

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 PAUL C. AMENT, State Bar No. 60427
Supervising Deputy Attorney General
3 E. A. JONES, III,
Deputy Attorney General
4 ELAINE GYURKO
Senior Legal Analyst
5 California Department of Justice
300 So. Spring Street, Suite 1702
6 Los Angeles, California 90013
Telephone: (213) 897-4944
7 Facsimile: (213) 897-9395

8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. R-2107

13 RICHARD DOUGLAS CARLSON
21902 Redbeam Avenue
14 Torrance, California 90503

A C C U S A T I O N

15 Respiratory Care Practitioner License No. 8164

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

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

23 2. On or about August 2, 1985, the Board issued Respiratory Care
24 Practitioner License Number 8164 to Richard Douglas Carlson (Respondent). This license was
25 in full force and effect at all times relevant to the charges brought herein and will expire on
26 September 30, 2009, unless renewed.

27 JURISDICTION

28 3. This Accusation is brought before the Board under the authority of the

1 following laws. All section references are to the Business and Professions Code (Code) unless
2 otherwise indicated.

3 4. Section 3710 of the Code states: "The Respiratory Care Board of
4 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
5 8.3, the Respiratory Care Practice Act]."

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

8 6. Section 3750 of the Code states:

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

12 "...

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

16 "..."

17 7. Section 3752 of the Code states:

18 "A plea or verdict of guilty or a conviction following a plea of nolo contendere
19 made to a charge of any offense which substantially relates to the qualifications,
20 functions, or duties of a respiratory care practitioner is deemed to be a conviction within
21 the meaning of this article. The board shall order the license suspended or revoked, or
22 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
23 conviction has been affirmed on appeal or when an order granting probation is made
24 suspending the imposition of sentence, irrespective of a subsequent order under Section
25 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
26 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
27 accusation, information, or indictment."

28 8. California Code of Regulations, Title 16, section 1399.370, states:

1 1399.370, subdivision (c), in that he was convicted of a crime substantially related to the
2 qualifications, functions or duties of a respiratory care practitioner. The circumstances are as
3 follows:

4 A. On or about June 16, 2006, a witness observed Respondent urinating in a
5 neighbor's yard. When Respondent saw her, he ran back to his vehicle and sped away
6 with children in the vehicle. The witness followed Respondent and observed him drive
7 through two red traffic lights. She telephoned Torrance police officers and told them that
8 Respondent appeared to be driving while intoxicated. The police officers conducted an
9 enforcement stop. The officers noticed that Respondent's breath had an odor of alcohol,
10 his eyes were bloodshot and watery, his speech was slow and slurred, his balance was
11 unsteady and his responses were slow. Respondent admitted that he had consumed two
12 12-ounce beers. He was unable to successfully perform the field sobriety tests. His
13 breath alcohol results were .16% and .17%.

14 B. On or about August 4, 2006, in Los Angeles County Superior Court
15 Complaint No. 6SY05963, Respondent was charged with driving under the influence of
16 alcohol, in violation of Vehicle Code section 23152, subdivision (a), a misdemeanor
17 (Count 1) and driving with .08% or higher blood alcohol level, in violation of Vehicle
18 Code section 23152(b), a misdemeanor (Count 2), with a prior conviction on March 6,
19 2002, for driving with .08% or higher blood alcohol level.

20 C. On or about September 25, 2006, pursuant to a negotiated plea agreement,
21 Respondent was convicted upon his plea of nolo contendere to driving with .08% or
22 higher blood alcohol level (Count 2), and he admitted the prior conviction. Proceedings
23 were suspended, and Respondent was placed on probation for three years on a number of
24 terms and conditions, among others: serve 46 days in county jail (with credit for 2 days),
25 pay fees of \$329.00, complete an 18-month licensed second-offender alcohol program
26 and complete the victim impact program of Mothers Against Drunk Driving. Count 1 of
27 the complaint was dismissed.

28 D. On or about October 20, 2006, Respondent failed to appear in court for

1 surrender to the county jail. His probation was revoked and a bench warrant was issued
2 for his arrest. Respondent appeared in court later that day. His probation was reinstated
3 and he was ordered to serve an additional 46 days in county jail, less credit for an
4 additional two days.

5 DISCIPLINE CONSIDERATIONS

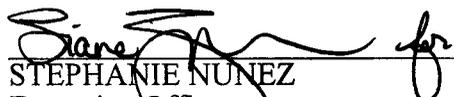
6 13. To determine the degree of discipline to be imposed on Respondent,
7 Complainant alleges that in a prior disciplinary action entitled *In the Matter of the Accusation*
8 *Against Richard Douglas Carlson*, before the Respiratory Care Board of California, Case
9 Number R-1770, Respondent was charged with having been convicted of driving with .08% or
10 higher blood alcohol level on March 6, 2002. The Board issued a decision effective June 14,
11 2003, in which Respondent's license was publicly reprimanded. That decision is incorporated
12 herein by reference.

13 PRAYER

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

- 16 1. Revoking or suspending Respiratory Care Practitioner License Number
17 8164 issued to Richard Douglas Carlson;
- 18 2. Ordering Richard Douglas Carlson to pay the Respiratory Care Board the
19 costs of the investigation and enforcement of this case, and if placed on probation, the costs of
20 probation monitoring; and,
- 21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: September 27, 2007

23
24 
25 STEPHANIE NUNEZ
26 Executive Officer
27 Respiratory Care Board of California
28 Department of Consumer Affairs
State of California
Complainant