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

11 In the Matter of the Accusation Against:

Case No. 1H 2011 561

12 **CELEDONIO S. BLANCAFLOR, RCP**
13 **4404 Lauerdale Avenue**
14 **La Crescenta, California 91214**

A C C U S A T I O N

15 **Respiratory Care Practitioner License No.**
16 **21184**

Respondent.

17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about December 23, 1999, the Board issued Respiratory Care Practitioner
23 License Number 21184 to Celedonio S. Blancaflor (Respondent). This license was in full force
24 and effect at all times relevant to the charges brought herein and will expire on February 28,
25 2013, unless renewed.

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JURISDICTION

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

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

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

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

13 ". . .

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

17 ". . . ."

18 7. Section 3750.5 of the Code states:

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

22 ". . .

23 "(b) Used any controlled substance as defined in Division 10 (commencing with
24 Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2
25 (commencing with Section 4015) of Chapter 9 of this code, or alcoholic beverages, to an extent or
26 in a manner dangerous or injurious to himself or herself, or to others, or that impaired his or her
27 ability to conduct with safety the practice authorized by his or her license.

28 ". . .

1 "(d) Been convicted of a criminal offense involving the consumption or self-
2 administration of any of the substances described in subdivisions (a) and (b), or the possession of,
3 or falsification of a record pertaining to, the substances described in subdivision (a), in which
4 event the record of the conviction is conclusive evidence thereof.

5 ". . . ."

6 8. Section 3752 of the Code states:

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

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

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

22 ". . .

23 "(c) Conviction of a crime involving driving under the influence or reckless
24 driving while under the influence.

25 ". . . ."

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1 **COST RECOVERY**

2 10. 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 board probation to pay to the board a
6 sum not to exceed the costs of the investigation and prosecution of the case. A certified copy of
7 the actual costs, or a good faith estimate of costs where actual costs are not available, signed by
8 the official custodian of the record or his or her designated representative shall be prima facie
9 evidence of the actual costs of the investigation and prosecution of the case."

10 11. Section 3753.7 of the Code states:

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

14 12. Section 3753.1 of the Code states:

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

18 **FIRST CAUSE FOR DISCIPLINE**

19 (Conviction of a Crime)

20 13. Respondent is subject to disciplinary action under Code sections 3750, subdivision
21 (d), 3750.5, subdivision (d), and California Code of Regulations, title 16, section 1399.370,
22 subdivision (c), in that Respondent was convicted of a crime substantially related to the
23 qualifications, functions and duties of a respiratory care practitioner. The circumstances are as
24 follows:

25 14. On or about August 17, 2011, a California Highway Patrol Officer observed a traffic
26 collision on the westbound I-210 (Foothill Freeway). The victim stated she was driving on the
27 freeway about 50 miles per hour behind a big rig when she noticed Respondent's vehicle coming
28 up behind her really fast. Respondent drove right into the back of her vehicle, hitting her hard.

1 Respondent's vehicle and the victim's vehicle sustained major damage due to the collision.
2 Respondent told the officer that he was really concerned about his job and livelihood, and that he
3 was only going 60 to 65 miles per hour. The officer noticed Respondent's breath had a strong
4 odor of alcohol, his eyes were red and watery, his speech was slow and slurred, and his gait was
5 unsteady. He told the officer that he was arrested for a DUI in December, and lost his license.
6 When the officer asked him if he had been drinking alcohol, initially Respondent said no, then
7 later admitted he had two Mimosas and a shot of tequila that morning when he got off work.
8 The officer administered field sobriety tests which Respondent failed to successfully perform and
9 complete. The officer administered a Preliminary Alcohol Screen test. Respondent's blood
10 alcohol content measured .156% and .166%. The officer arrested Respondent for driving under
11 the influence of alcohol or drugs, in violation of Vehicle Code section 23152, subdivision (a).
12 Respondent submitted to a blood test at Verdugo Hills Hospital, and subsequently was
13 transported to the Pasadena Police Department for booking.

14 15. On or about October 13, 2011, in the matter entitled *The People of the State of*
15 *California vs. Celedonio S. Blancaflor*, in Los Angeles County Superior Court, Case No.
16 1GN03807, Respondent was charged with driving under the influence of alcohol or drugs, in
17 violation of Vehicle Code section 23152, subdivision (a), a misdemeanor (Count 1), and driving
18 while having a .08% or higher blood alcohol content, in violation of Vehicle Code section 23152,
19 subdivision (b), a misdemeanor (Count 2). It was further alleged that on April 1, 2010,
20 Respondent had sustained a prior conviction for driving while having a .08% or higher blood
21 alcohol content, in violation of Vehicle Code section 23152, subdivision (b).

22 16. On or about January 11, 2012, Respondent pled nolo contendere to driving while
23 having a .08% or higher blood alcohol content in violation of Vehicle Code section 23152,
24 subdivision (b), as charged in Count 2. He admitted his prior conviction. Respondent was placed
25 on probation for four years under the following terms and conditions:

- 26 a. Serve 96 hours in county jail;
- 27 b. Pay fines in the amount of \$1,747.00;

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- c. Complete an 18-month licensed second offender alcohol and drug education and counseling program;
- d. Make restitution to the victim;
- e. Complete the victim impact program of Mothers Against Drunk Driving; and
- f. Comply with standard terms and conditions of DUI probation.

The Court dismissed Count 1 of the complaint due to a plea negotiation.

SECOND CAUSE FOR DISCIPLINE

(Use of Alcohol)

17. Respondent is subject to disciplinary action under Code section 3750.5, subdivision (b), in that Respondent has used alcoholic beverages in a manner dangerous and injurious to himself and to others, and in a manner which has impaired his or her ability to conduct with safety the practice authorized by his or her license. The circumstances are as follows:

18. Paragraphs 14 through 16 above are incorporated here by reference.

DISCIPLINE CONSIDERATIONS

19. To determine the degree of discipline to be imposed on Respondent, Complainant alleges that on or about June 3, 2010, in a prior action, the Respiratory Care Board of California issued Citation Number C-10-0038, and ordered Respondent to pay a fine in the amount of \$250.00. The Citation was based upon Respondent's conviction on April 1, 2010, for violating Vehicle Code section 23152, subdivision (b), driving while having a .08% or higher blood alcohol content.

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 Number 21184 issued to Celedonio S. Blancaflor;
2. Ordering Celedonio S. Blancaflor 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

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

DATED: April 17, 2012

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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