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

9
10 In the Matter of the Petition to Revoke the
Probation of:

11 MAXIMO ARMENTA, RCP

12 7040 San Luis Street
Paramount, California 90723

13
14 Respiratory Care Practitioner No. 27493

15 Respondent.

Case No. S-393/D1 2006 668

OAH No.

PETITION TO REVOKE PROBATION

16 Complainant alleges:

17 PARTIES

18 1. Stephanie Nunez (Complainant) brings this Petition to Revoke Probation solely in her
19 official capacity as the Executive Officer of the Respiratory Care Board of California (“Board”).

20 2. On or about June 25, 2008, the Board issued Respiratory Care Practitioner License
21 No. 27493 to Maximo Armenta (“Respondent”). Said license was in effect at all times relevant to
22 the charges brought herein and will expire on October 31, 2010, unless renewed.

23 3. In a disciplinary action entitled “In the Matter of the Statement of Issues Against
24 Maximo Armenta,” Case No. S-393, the Board issued a decision effective June 25, 2008, in
25 which Respondent was issued a probationary license for a period of two (2) years, with certain
26 terms and conditions. A copy of that decision is attached hereto as Exhibit A and is incorporated
27 by reference herein.
28

1 10. Section 3753.1, subdivision (a), of the Code states:

2 “An administrative disciplinary decision imposing terms of probation may include,
3 among other things, a requirement that the licensee-probationer pay the monetary costs
4 associated with monitoring the probation.”

5 FIRST CAUSE TO REVOKE PROBATION

6 (Biological Fluid Testing)

7 11. Probation Condition 2 requires that Respondent, at his expense, participate in random
8 biological fluid testing for the duration of his probationary period. Pursuant to said condition,
9 Respondent is required by the Board to telephone the Board’s biological testing contractor,
10 Compass Vision, on a daily basis, to learn whether he will be random-tested by Compass Vision
11 that day.

12 12. Respondent’s probation is subject to revocation because he has failed to comply with
13 Probation Condition 2, referenced above. The facts and circumstances regarding this violation
14 are as follows:

15 A. Between August 5, 2008 and October 28, 2009, Respondent failed, on one
16 hundred and forty-two (142) occasions, to call Compass Vision regarding his random
17 testing.

18 B. On seven of said dates, specifically June 22, 2009, August 4, 2009, August 21,
19 2009, September 8, 2009, September 22, 2009, October 19, 2009 and October 27, 2009,
20 Respondent was selected by Compass Vision for random testing. However, because he
21 failed to call in on those dates, he failed to submit for testing on those dates.

22 SECOND CAUSE TO REVOKE PROBATION

23 (Quarterly Reports)

24 13. Probation Condition 6 requires Respondent to file, with his Probation Monitor,
25 quarterly reports of compliance, on forms provided by the Board, for the duration of his
26 probation. Condition 6 further specifies the due dates for each quarterly report, and provides that
27 “failure to submit complete and timely reports shall constitute a violation 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 Board issue a decision:

1. Revoking the probation that was granted by the Respiratory Care Board of California in Case No. S-393;
2. Revoking or suspending Respiratory Care Practitioner License No. 27493 issued to Maximo Armenta;
3. Ordering Maximo Armenta to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and, if probation is continued or extended, to pay the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: December 10, 2009

Original signed by Liane Freels for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
State of California
Complainant

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