

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 MATTHEW M. DAVIS, State Bar No. 202766
Deputy Attorney General
4 110 West "A" Street, Suite 1100
San Diego, CA 92101

5 P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2093
7 Facsimile: (619) 645-2061
E-mail: Matt.Davis@doj.ca.gov

8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 1H 2006 536

13 ROBERT CHARLES BERG, R.C.P.
1215 S. Beach Blvd., Apt. 434
14 Anaheim, CA 92804

**DEFAULT DECISION
AND ORDER**

15 Respiratory Care Practitioner License No. 3492

[Gov. Code, §11520]

16 Respondent.

17 FINDINGS OF FACT

- 18
- 19 1. On or about January 22, 2009, Complainant Stephanie Nunez, in her
20 official capacity as the Executive Officer of the Respiratory Care Board of California,
21 Department of Consumer Affairs, filed Accusation No. 1H 2006 536 against ROBERT
22 CHARLES BERG, R.C.P. (Respondent), before the Respiratory Care Board.
- 23 2. On or about May 31, 1985, the Respiratory Care Board (Board) issued
24 Respiratory Care Practitioner License No. 3492 to Respondent.
- 25 3. On or about January 22, 2009, Andrea Pina, an employee of the
26 Complainant Agency, served by Certified Mail a copy of the Accusation No. 1H 2006 536,
27 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code
28 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which

1 was and is: 1215 S. Beach Blvd., Apt. 434, Anaheim, CA 92804, and to Respondent's address
2 within the California Department of Corrections which is: Robert Charles Berg, F-90557, Kern
3 Valley State Prison, 3000 Cecil Avenue, P.O. Box 6000, Delano, CA 93216-6600. A true and
4 correct copy of Accusation No. 1H 2006 536, the related documents, and Declaration of Service
5 are attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein.

6 4. Service of the Accusation was effective as a matter of law under the
7 provisions of Government Code section 11505, subdivision (c).

8 5. On or about January 28, 2009, the aforementioned documents which were
9 served at 1215 S. Beach Blvd., Apt. 434, Anaheim, CA 92804, were returned by the United
10 States Postal Service marked "Attempted Not Known." The aforementioned documents which
11 were served on Respondent at Kern Valley State Prison, 3000 Cecil Avenue, P.O. Box 6000,
12 Delano, CA 93216-6600, have not been returned. A true and correct copy of the envelope
13 returned by the United States Postal Service is attached hereto as Exhibit B and incorporated
14 herein by reference as if fully set forth herein.

15 6. Government Code section 11506, subdivision (c), states:

16 "The respondent shall be entitled to a hearing on the merits if the respondent files
17 a notice of defense, and the notice shall be deemed a specific denial of all parts of
18 the accusation not expressly admitted. Failure to file a notice of defense shall
19 constitute a waiver of respondent's right to a hearing, but the agency in its
20 discretion may nevertheless grant a hearing."

21 7. Respondent failed to file a Notice of Defense within 15 days after service
22 upon him of the Accusation, and therefore has waived his right to a hearing on the merits of
23 Accusation No. 1H 2006 536.

24 8. California Government Code section 11520 states, in pertinent part:

25 "(a) If the respondent either fails to file a notice of defense or to appear at the
26 hearing, the agency may take action based upon the respondent's express admissions or
27 upon other evidence and affidavits may be used as evidence without any notice to
28 respondent."

1 ORDER

2 IT IS SO ORDERED that Respiratory Care Practitioner License No. 3492,
3 heretofore issued to Respondent ROBERT CHARLES BERG, R.C.P., is revoked.

4 Respondent is ordered to reimburse the Respiratory Care Board the amount of
5 \$9,440.50 for its investigative and enforcement costs. The filing of bankruptcy by Respondent
6 shall not relieve Respondent of his responsibility to reimburse the Board for its costs.
7 Respondent's Respiratory Care Practitioner License may not be renewed or reinstated unless all
8 costs ordered under Business and Professions Code section 3753.5 have been paid.

9 Pursuant to Government Code section 11520, subdivision (c), Respondent may
10 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
11 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
12 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
13 statute.

14 This Decision shall become effective on June 3, 2009.

15 It is so ORDERED May 5, 2009

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18 Original signed by:
19 LARRY L. RENNER, BS, RRT, RCP, RPFT
20 PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

21 berg_r_default.wpd
22 DOJ Matter ID: SD2008803377

23 Attachments:

24 Exhibit A: Accusation No. 1H-2006-536, Related Documents, and Declaration of Service
25 Exhibit B: Copy of Envelope Returned by Post Office
Exhibit C: Certification of Costs: Declaration of Matthew M. Davis