

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

In the Matter of the Accusation Against:

Case No. 1H 2013 628

MICHAEL RICHARD COLLINS
220 Newport Center Drive, #11-188
Newport Beach, CA 92660

Respiratory Care Practitioner License No. 10654

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Respiratory Care Board of California, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on January 16, 2015.

It is so ORDERED January 6, 2015.

Original signed by:

STEPHANIE NUNEZ
EXECUTIVE OFFICER, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 LORI JEAN FORCUCCI
Deputy Attorney General
4 State Bar No. 125345
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2080
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:
14 **MICHAEL RICHARD COLLINS, R.C.P.**
15 **220 NEWPORT CENTER DRIVE, #11-188**
16 **NEWPORT BEACH, CA 92660**
17 **RESPIRATORY CARE PRACTITIONER**
18 **LICENSE NO. 10654,**
19 Respondent.

Case No. 1H 2013 628
STIPULATED SURRENDER AND
DISCIPLINARY ORDER

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

22 **PARTIES**

23 1. Stephanie Nunez (Complainant) is the Executive Officer of the Respiratory Care
24 Board of California. She brought this action solely in her official capacity, as such, and is
25 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
26 Lori Jean Forcucci, Deputy Attorney General.

27 ///
28 ///

1 does not, in her discretion, approve and adopt this Stipulated Surrender and Disciplinary Order,
2 with the exception of this paragraph, it shall not become effective, shall be of no evidentiary
3 value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either
4 party hereto. Respondent further agrees that should this Stipulated Surrender and Disciplinary
5 Order be rejected for any reason by the Executive Officer on behalf of the Board, respondent will
6 assert no claim that the Executive Officer, the Board, or any member thereof, was prejudiced by
7 its/his/her review, discussion and/or consideration of this Stipulated Surrender and Disciplinary
8 Order or of any matter or matters related hereto.

9 **ADDITIONAL PROVISIONS**

10 12. This Stipulated Surrender and Disciplinary Order is intended by the parties herein to
11 be an integrated writing representing the complete, final and exclusive embodiment of the
12 agreements of the parties in the above-entitled matter.

13 13. The parties agree that copies of this Stipulated Surrender and Disciplinary Order,
14 including copies of the signatures of the parties, may be used in lieu of original documents and
15 signatures and, further, that such copies shall have the same force and effect as originals.

16 14. In consideration of the foregoing admissions and stipulations, the parties agree the
17 Executive Officer of the Board may, without further notice to or opportunity to be heard by
18 respondent, issue and enter the following Disciplinary Order on behalf of the Board:

19 **DISCIPLINARY ORDER**

20 **IT IS HEREBY ORDERED** that Respiratory Care Practitioner License No. 10654, issued
21 to respondent Michael Richard Collins, R.C.P., is surrendered and accepted by the Respiratory
22 Care Board of California.

23 1. The surrender of respondent's Respiratory Care Practitioner License No. 10654 and
24 the acceptance of the surrendered license by the Board shall constitute the imposition of
25 discipline against respondent. This stipulation constitutes a record of the discipline and shall
26 become a part of respondent's license history with the Board.

27 2. Respondent shall lose all rights and privileges as a Respiratory Care Practitioner in
28 California as of the effective date of the Board's Decision and Order.

1 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
2 issued, his wall certificate on or before the effective date of the Decision and Order.

3 4. If respondent ever files an application for licensure, or petitions the Board for
4 reinstatement of his surrendered Respiratory Care Practitioner License No. 10654, or applies or
5 reapplies to the Board for a new license or certificate, the Board shall treat it as a petition for
6 reinstatement of a revoked license and respondent must comply with all the laws, regulations and
7 procedures for licensure in effect at the time the application or petition is filed, and the charges
8 and allegations contained in Accusation No. 1H 2013 628, and each of them, separately and
9 severally, shall be deemed to be true, correct and fully admitted by respondent when the Board
10 determines whether to grant or deny the petition.

11 5. If respondent ever applies or reapplies to any other health care licensing agency in the
12 State of California for a new license or certificate, all of the charges and allegations contained in
13 Accusation No. 1H 2013 628, and each of them, separately and severally, shall be deemed to be
14 true, correct, and fully admitted by respondent for the purpose of any Statement of Issues or any
15 other proceeding seeking to deny or restrict licensure.

16 6. Before respondent files any petition or application for issuance of a new or reinstated
17 license, respondent must first reimburse the Board for its costs of investigation and enforcement
18 in Case No. 1H 2013 628, pursuant to Business and Professions Code sections 3753.5,
19 subdivision (a), and 3753.7, in the amount of five thousand, one hundred ninety-seven dollars and
20 fifty cents (\$5,197.50).

