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

11 In the Matter of the Accusation Against:

Case No. R-2051

12 ROBERT T. COLLIER, RCP
13 1708 Lupine Drive
Willits, CA 95490

A C C U S A T I O N

14 Respiratory Care Practitioner
15 License No. 17554

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about October 28, 1994, the Respiratory Care Board issued
24 Respiratory Care Practitioner License Number 17554 to Robert T. Collier (Respondent). The
25 Respiratory Care Practitioner License was in full force and effect at all times relevant to the
26 charges brought herein and will expire on July 31, 2008, 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 unless otherwise indicated.

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

8 5. Section 3750 of the Code states:

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

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

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

20 6. Section 3752 of the Code states:

21 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
22 made to a charge of any offense which substantially relates to the qualifications,
23 functions, or duties of a respiratory care practitioner is deemed to be a conviction within
24 the meaning of this article. The board shall order the license suspended or revoked, or
25 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
26 conviction has been affirmed on appeal or when an order granting probation is made
27 suspending the imposition of sentence, irrespective of a subsequent order under Section
28 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to

1 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
2 accusation, information, or indictment.”

3 7. Section 3752.5 of the Code states:

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

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

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

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

17 **COST RECOVERY**

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

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

23 10. Section 3753.7 of the Code states:

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

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28 11. Section 3753.1 of the Code states:

1 Vehicle Code section 23152(b) and Penal Code section 12025(a). The Respondent was granted
2 summary probation for the period of 60 months with terms and conditions.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Crime Involving Bodily Injury)

5 13. Respondent is subject to disciplinary action under sections 3750(d) and
6 3752.5 in that he was convicted of a crime involving bodily injury, which is substantially related
7 to the qualifications, functions and duties of a respiratory care practitioner. The circumstances are
8 as follows:

9 A. On or about June 24, 2005, Respondent was arrested at his home after a
10 preliminary investigation of a hit and run accident involving a van striking a bicyclist strongly
11 suggested he had been driving the offending vehicle. The Respondent confessed to the police
12 that he had been drinking before driving that night, that he had been driving the van which hit the
13 bicyclist, and that he had left the accident scene. The Respondent was placed under arrest for
14 violations of Vehicle Code Sections 23152(a), driving under the influence, 23152(b), driving
15 with a blood alcohol content of .08 or more, and 20001(a), leaving the scene of an accident. At
16 the station, the Respondent submitted to a breath test and the results were .13/.13 blood alcohol
17 content.

18 B. On or about September 7, 2005, a Felony Complaint was filed in Superior
19 Court of the County of Mendocino, State of California, entitled *The People of the State of*
20 *California v. Robert Timothy Collier*, Case No. MCLV-CRCR-05-65898-02 charging
21 Respondent of violating Vehicle Code sections 23153(a), driving under the influence of alcohol
22 causing bodily injury, 23153(b), driving with a blood alcohol content greater than 0.08% causing
23 bodily injury, 20001(A), leaving the scene of an injury accident, all felonies, and a violation of
24 Vehicle Code section 14601, driving with a suspended license, a misdemeanor.

25 C. On or about January 5, 2006, Respondent pleaded no contest and was
26 convicted of the felony charge, Vehicle Code section 23153(a), driving under the influence,
27 causing bodily injury, and was sentenced to five years probation and was ordered to pay
28 restitution to the injured victim, to only drive with a valid California driver's license and in a

1 vehicle with an alcohol interlock device, and to serve 240 days in jail.

2 **DISCIPLINE CONSIDERATIONS**

3 14. To determine the degree of discipline, if any, to be imposed on
4 Respondent, Complainant alleges that on or about August 2, 1994, the Board filed Statement of
5 Issues No. S-122 against Respondent for four alcohol related convictions as follows:

6 A. On or about October 16, 1974, Respondent was convicted in Riverside
7 County Superior Court for violating Vehicle Code section 23102(a), driving under the influence,
8 a misdemeanor.

9 B. On or about February 7, 1978, Respondent was convicted in Weaverville
10 Justice Court of violating Vehicle Code section 23102(a), driving under the influence, a
11 misdemeanor.

12 C. On or about August 26, 1985, in San Leandro-Hayward Municipal Court,
13 Respondent was convicted of violating VC 23152(a), driving under the influence, a
14 misdemeanor.

15 D. On or about April 16, 1990, in Trinity County Justice Court, Respondent
16 was convicted of violating VC 23152(a), driving under the influence, a misdemeanor.

17 15. On or about August 3, 1994, Respondent entered into a Stipulation. The
18 Stipulation was adopted with an effective date of October 28, 1994. Respondent was placed on
19 three years probation, and he successfully completed probation on October 28, 1997.

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1 **PRAYER**

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

4 A. Revoking or suspending Respiratory Care Practitioner License Number
5 No. 17554, issued to Robert T. Collier;

6 B. Ordering Robert T. Collier to pay the Respiratory Care Board the costs of
7 the investigation and enforcement of this case, and if placed on probation, the costs of probation
8 monitoring; and

9 C. Taking such other and further action as deemed necessary and proper.

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11 DATED: January 26, 2007

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14 Original signed by Liane Zimmerman for:
15 STEPHANIE NUNEZ
16 Executive Officer
17 Respiratory Care Board of California
18 Department of Consumer Affairs
19 State of California
20 Complainant
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