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

12 In the Matter of the Accusation Against:

Case No. 1H-2007-173

13 **ALBERT ACEDO JR., R.C.P.**  
14 **5163 Village Drive**  
**Montclair, CA 91763**

**A C C U S A T I O N**

15 **Respiratory Care Practitioner License No.**  
16 **5001**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about June 21, 1985, the Respiratory Care Board issued Respiratory Care  
24 Practitioner License Number 5001 to ALBERT ACEDO JR., R.C.P. (hereinafter "Respondent").  
25 The Respiratory Care Practitioner License was in full force and effect at all times relevant to the  
26 charges brought herein and will expire on May 31, 2011, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Respiratory Care Board (Board),  
3 Department of Consumer Affairs, under the authority of the following laws. All section  
4 references are to the Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 118, subdivision (b), of the Code states:

6 "The suspension, expiration, or forfeiture by operation of law of a license issued by a  
7 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by  
8 order of a court of law, or its surrender without the written consent of the board, shall not, during  
9 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its  
10 authority to institute or continue a disciplinary proceeding against the licensee upon any ground  
11 provided by law or to enter an order suspending or revoking the license or otherwise taking  
12 disciplinary action against the licensee on any such ground."

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

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

18 7. Section 3750 of the Code states, in pertinent part:

19 "The board may order the denial, suspension or revocation of, or the imposition of  
20 probationary conditions upon, a license issued under this chapter, for any of the following causes:

21 "...

22 "(f) Negligence in his or her practice as a respiratory care practitioner.

23 "(g) Conviction of a violation of any of the provisions of this chapter or of any  
24 provision of Division 2 (commencing with Section 500), or violating, or attempting to  
25 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring  
26 to violate any provision or term of this chapter or of any provision of Division 2  
27 (commencing with Section 500).

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8. Section 3755 of the Code states:

"The board may take action against any respiratory care practitioner who is charged with unprofessional conduct in administering, or attempting to administer, direct or indirect respiratory care. Unprofessional conduct includes, but is not limited to, repeated acts of clearly administering directly or indirectly inappropriate or unsafe respiratory care procedures, protocols, therapeutic regimens, or diagnostic testing or monitoring techniques, and violation of any provision of Section 3750. The board may determine unprofessional conduct involving any and all aspects of respiratory care performed by anyone licensed as a respiratory care practitioner."

9. California Code of Regulations (CCR), title 16, section 1399.370, states:

"For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Act.

"..."

**COST RECOVERY**

10. Section 3753.5, subdivision (a) of the Code states:

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case. A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the official custodian of the record or his or her designated representative shall be prima facie evidence of the actual costs of the investigation and prosecution of the case."

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1           B.    On or about February 12, 2007, chest x-rays confirmed bilateral pulmonary  
2 consolidations consistent with pneumonia and interval increase in right basilar pneumothorax.

3           C.    On or about February 13, 2007, an order was given for a stat chest CT scan. At  
4 approximately 23:00 hours, respondent assisted the registered nurse in transporting patient M.A.  
5 from PICU to the CT scan department. The policies and procedures in the PICU require that  
6 patients be monitored continuously throughout the hospital grounds. In addition, portable  
7 monitoring, equivalent staffing, and the ability for emergency resuscitation should be provided  
8 for each PICU patient when transported outside the PICU for any reason.

9           D.    Patient M.A. was transported to the CT scan department by the registered nurse  
10 and by respondent. Respondent manually ventilated patient M.A. during the transport, however,  
11 the patient was not connected to a cardiac monitor because the registered nurse forgot to hook the  
12 patient up to a portable monitor. When the patient arrived in the CT scan department, patient  
13 M.A. was connected to a ventilator with the same ventilator settings as he was on in PICU.  
14 Patient M.A. was not connected to a cardiac monitor while in the CT scan department and during  
15 the CT scan procedure.

16           E.    As soon as patient M.A. was ready for the CT scan, respondent and other  
17 personnel retreated into the viewing room. Respondent pulled up a stool and sat down.  
18 Respondent did not have his eyeglasses with him at the time of the CT scan and he was observed  
19 to occasionally close his eyes while seated. Respondent denied that he was sleeping during the  
20 CT scan procedure.

21           F.    At the end of the CT scan, respondent received a page from his supervisor and  
22 he responded to the page by calling and speaking to his supervisor. It was at this time that patient  
23 M.A. was observed to have turned blue in color with no heart rate, and a Code Blue was  
24 immediately initiated. Respondent assisted in the cardiopulmonary resuscitation (CPR) of patient  
25 M.A. but did not note in the medical records his participation.

26           G.    Patient M.A. suffered temporary blindness and brain injury but recovered fully  
27 without residual injury.

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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking or suspending Respiratory Care Practitioner License Number 5001 heretofore issued to respondent ALBERT ACEDO JR., R.C.P.;
2. Ordering respondent ALBERT ACEDO JR., R.C.P. to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and
3. Taking such other and further action as deemed necessary and proper.

DATED: February 17, 2010

Original signed by Liane Freels for:  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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