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ACCEPTANCE

I have carefully read this Stipulated Surrender and Disciplinary Order. I fully understand the terms and conditions and other matters contained herein. I understand the stipulation and the effect it will have on my Respiratory Care Practitioner License No. 10654. I enter into this Stipulated Surrender and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Respiratory Care Board of California, Department of Consumer Affairs.

DATED: 12-22-2014 
MICHAEL RICHARD COLLINS, R.C.P.
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender and Disciplinary Order is hereby respectfully submitted for consideration by the Respiratory Care Board of California, Department of Consumer Affairs.

Dated: 12-22-14

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General


LORI JEAN FORCUCCI
Deputy Attorney General
Attorneys for Complainant

SD2013806185
71000167.docx

Exhibit A

Accusation No. 1H 2013 628

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 LORI JEAN FORCUCCI
Deputy Attorney General
4 State Bar No. 125345
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2080
7 Facsimile: (619) 645-2061

FILED
STATE OF CALIFORNIA
RESPIRATORY CARE BOARD
SACRAMENTO March 25 2014
BY [Signature] ANALYST

8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:
14 **MICHAEL RICHARD COLLINS, R.C.P.**
15 **220 NEWPORT CENTER DRIVE, #11-188**
NEWPORT BEACH, CA 92660
16 **RESPIRATORY CARE PRACTITIONER**
17 **LICENSE NO. 10654**
18 Respondent.

Case No. 1H 2013 628
A C C U S A T I O N

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 November 3, 1986, the Respiratory Care Board issued Respiratory Care
24 Practitioner License No. 10654 to Michael Richard Collins, R.C.P. (Respondent). Respiratory
25 Care Practitioner License No. 10654 was in full force and effect at all times relevant to the
26 charges brought herein and will expire on September 30, 2014, unless renewed.

27 ///
28 ///

JURISDICTION

1
2 3. This Accusation is brought before the Respiratory Care Board (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 3710 of the Code states:

6 “The Respiratory Care Board of California, hereafter referred to as the board,
7 shall enforce and administer this chapter.” [Chapter 8.3, the Respiratory Care
8 Practice Act.]

9 5. Section 3718 of the Code states:

10 “The board shall issue, deny, suspend, and revoke licenses to practice
11 respiratory care as provided in this chapter.”

12 6. Section 3750 of the Code states, in pertinent part:

13 “The board may order the denial, suspension or revocation of, or the imposition
14 of probationary conditions upon, a license issued under this chapter, for any of the
15 following causes:

16 “... ”

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

20 “... ”

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

26 “... ”

27 ///

28 ///

1 7. Section 3752 of the Code states:

2 "A plea or verdict of guilty or a conviction following a plea of nolo contendere
3 made to a charge of any offense which substantially relates to the qualifications,
4 functions, or duties of a respiratory care practitioner is deemed to be a conviction
5 within the meaning of this article. The board shall order the license suspended or
6 revoked, or may decline to issue a license, when the time for appeal has elapsed, or
7 the judgment of conviction has been affirmed on appeal or when an order granting
8 probation is made suspending the imposition of sentence, irrespective of a subsequent
9 order under Section 1203.4 of the Penal Code allowing the person to withdraw his or
10 her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
11 guilty, or dismissing the accusation, information, or indictment."

12 8. Section 3750.5 of the Code states, in pertinent part:

13 "In addition to any other grounds specified in this chapter, the board may deny,
14 suspend, place on probation, or revoke the license of any applicant or licenseholder
15 who has done any of the following:

16 "(a) Obtained, possessed, used, or administered to himself or herself in
17 violation of law, or furnished or administered to another, any controlled substances as
18 defined in Division 10 (commencing with Section 11000) of the Health and Safety
19 Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015)
20 of Chapter 9, except as directed by a licensed physician and surgeon, dentist,
21 podiatrist, or other authorized health care provider, or illegally possessed any
22 associated paraphernalia.

23 "..."

24 9. California Code of Regulations, title 16, section 1399.370, states, in pertinent part:

25 "For the purposes of denial, suspension, or revocation of a license, a crime or
26 act shall be considered to be substantially related to the qualifications, functions or
27 duties of a respiratory care practitioner, if it evidences present or potential unfitness
28 of a licensee to perform the functions authorized by his or her license or in a manner

1 inconsistent with the public health, safety, or welfare. Such crimes or acts shall
2 include but not be limited to those involving the following:

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

5 “...”

6 **COST RECOVERY**

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

8 “In any order issued in resolution of a disciplinary proceeding before the board,
9 the board or the administrative law judge may direct any practitioner or applicant
10 found to have committed a violation or violations of law or any term and condition of
11 board probation to pay to the board a sum not to exceed the costs of the investigation
12 and prosecution of the case.”

13 11. Section 3753.7 of the Code states:

14 “For purposes of this chapter, costs of prosecution shall include attorney
15 general or other prosecuting attorney fees, expert witness fees, and other
16 administrative, filing, and service fees.”

