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

11 In the Matter of the Statement of Issues
12 Against:

Case No. 700-2014-000383

13 **Raymond Azusada**
14 **719 N. Coronado St., Apt. 1**
Los Angeles, CA 90026

STATEMENT OF ISSUES

15 Respondent.

16
17
18 Complainant alleges:

19 PARTIES

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

23 2. On or about March 13, 2014, the Board received an application for a Respiratory Care
24 Practitioner License from Raymond Azusada (Respondent). On or about November 25, 2013,
25 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
26 representations in the application. The Board denied the application on May 19, 2014. On or
27 about June 11, 2014, Respondent requested a hearing.

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JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

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

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

6. Section 3732 of the Code states:

"(b) The board may deny an application, or may order the issuance of a license with terms and conditions, for any of the causes specified in this chapter for suspension or revocation of a license, including, but not limited to, those causes specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761."

7. Section 3750 of the Code states:

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

". . .

"(j) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

" . . .

"(m) Denial, suspension, or revocation of any license to practice by another agency, state, or territory of the United States for any act or omission that would constitute grounds for the denial, suspension, or revocation of a license in this state.

""

8. Section 3750.5 of the Code states:

"In addition to any other grounds specified in this chapter, the board may deny, suspend, place on probation, or revoke the license of any applicant or licenseholder who has done any of

1 the following:

2 "(a) Obtained, possessed, used, or administered to himself or herself in violation of law, or
3 furnished or administered to another, any controlled substances as defined in Division 10
4 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as
5 defined in Article 2 (commencing with Section 4105) of Chapter 9, except as directed by a
6 licensed physician and surgeon, dentist, podiatrist, or other authorized health care provider, or
7 illegally possessed any associated paraphernalia.

8 ". . . ."

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

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

15 "(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting the
16 violation of or conspiring to violate any provision or term of the Act.

17 ". . . ."

18 10. Section 492 of the Code states:

19 "Notwithstanding any other provision of law, successful completion of any diversion
20 program under the Penal Code, or successful completion of an alcohol and drug problem
21 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
22 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
23 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
24 division, from taking disciplinary action against a licensee or from denying a license for
25 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
26 record pertaining to an arrest.

27 "This section shall not be construed to apply to any drug diversion program operated by any
28 agency established under Division 2 (commencing with Section 500) of this code, or any

1 initiative act referred to in that division."

2 FIRST CAUSE FOR DENIAL OF APPLICATION

3 (Possession of a Controlled Substance)

4 11. Respondent's application is subject to denial under Code sections 3732, subdivision
5 (b), and 3750.5, subdivision (a), in that he possessed the controlled substances cocaine and
6 ecstasy. The circumstances are as follows:

7 12. On or about April 23, 2012, an Imperial County Deputy Sheriff was dispatched to the
8 U.S. Border Patrol Highway 111 checkpoint regarding two male suspects who had been detained
9 with cocaine and ecstasy pills. The U.S. border patrol agent told the deputy sheriff that when two
10 male suspects drove up to the checkpoint, the border patrol agent's certified K-9 partner alerted to
11 the vehicle, and the agent found the cocaine and ecstasy pills in the vehicle. The border patrol
12 agent handed the deputy sheriff a plastic baggie containing a white powder and four pills, and
13 advised him the baggie was located in a bag which Respondent admitted belonged to him. The
14 deputy sheriff questioned Respondent, and Respondent admitted that the white substance was
15 cocaine and the pills were ecstasy pills and he admitted that they were in his possession. The
16 deputy sheriff arrested Respondent for possession of a controlled substance and possession of
17 ecstasy. Respondent was transported to the Imperial County Sheriff's jail for booking.

18 13. Cocaine is a Schedule II controlled substance, as designated in Health and Safety
19 Code section 11055, subdivision (b)(6). Ecstasy is a Schedule I controlled substance as defined
20 by section 11054, subdivision (d), of the Health and Safety Code.

