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

10 In the Matter of the Accusation Against:

Case No. 1H 2008 708

11 **DIANE F. BAHR**

12 **Berkeley, CA 94702**

A C C U S A T I O N

13
14 **Respiratory Care Practitioner License No.**
5904

15 Respondent.
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18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about June 28, 1985, the Respiratory Care Board issued Respiratory Care
24 Practitioner License Number 5904 to Diane F. Bahr (Respondent). The Respiratory Care
25 Practitioner License was in full force and effect at all times relevant to the charges brought herein
26 and will expire on April 30, 2011, unless renewed.

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1 COST RECOVERY

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

3 "In any order issued in resolution of a disciplinary proceeding before the board, the board or
4 the administrative law judge may direct any practitioner or applicant found to have committed a
5 violation or violations of law or any term and condition of probation to pay to the board a sum not
6 to exceed the costs of the investigation and prosecution of the case."

7 9. Section 3753.7 of the Code states:

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

11 10. Section 3753.1 of the Code states:

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

15 FIRST CAUSE FOR DISCIPLINE

16 (Negligence)

17 11. Respondent is subject to disciplinary action under code sections 3750(f) [negligence]
18 in that she acted below the standard of care for a respiratory care practitioner in her treatment of a
19 patient on October 18, 2008 and on December 10, 2008. The circumstances are as follows:

20 October 18, 2008 incident

21 12. On or about October 18, 2008, Respondent was employed as a respiratory care
22 practitioner at Alta Bates Summit Medical Center (ABSMC). She was assigned to the Critical
23 Care unit and worked during the day shift. One of her assigned patients, Patient A., was a 73 year
24 old male who had been admitted September 25, 2008 for respiratory failure secondary to chronic
25 obstructive pulmonary disease and emphysema. Patient A. had been on a mechanical ventilator
26 for life support, and was being prepared for removal from the ventilator, a process known as
27 "weaning" preparatory to breathing on his own.

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2. Ordering Diane F. Bahr 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;

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

DATED: May 10, 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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