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

10
11 In the Matter of the Accusation Against:

Case No. 1H 2011 067

12 **MIGUEL ANGEL CASTANEDA**
13 **2227 Foxtail Drive**
Palmdale, California 93551

A C C U S A T I O N

14 **Respiratory Care Practitioner License**
15 **No. 26043**

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

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

23 2. On or about March 6, 2007, the Board issued Respiratory Care Practitioner
24 License Number 26043 to Miguel Angel Castaneda (Respondent). This license was in full force
25 and effect at all times relevant to the charges brought herein and will expire on February 29,
26 2012, 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,
6 hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the
7 Respiratory 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
13 causes:

14 ". . .

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

18 ". . . ."

19 7. Section 3750.5 of the Code states:

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

23 “(a) Obtained, possessed, used, or administered to himself or herself in violation of
24 law, or furnished or administered to another, any controlled substances as defined in
25 Division 10 (commencing with Section 11000) of the Health and Safety Code, or any
26 dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9,
27 except as directed by a licensed physician and surgeon, dentist, podiatrist, or other
28 authorized health care provider.

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“ . . .

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

“”

8. Section 3752 of the Code states:

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

COST RECOVERY

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

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

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1 vehicle a couple of pills. Respondent explained that the "750s" in his text message represent
2 Vicodin and the "10s" represent Soma. Respondent was arrested for furnishing a controlled
3 substance, in violation of Health and Safety Code section 11352.

4 14. On or about June 6, 2011, in the matter entitled *The People of the State of*
5 *California v. Miguel Angel Castaneda*, in the Superior Court for the County of Los Angeles, Case
6 Number MA051786, Respondent was charged with sale/transportation/offer to sell a controlled
7 substance, to wit, Dihydrocodeinone, in violation of Health and Safety Code section 11352,
8 subdivision (a), a felony (Count 1), and possession for sale of a controlled substance, to wit,
9 Dihydrocodeinone, in violation of Health and Safety Code section 11351, a felony (Count 2).

10 15. On or about September 2, 2011, Respondent was convicted upon his plea of nolo
11 contendere to possession for sale of a controlled substance, to wit, Dihydrocodeinone, in violation
12 of Health and Safety Code section 11351, a felony (Count 2). Respondent was placed on
13 probation for three years under the following terms and conditions:

- 14 a. Serve 180 days in county jail;
- 15 b. Pay fines in the amount of \$460.00;
- 16 c. Register as a convicted narcotics offender;
- 17 d. Complete a drug counseling program; and
- 18 e. Comply with other terms and conditions of probation.

19 As to Count 1, the Court dismissed the charge.

20 SECOND CAUSE FOR DISCIPLINE

21 (Possession of a Controlled Substance)

22 16. Respondent is subject to disciplinary action under Code section 3750.5,
23 subdivision (a), in that he possessed the controlled substance Dihydrocodeinone. The facts and
24 circumstances set forth in the First Cause for Discipline are incorporated herein by reference.

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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 26043 issued to Miguel Angel Castaneda, RCP;
2. Ordering him 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: December 14, 2011

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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