21 14. On or about October 9, 2012, a criminal complaint was filed in the matter entitled *The*
22 *People of the State of California v. Raymond Garcia Azusada*, Imperial County Superior Court
23 Case No. JCF29720. Respondent was charged with possession of the controlled substance
24 cocaine, in violation of Health and Safety Code section 11350, subdivision (a), a felony (Count
25 1), and possession of the controlled substance ecstasy, in violation of Health and Safety Code
26 section 11377, subdivision (a), a felony (Count 2).

27 15. On or about December 14, 2012, Respondent entered a plea of nolo contendere to
28 possession of the controlled substance cocaine in violation of Health and Safety Code section

1 11350, subdivision (a), a felony (Count 1). Count 2 of the complaint was dismissed. Criminal
2 proceedings were suspended. The matter was referred to the Probation Officer for a report and
3 recommendation.

4 16. On or about January 25, 2013, the Court ordered Respondent admitted into the
5 Deferred Entry of Judgment Program for 18 months. Respondent was ordered to comply with the
6 following terms and conditions, among others: participate in a counseling/educational program;
7 abstain from the use of drugs and narcotics; submit to alcohol and drug testing; not associate with
8 users and sellers of narcotics; obey all laws; and pay a diversion fee of \$100.00 per section
9 1001.90, subdivision (b), of the Penal Code.

10 17. On or about July 25, 2014, Respondent having successfully completed the Deferred
11 Entry of Judgment Program, the Court changed Respondent's plea to not guilty and dismissed the
12 case.

13 SECOND CAUSE FOR DENIAL OF APPLICATION

14 (Revocation of a License by Another Agency)

15 18. Respondent's application is subject to denial under Code sections 3732, subdivision
16 (b), and 3750, subdivision (m), in that in about March 2013, his Emergency Medical Technician
17 (EMT) certification was revoked, the revocation was stayed, and his certification was placed on
18 probation until completion of the Deferred Entry of Judgment program. The revocation was
19 based on Respondent's conviction for possession of a narcotic controlled substance, which act
20 would constitute grounds for the denial of a license by the Respiratory Care Board.

21 THIRD CAUSE FOR DENIAL OF APPLICATION

22 (Commission of a Fraudulent, Dishonest or Corrupt Act)

23 19. Respondent's application is subject to denial under Code sections 3732, subdivision
24 (b), and 3750, subdivision (j), and California Code of Regulations, title 16, section 1399.370,
25 subdivision (a), in that he committed a fraudulent, dishonest, or corrupt act which is substantially
26 related to the qualifications, functions and duties of a respiratory care practitioner. The
27 circumstances are as follows:

28 20. On November 25, 2013, Respondent signed his application for licensure by the Board

1 under penalty of perjury certifying the information contained in the application was true and
2 correct. Respondent answered “No” to Question 21 of on the application which reads, “Has any
3 disciplinary action ever been taken by any federal, state or other governmental agency or other
4 country against any professional or vocational registration, certificate or license you now hold or
5 have held in the past?” Respondent was dishonest in that he failed to disclose on his license
6 application the disciplinary action that was taken against his EMT certification. The facts and
7 circumstances of the Second Cause for Discipline are incorporated herein by reference.

8 21. Respondent answered “No” to Question 14 of on the application which reads, “Have
9 you ever applied for or been issued a registration, certificate or license to practice any other
10 healing art in California or any other state?” Respondent was dishonest in that he failed to
11 disclose on his license application that he was issued an Emergency Medical Technician (EMT)
12 Certification Number E079829 on February 17, 2009.

13 PRAYER

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

- 16 1. Denying the application of Raymond Azusada for a Respiratory Care Practitioner
17 License;
- 18 2. Directing Raymond Azusada to pay the Respiratory Care Board of California, if
19 placed on probation, the costs of probation monitoring; and
- 20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: September 4, 2014

22 Original signed by Christine Molina for:

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

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