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

12 In the Matter of the Accusation Against:

Case No. 7002015000085

13 **HERACH ARTIE ABEDI, RCP**
1998 East Glenoaks Blvd.
Glendale, CA 91206

A C C U S A T I O N

14 **Respiratory Care Practitioner License No.**
15 **21609,**

16 Respondent.

17
18 Complainant alleges:

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 September 6, 2000, the Respiratory Care Board issued Respiratory Care
24 Practitioner License Number 21609 to HERACH ARTIE ABEDI, RCP (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 October 31, 2017, unless renewed.

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JURISDICTION

3. This Accusation 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 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.

“ * * * * ”

7. Section 3750.5 of the Code states: "In addition to any other grounds specified in this chapter, the board may deny, suspend, place on probation, or revoke the license of any applicant or licenseholder who has done any of the following:

"(a) Obtained, possessed, used, or administered to himself or herself in violation of law, or furnished or administered to another, any controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with Section 4105) of Chapter 9, except as directed by a licensed physician and surgeon, dentist, podiatrist, or other authorized health care provider, or illegally possessed any associated paraphernalia.

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

6 " * * * *

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

11 "(e) Been committed or confined by a court of competent jurisdiction for intemperate use of
12 or addiction to the use of any of the substances described in subdivisions (a), (b), and (c), in
13 which event the court order of commitment or confinement is prima facie evidence of that
14 commitment or confinement.

15 " * * * *"

16 8. Section 3752 of the Code states:

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

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

27 "For the purposes of denial, suspension, or revocation of a license, a crime or act shall be
28 considered to be substantially related to the qualifications, functions or duties of a respiratory care

1 practitioner, if it evidences present or potential unfitness of a licensee to perform the functions
2 authorized by his or her license or in a manner inconsistent with the public health, safety, or
3 welfare. Such crimes or acts shall include but not be limited to those involving the following:

4 “ (a) Violating or attempting to violate, directly or indirectly, or assisting or
5 abetting the violation of or conspiring to violate any provision or term of the B&P.”

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, the board or
9 the administrative law judge may direct any practitioner or applicant found to have committed a
10 violation or violations of law or any term and condition of board probation to pay to the board a
11 sum not to exceed the costs of the investigation and prosecution of the case. A certified copy of
12 the actual costs, or a good faith estimate of costs where actual costs are not available, signed by
13 the official custodian of the record or his or her designated representative shall be prima facie
14 evidence of the actual costs of the investigation and prosecution of the case."

15 11. Section 3753.7 of the Code states:

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

19 12. Section 3753.1 of the Code states in relevant part:

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

23 CAUSE FOR DISCIPLINE

24 (Substantially-Related Conviction)

25 13. Respondent’s license is subject to disciplinary action under code sections 3750,
26 subdivision (d), 3750.5 subdivisions (a), (b), (d), and (e) [possession of a controlled substance],
27 and 3752, and California Code of Regulations Section 1399.370, subdivision (a) [substantially
28 related conviction] in that he was convicted of possession of a controlled substance. The

1 circumstances are as follows:

2 2014 Possession Conviction

3 14. On or about July 27, 2014, at approximately 8:30 p.m., Glendale Police Officer
4 Matthew Wilson, while conducting a uniformed patrol of the parking lot of the Coffee Bean and
5 Tea Leaf located near East California Avenue and Glendale Avenue observed Respondent sitting
6 in his parked 2005 BLUE KIA SUV, License # 5KVL983, on the east side of the parking lot.
7 Respondent was hunched over in the front driver's seat and appeared to have something in his
8 hand. As Officer Wilson approached the vehicle, he noticed a long slender metal object in
9 Respondent's hand which had a dark substance on the end. Officer Wilson witnessed Respondent
10 pick up what appeared to a Hookah pipe which he was in process of smoking. Officer Wilson
11 then used his flashlight to illuminate the interior of Respondent's vehicle. Respondent
12 immediately turned to his right and appeared to be struggling to hide the pipe and long slender
13 metal object. Officer Wilson witnessed the Respondent throw the long slender metal object out
14 of the opened front passenger window. Respondent told Officer Wilson that it was "opium" that
15 he threw out of the window not "heroin." Officer Wilson searched the area and found the long
16 slender metal object with a black substance on the end. Respondent admitted to Officer Wilson
17 that that was the object that he had thrown out of his passenger window.

18 15. Respondent was arrested for violation of Health and Safety Code Section 11350,
19 possession of narcotics.

20 16. On or about February 9, 2015, a criminal complaint titled *People of the State of*
21 *California vs. Herach Arti Abedi*, case no. 5GN00523, was filed in the Superior Court of Los
22 Angeles County. Count 1 charged a misdemeanor violation of Health and Safety Code Section
23 11350 [possession of a controlled substance].

24 17. On April 23, 2015, Respondent was convicted upon his plea of guilty to violating
25 Health and Safety Code Section 11350 [possession of a controlled substance]. Respondent was
26 placed on deferred entry of judgment for a period of eighteen (18) months, and ordered to pay
27 \$100.00 diversion restitution, to enroll and complete a Penal Code Section 1000 program, to pay
28 an administrative fee of \$150.00, and comply with other terms and conditions of probation.

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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 21609, issued to Herach Artie Abedi, RCP;
- 2. Ordering Herach Artie Abedi, RCP 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: July 8, 2016

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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