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

11 In the Matter of the Accusation Against:

Case No. 7002015000314

12 AARON GREGORY COUTO, R.C.P.
13 12324 Reva Street
Cerritos, California 90703

A C C U S A T I O N

14
15 Respiratory Care Practitioner License No.
33564,

16 Respondent.
17

18 Complainant alleges:
19

20 **PARTIES**

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

23 2. On or about November 14, 2012, the Respiratory Care Board issued Respiratory Care
24 Practitioner License Number 33564 to Aaron Gregory Couto, R.C.P. ("Respondent"). That
25 license was in full force and effect at all times relevant to the charges brought herein and will
26 expire on July 31, 2016, unless renewed.

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1 **JURISDICTION**

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:

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

8 "..."

9 5. Section 3718 of the Code states:

10 "The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as
11 provided in this chapter."

12 6. Section 3750 of the Code states:

13 "The board may order the denial, suspension or revocation of, or the imposition of
14 probationary conditions upon, a license issued under this chapter, for any of the following causes:

15 "..."

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

19 "..."

20 7. Section 3750.5 of the Code states:

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

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

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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 ". . ."

12 8. Section 3752 of the Code states:

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

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

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of a Crime)**

3 13. Respondent’s license is subject to disciplinary action under section 3750, subdivision
4 (d), 3750.5, subdivision (d), and 3752 of the Code and California Code of Regulations, title 16,
5 section 1399.370, subdivisions (a) and (c), in that he has been convicted of a crime substantially
6 related to the qualifications, function, or duties of a respiratory care practitioner. The
7 circumstances are as follows:

8 14. On October 29, 2014, at approximately 12:25 a.m., a Los Angeles County Sheriff
9 conducted an enforcement stop at Casandra Avenue and Elgers Street in the City of Cerritos after
10 observing Respondent’s vehicle swerve from the left to the right side of his lane a couple of times
11 and also noting Respondent’s vehicle had no front license plate and had tinted front windows.

12 15. Respondent exhibited signs of alcohol intoxication. A preliminary alcohol screening
13 test revealed a 0.14% blood alcohol content, with subsequent breath test results of 0.11% and
14 0.12% blood alcohol content.

15 16. An inventory search of the interior of the vehicle for alcohol revealed a plastic baggie
16 containing a white powdery substance resembling cocaine sitting on the driver’s seat, which
17 Respondent stated was “his friend’s cocaine.” Respondent was the sole occupant of the vehicle at
18 the time of the enforcement stop.

19 17. Respondent was placed under arrest for driving under the influence of alcohol, in
20 violation of Vehicle Code section 23152, subdivision (a); driving a vehicle with 0.08% or more,
21 by weight, of alcohol in his blood, in violation of Vehicle Code section 23152, subdivision (b);
22 and possession of a controlled substance, in violation of Health and Safety Code section 11350,
23 subdivision (a). He was transported to the Lakewood Station for booking.

24 18. On or about October 31, 2014, criminal charges were filed against Respondent in the
25 Los Angeles Superior Court in proceedings entitled *The People of the State of California v. Aaron*
26 *Gregory Couto*, case number VA137483. Count 1 charged possession of a controlled substance,
27 in violation of Health and Safety Code section 11350, subdivision (a); Count 2 charged driving
28 under the influence of alcohol, in violation of Vehicle Code section 23152, subdivision (a); and

1 Count 3 charged driving a vehicle with 0.08% or more, by weight, of alcohol in his blood, in
2 violation of Vehicle Code section 23152, subdivision (b).

3 19. On March 20, 2015, in proceedings entitled *The People of the State of California v.*
4 *Aaron Gregory Couto*, case number VA137483, in the Los Angeles County Superior Court,
5 Respondent, upon his plea of guilty, was convicted of Count 2, driving under the influence of
6 alcohol, in violation of subdivision (a) of the Vehicle Code section 23152, a misdemeanor.
7 Respondent was placed on three (3) years probation, including but not limited to the following
8 terms and conditions:

- 9 A. Pay fines, fees, and assessments in the amount of \$1,691.00;
- 10 B. Enroll, participate in, and successfully complete a three (3) month licensed
11 first-offender alcohol and other drug education and counseling program;
- 12 C. Not drive any vehicle with any measurable amount of alcohol or drugs in
13 his blood or refuse to take and compete any blood alcohol or drug chemical test, any field
14 sobriety test, and any preliminary alcohol screening test, when requested by any peace officer;
- 15 D. Not drive a motor vehicle without a valid driver's license in possession or
16 without liability insurance in at least the minimum amounts required by law;
- 17 E. Abstain from the use of alcoholic beverages, including beer and wine, and
18 stay out of places where they are the chief items of sale;
- 19 F. Complete the Hospital and Morgue ("HAM") Program;
- 20 G. Complete the Victim Impact Program ("VIP") of Mothers Against Drunk
21 Driving ("MADD");
- 22 H. Attend 45 narcotics anonymous meetings; and
- 23 I. Obey all laws and orders of the court.

24 20. Respondent's acts and/or omissions as set forth above, whether proven individually,
25 jointly, or in any combination thereof, constitute a conviction of a crime substantially related to
26 the qualifications, function, or duties of a respiratory care practitioner pursuant to section 3750,
27 subdivision (d), 3750.5, subdivision (d), and 3752 of the Code and California Code of

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1 Regulations, title 16, section 1399.370, subdivisions (a) and (c). Therefore, cause for discipline
2 exists.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Used Alcohol to an Extent or in a Manner**

5 **Dangerous or Injurious to Himself or Others)**

6 21. Respondent's license is further subject to disciplinary action under section 3750.5(b),
7 in that he used alcohol, to an extent, or in a manner dangerous or injurious to himself or others, as
8 more particularly alleged in paragraphs 13 and 19, above, which are hereby incorporated by
9 reference and realleged as if fully set forth herein.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Obtained, Possessed, Used or Administered a Controlled Substance)**

12 22. Respondent's license is further subject to disciplinary action under section 3750.5(a),
13 in that he possessed a controlled substance, as more particularly described in paragraphs 13
14 through 19, above, which are hereby incorporated by reference and realleged as if fully set forth
15 herein.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Respiratory Care Board issue a decision:

19 1. Revoking or suspending Respiratory Care Practitioner License Number 33564, issued
20 to Aaron Gregory Couto;

21 2. Ordering Aaron Gregory Couto to pay the Respiratory Care Board the costs of the
22 investigation and enforcement of this case;

23 3. If placed on probation, ordering Aaron Gregory Couto to pay the costs of probation
24 monitoring; and

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

DATED: September 11, 2015

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

LA2015501486