

1 EDMUND G. BROWN JR.
Attorney General of California
2 JOSE R. GUERRERO
State Bar No. 97276
3 Supervising Deputy Attorney General
CATHERINE E. SANTILLAN
4 Senior Legal Analyst
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5579
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10 In the Matter of the First Amended Accusation
11 Against:

Case No. 1H 2008 370

12 **MARY MARGARET CHAMBERS**
13 **247 La Mesa Drive**
Salinas, CA 93901

FIRST AMENDED
A C C U S A T I O N

14 **Respiratory Care Practitioner License No.**
15 **15196**

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about May 14, 1992, the Respiratory Care Board issued Respiratory Care
25 Practitioner License Number 15196 to Mary Margaret Chambers (Respondent). The Respiratory
26 Care Practitioner License was in full force and effect at all times relevant to the charges brought
27 herein and will expire on February 28, 2010, unless renewed.
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2 JURISDICTION

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

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

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

11 6. Section 3750 of the Code states:

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

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

17 "(g) Conviction of a violation of any of the provisions of this chapter or of any provision of
18 Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or
19 indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or
20 term of this chapter or of any provision of Division 2 (commencing with Section 500)."

21 7. Section 3752 of the Code states:

22 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
23 charge of any offense which substantially relates to the qualifications, functions, or duties of a
24 respiratory care practitioner is deemed to be a conviction within the meaning of this article. The
25 board shall order the license suspended or revoked, or may decline to issue a license, when the
26 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when
27 an order granting probation is made suspending the imposition of sentence, irrespective of a
28 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 8. Section 3752.5 of the Code states:

4 “For purposes of Division 1.5 (commencing with Section 475), and this chapter, a crime
5 involving bodily injury or attempted bodily injury shall be considered a crime substantially
6 related to the qualifications, functions, or duties of a respiratory care practitioner.”

7 9. California Code of Regulations, title 16, section 1399.370, states:

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

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

15 “(c) Conviction of a crime involving driving under the influence or reckless driving while
16 under the influence.”

17 COST RECOVERY

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

19 "In any order issued in resolution of a disciplinary proceeding before the board, the board or
20 the administrative law judge may direct any practitioner or applicant found to have committed a
21 violation or violations of law to pay to the board a sum not to exceed the costs of the investigation
22 and prosecution of the case."

23 11. Section 3753.7 of the Code states:

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

27 12. Section 3753.1 of the Code states:
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1 performance on the field sobriety tests, her physical appearance, and the collision, he determined
2 that Respondent was under the influence of alcohol.

3 21. She was transported to the Salinas Police Department for an intoxilyzer test. The test
4 results indicated her blood alcohol content was .29%/.31%. A records check showed that
5 Respondent was on probation for a domestic violence conviction and her probation terms stated
6 that she was not to use or possess alcohol. She was arrested for violating Vehicle Code sections
7 23153(a), driving under the influence of alcohol or drugs or causing injury, and 23153(b), driving
8 with a .08% or more blood alcohol, and Penal Code section 1203.2(a), violation of probation.

9 22. On or about April 20, 2009, a criminal complaint titled *People of the State of*
10 *California vs. Mary Margaret Chambers*, case no. MS275776A was filed in Superior Court,
11 Monterey County, Salinas Division. Count 1 charged Respondent with a violation of Vehicle
12 Code section 23153(a), driving under the influence of alcohol or drugs or causing injury, and
13 Count 2 charged a violation of Vehicle Code section 23153(b), driving with a .08% or more blood
14 alcohol.

15 23. On June 19, 2009, Respondent entered a plea of nolo contendere to count 1 and was
16 convicted. Imposition of sentence was suspended, and she was placed on conditional probation
17 for five years. She was ordered to report and enroll in a First Offender Alcohol Program, install
18 an ignition interlock device for one year, attend and provide written proof of thirty AA/NA
19 meetings, pay fines, serve forty two days jail with credit for two days served. The Court
20 recommended the Work Alternative Program. All remaining charges were dismissed.

21 24. Therefore, respondent's license is subject to discipline in that her conviction of
22 violating Penal Code 243(E), battery on a spouse or cohabitant, and Vehicle Code section
23 23153(a), driving under the influence of alcohol, are substantially-related convictions within the
24 meaning of Business and Professions code sections 3750(d), 3752 and 3752.5.

25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Respiratory Care Board issue a decision:
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1. Revoking or suspending Respiratory Care Practitioner License Number 15196, issued to Mary Margaret Chambers;

2. Ordering Mary Margaret Chambers 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: September 9, 2009

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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