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

13 In the Matter of the Second Amended Accusation  
and Petition to Revoke Probation Against:

14 TERI T. ASAI, R.C.P.  
12709 Farrington Street  
15 Rancho Cucamonga, CA 91739

16 Respiratory Care Practitioner License No. 5655

17 Respondent.  
18

Case Nos. R-2078 and D1-2006-580

OAH No.

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about June 28, 1985, the Board issued Respiratory Care Practitioner  
25 License Number 5655 to TERI T. ASAI (respondent). The Respiratory Care Practitioner License  
26 will expire on June 30, 2010, unless renewed.

27 3. In a previous disciplinary action entitled "In the Matter of the Accusation  
28 Against TERI T. ASAI," Case No. R-2078, the Board issued a decision and order, effective

1 October 12, 2007, in which respondent's Respiratory Care Practitioner License Number 5655  
2 was revoked. However, the revocation was stayed and respondent's license was placed on  
3 probation for a period of three (3) years with certain terms and conditions. A true copy of that  
4 decision is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

5 **JURISDICTION**

6 4. Complainant now brings this Accusation and Petition to  
7 Revoke Probation under the authority of the following laws and under the disciplinary order  
8 issued "In the Matter of the Accusation Against TERI T. ASAI," Case No. R-2078. All section  
9 references are to the Business and Professions Code unless otherwise indicated.

10 5. Section 3710 of the Code states, in pertinent part, that "The Respiratory  
11 Care Board of California, hereafter referred to as the board, shall enforce and administer this  
12 chapter [Chapter 8.3, the Respiratory Care Practice Act]."

13 6. Section 3718 of the Code states: "The board shall issue, deny, suspend,  
14 and revoke licenses to practice respiratory care as provided in this chapter."

15 7. Section 3750.5 of the Code states:

16 "In addition to any other grounds specified in this chapter, the board may  
17 deny, suspend, or revoke the license of any applicant or license holder who has  
18 done any of the following:

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

25 "(b) Used any controlled substance as defined in Division 10  
26 (commencing with section 11000) of the Health and Safety Code....

27 "..."

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1 **FIRST CAUSE TO REVOKE PROBATION**

2 **(Failure to Abstain from the Possession and Use of Mood Altering Substances)**

3 12. At all times after the effective date of respondent's probation in Case No.  
4 R-2078, Condition 4 stated:

5 "4. ABSTENTION FROM USE OF DRUGS AND ALCOHOL Respondent  
6 shall completely abstain from the possession or use of alcohol, controlled substances, dangerous  
7 drugs, any and all other mood altering drugs, substances and their associated paraphernalia,  
8 except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented  
9 medical treatment.

10 "Respondent shall execute a release authorizing the release of pharmacy and  
11 prescribing records as well as physical and mental health medical records. Respondent shall also  
12 provide information of treating physicians, counselors or any other treating professionals as  
13 requested by the Board.

14 "Respondent shall ensure that she is not in the presence of or in the same physical  
15 location as individuals who are using illegal substances, even if Respondent is not personally  
16 ingesting the drug(s).

17 "Any positive result that registers over the established laboratory cutoff level shall  
18 constitute a violation of probation, and shall result in the filing of an accusation and/or a petition  
19 to revoke probation against Respondent's respiratory care practitioner license.

20 "Respondent also understands and agrees that any positive result that registers  
21 over the established laboratory cutoff level shall be reported to each of Respondent's employers."

22 13. Respondent's probation is subject to revocation because she failed to  
23 comply with Probation Condition 4, referenced above, in that she failed to abstain from the  
24 possession and use of mood altering substances. The circumstances are set forth below:

25 a. On or about November 3, 2008, respondent provided a urine specimen,  
26 pursuant to Condition 3 of her probation, which tested positive for cannabinoids.

27 b. On or about November 18, 2008, respondent admitted to possessing and  
28 smoking marijuana in the Board's Drug Questionnaire form.



