his employers, human resources personnel,
16 directors, managers, supervisors, and contractors and notify them that Respondent has been issued
17 a notice to cease practice.

18 In addition, if Respondent violates any term of the probation in any respect, the Board, after
19 giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the
20 disciplinary order that was stayed.

21 If a petition to revoke probation is filed against Respondent during probation, the Board
22 shall have continuing jurisdiction and the period of probation shall be extended until the matter is
23 final. No petition for modification of penalty shall be considered while there is an accusation or
24 petition to revoke probation or other penalty pending against Respondent.

25 14. **SURRENDER OF LICENSE** Following the effective date of this decision, if
26 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
27 the terms and conditions of probation, he may request the voluntary surrender of his license. The
28 Board reserves the right to evaluate Respondent'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 Respondent
3 shall deliver his wallet and wall certificate to the Board or its designee and he shall no longer
4 practice respiratory care. Respondent will no longer be subject to the terms and conditions of
5 probation and the surrender of Respondent's license shall be deemed disciplinary action. If
6 Respondent re-applies for a respiratory care license, the application shall be treated as a petition
7 for reinstatement of a revoked license.

8 15. **COMPLETION OF PROBATION** Upon successful completion of probation,
9 Respondent's license shall be fully restored.

10 **ACCEPTANCE**

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

15
16 DATED: May 22, 2013

Original in Signed by: _____

17 TREVON EMEAL BUYARD
Respondent

18
19 **ENDORSEMENT**

20 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
21 submitted for consideration by the Respiratory Care Board.

Dated: May 28, 2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

Original Signed by: _____

STEVE DIEHL
Deputy Attorney General
Attorneys for Complainant

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