17 12. Section 3753.1 of the Code states, in pertinent part:

18 “(a) An administrative disciplinary decision imposing terms of probation may
19 include, among other things, a requirement that the licensee-probationer pay the
20 monetary costs associated with monitoring the probation.

21 “...”

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Conviction of a Crime Substantially Related to the Qualifications,
24 Functions and Duties of a Respiratory Care Practitioner)**

25 13. Respondent has subjected his Respiratory Care Practitioner License No. 10654 to
26 disciplinary action under section 3750, as defined by sections 3750, subdivision (d), and 3752, of
27 the Code, in that he was convicted of a crime substantially related to the qualifications, functions

28 ///

1 or duties of a respiratory care practitioner, to wit: possession of a smoking device used for
2 smoking a controlled substance, as more particularly alleged hereinafter:

3 14. On or about August 23, 2013, police officers conducted a traffic stop on Respondent,
4 who was driving his vehicle. Upon contact with Respondent, one officer saw an open beer bottle
5 in the front passenger side of the vehicle. Respondent admitted he had been drinking "a little bit."
6 During a search of Respondent's vehicle, the officer located several empty bottles of liquor and
7 beer on the rear floor board of the vehicle. The officer also saw a copper type metal mesh¹ pad
8 commonly used to make crack pipes on the rear passenger seat. The officer located two glass
9 smoking pipes containing metal brillo, which was burnt at one end. Respondent stated that he
10 and his passenger bought the glass pipes and brillo approximately 30 minutes prior to the traffic
11 stop. Respondent also stated that he intended to buy drugs later in the evening, and usually drove
12 along Pacific Coast Highway to obtain crack cocaine from prostitutes. Respondent admitted to
13 smoking crack cocaine approximately 50 times over the last 18 months.

14 15. On or about August 23, 2013, Respondent was arrested for a violation of Health and
15 Safety Code section 11364, subdivision (a), (possession of controlled substance paraphernalia), a
16 misdemeanor.

17 16. On or about October 31, 2013, in the case entitled, *The People of the State of*
18 *California vs. Michael Richard Collins, et al.*, Orange County Case No. 3SY07085, Respondent
19 was charged with one count of violating Section 11364.1, subdivision (a)(1), of the Health and
20 Safety Code (possession of a device, contrivance, instrument, and paraphernalia used for smoking
21 controlled substances), a misdemeanor.

22 17. On or about November 26, 2013, in Orange County Case No. 3SY07085,
23 Respondent was convicted upon his plea of *nolo contendere* to violating section 11364.1,
24 subdivision (a)(1), of the Health and Safety Code (possession of a device, contrivance,
25 instrument and paraphernalia used for smoking controlled substances), a misdemeanor.

26 ///

27 ¹ The police report describes the mesh by its physical appearance, and also refers to it as
28 "brillo." Herein, the term "brillo" is used.

1 18. Respondent is scheduled to be sentenced in Orange County Case No.
2 3SY07085, on or about March 26, 2014.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Obtained, Possessed, Used and/or Administered Obtaining
5 a Controlled Substance to Himself)**

6 19. Respondent has further subjected his Respiratory Care Practitioner License No.
7 10654 to disciplinary action under section 3750.5, as defined by section 3750.5, subdivision (a),
8 of the Code, in that, as of on or about August 23, 2013, Respondent has obtained, possessed, used
9 and/or administered a controlled substance to himself, by smoking crack cocaine approximately
10 50 times over the preceding 18 months, as more particularly alleged in paragraphs 13 through 18,
11 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Possession of Any Paraphernalia Associated With Controlled Substances)**

14 20. Respondent has further subjected his Respiratory Care Practitioner License No.
15 10654 to disciplinary action under section 3750.5, as defined by section 3750.5, subdivision (a),
16 of the Code, in that he illegally possessed glass pipes, paraphernalia associated with the use of
17 controlled substances, as more particularly alleged in paragraphs 13 through 18, above, which are
18 hereby incorporated by reference and realleged as if fully set forth herein.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Violation of a Provision or Provisions of the Act)**

21 21. Respondent has further subjected his Respiratory Care Practitioner License No.
22 10654 to disciplinary action under section 3750, as defined by section 3750, subdivision (g), of
23 the Code, and section 1399.370, subdivision (a), of title 16 of the California Code of Regulations,
24 in that he has violated a provision or provisions of the Respiratory Care Practice Act, as more
25 particularly alleged in paragraphs 13 through 20, above, which are hereby incorporated by
26 reference and realleged as if fully set forth herein.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 No. 10654, issued to Respondent Michael Richard Collins, R.C.P.;

2. Ordering Respondent Michael Richard Collins, 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: March 25, 2014


STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant