

1 EDMUND G. BROWN JR.
Attorney General of California
2 DOUG KNOLL
Deputy Attorney General
3 State Bar No. 077040
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-6404
5 Facsimile: (213) 897-9395
Attorneys for Complainant
6

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

9
10 In the Matter of the Petition to Revoke
Probation Against,
11 **MAXIMO ARMENTA, RCP**
12 **Paramount, California 90723**
Respiratory Care Practitioner No. 27493
13
14 Respondent

Case No. D1 2006 668

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

15
16 FINDINGS OF FACT

17 1. On or about December 10, 2009, Complainant Stephanie Nunez, in her official
18 capacity as the Executive Officer of the Respiratory Care Board of California, filed Petition to
19 Revoke Probation No. D1 2006 668 (“Petition”) against MAXIMO ARMENTA, RCP
20 (Respondent) before the Respiratory Care Board of California (“Board”).

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

24 3. On or about December 10, 2009, Andrea Pina, an employee of the Complainant
25 Agency, served by Certified Mail a copy of the Petition, Statement to Respondent, Notice of
26 Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7
27 to Respondent’s address of record with the Board, which was and is 7040 San Luis St.,
28

1 Paramount, California 90723. A copy of the Petition, the related documents, and Declaration of
2 Service are attached as exhibit A, and are incorporated herein by reference.

3 4. Service of the Petition was effective as a matter of law under the provisions of
4 Government Code section 11505, subdivision (c).

5 5. On or about December 14, 2009, a Certified Mail Tag, which confirmed service of
6 the Petition and the related documents, was signed. A copy of the Certified Mail Tag is attached
7 as exhibit B, and is incorporated herein by reference.

8 6. Government Code section 11506 states, in pertinent part:

9 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
10 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
11 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
12 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

13 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
14 of the Petition, and therefore waived his right to a hearing on the merits of Petition to Revoke
15 Probation No. D1 2006 668.

16 8. California Government Code section 11520 states, in pertinent part:

17 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
18 agency may take action based upon the respondent's express admissions or upon other evidence
19 and affidavits may be used as evidence without any notice to respondent."

20 9. Pursuant to its authority under Government Code section 11520, the Board finds
21 Respondent is in default. The Board will take action without further hearing and, based on
22 Respondent's express admissions by way of default and the evidence before it, contained in
23 Exhibits A, B and C, finds that the allegations in Petition to Revoke Probation No. D1 2006 668
24 are true.

25 10. The Board further finds that, pursuant to Business and Professions Code section
26 3753.5, the costs of investigation and enforcement of the case prayed for in the Petition total
27 \$3,825.00 based on the Certification of Costs attached hereto as Exhibit C.

28

DETERMINATION OF ISSUES

1
2 1. Based on the foregoing findings of fact, Respondent MAXIMO ARMENTA, RCP
3 has subjected his Respiratory Care Practitioner No. 27493 to discipline.

4 2. A copy of the Petition and the related documents and Declaration of Service are
5 attached.

6 3. The agency has jurisdiction to adjudicate this case by default.

7 4. The Board is authorized to revoke Respondent’s Respiratory Care Practitioner based
8 upon the following violations alleged in the Petition:

9 a. Failure to comply with Probation Condition 2 (Biological Fluid Testing),
10 Condition 6 (Quarterly Reports), Condition 8 (Probation Monitoring Costs), and Condition 13
11 (Cost Recovery).

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

ORDER

IT IS HEREBY ORDERED THAT:

1. Respiratory Care Practitioner License No. 27493, heretofore issued to Respondent MAXIMO ARMENTA, RCP, is revoked.
2. If Respondent ever files an application for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed.
3. Respondent is ordered to reimburse the Board the amount of \$3,825.00 for its investigative and enforcement costs. The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to reimburse the Board its costs. Respondent's Respiratory Care Practitioner License may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 3753.5 have been paid.
4. Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on April 24, 2010.

It is so ORDERED March 26, 2010

Original Signed By:
LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Attachments:

Exhibit A: Petition to Revoke Probation No.D1 2006 668, Related Documents, and
Declaration of Service

Exhibit B: Copy of Certified Mail Tag

Exhibit C: Certification of Costs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit A

Petition to Revoke Probation No. D1 2006 668,
Related Documents and Declaration of Service

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit B

Copy of Certified Mail Tag

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit C

Certification of Costs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

LA2009508177
default decision & order.rtf