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7
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:

Case No. 1H 2010 428

12 **SOEUY COLLINS**
13 **1909 Ellison Drive**
Modesto, CA 95355

STATEMENT OF ISSUES

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15 Applicant/Respondent.

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17 Complainant alleges:

18 PARTIES

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

22 2. On or about June 21, 2010, the Respiratory Care Board of California, Department of
23 Consumer Affairs received an application for a respiratory care practitioner license from Soeuy
24 Collins (Respondent). On or about February 10, 2010, Respondent certified under penalty of
25 perjury to the truthfulness of all statements, answers, and representations in the application. The
26 Board denied the application on August 16, 2010. On August 18, 2010, Respondent requested a
27 Hearing on the denial.

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JURISDICTION

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

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

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

6. Section 3732(b) of the Code states: "The board may deny an application, or may order the issuance of a license with terms and conditions, for any of the causes specified in this chapter for suspension or revocation of a license, including, but not limited to, those causes specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761."

7. Section 3750 of the Code states:
"The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

"(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction."

8. Section 3752 of the Code states:
"A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of any offense which substantially relates to the qualifications, functions, or duties of a respiratory care practitioner is deemed to be a conviction within the meaning of this article. The board shall order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or

1 her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
2 dismissing the accusation, information, or indictment."

3 9. Section 3752.5 of the Code states:

4 "For purposes of Division 1.5 (commencing with Section 475), and this chapter [the
5 Respiratory Care Practice Act], a crime involving bodily injury or attempted bodily injury shall
6 be considered a crime substantially related to the qualifications, functions, or duties of a
7 respiratory care practitioner."

8 10. California Code of Regulations, title 16, section 1399.370, states:

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

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

16 COST RECOVERY

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

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

25 12. Section 3753.7 of the Code states:

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

1 to 3 years formal probation under the following terms and conditions: She was ordered to pay
2 restitution to the victim in the amount of \$750.00, attend and complete a 52 week Domestic
3 Violence program, stay away from the victim with an exception for safe exchange of children,
4 serve 30 days jail time with credit for time served of 3 days; referred to an Adult Offender Work
5 Program; and she was ordered to pay fines and fees.

6 18. Therefore, Respondent's license is subject to discipline based on her substantially
7 related conviction, which is in violation of code sections 3750(d), 3752, 3752.5 and CCR
8 1399.370(a) [substantially related conviction.]

9 PRAYER

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

- 12 1. Denying the application of Soeuy Collins for a respiratory care practitioner license;
- 13 2. Directing Soeuy Collins to pay the Respiratory Care Board of California the costs of
14 the investigation and enforcement of this case, and if placed on probation, the costs of probation
15 monitoring;
- 16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: October 27, 2010

Original Signed by Liane Freels for:

18 STEPHANIE NUNEZ
19 Executive Officer
20 Respiratory Care Board of California
21 Department of Consumer Affairs
22 State of California
23 *Complainant*

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