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

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

Case No. 1H-2009-006

13
14 BRYAN CRAIG COUEY

STATEMENT OF ISSUES

15 Riverside, CA 92506

16 Respondent.

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.

23 2. On or about December 18, 2008, the Respiratory Care Board of California,
24 Department of Consumer Affairs received an application for a Respiratory Care Practitioner's
25 License from BRYAN CRAIG COUEY (Respondent). On or about December 4, 2008, Bryan
26 Craig Couey certified under penalty of perjury to the truthfulness of all statements, answers, and
27 representations in the application. The Board denied the application on May 26, 2009. On or
28 about June 8, 2009, respondent requested a hearing.

1 “....”

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

4 “....”

5 8. Section 3752 of the Code states:

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

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

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

21 “(b) Conviction of a crime involving fiscal dishonesty, theft or larceny.

22 (c) Conviction of a crime involving driving under the influence or reckless driving while
23 under the influence.”

24 COST RECOVERY

25 10. Section 3753.5, subdivision (a) of the Code states:

26 "In any order issued in resolution of a disciplinary proceeding before the board, the board or
27 the administrative law judge may direct any practitioner or applicant found to have committed a
28 violation or violations of law to pay to the board a sum not to exceed the costs of the investigation

1 and prosecution of the case."

2 11. Section 3753.7 of the Code states:

3 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall include
4 attorney general or other prosecuting attorney fees, expert witness fees, and other administrative,
5 filing, and service fees."

6 12. Section 3753.1 of the Code states:

7 "(a) An administrative disciplinary decision imposing terms of probation may include,
8 among other things, a requirement that the licensee-probationer pay the monetary costs associated
9 with monitoring the probation. "

10 **CAUSE FOR DENIAL OF APPLICATION**

11 **(Conviction of Crimes)**

12 13. Respondent's application is subject to denial under sections 3718 and 3732,
13 subdivision (b), as defined by section 3750, subdivisions (d), (g) and (j), of the Code, in that
14 respondent was convicted of crimes, including one or more involving the commission of a
15 fraudulent, dishonest, or corrupt act substantially related to the qualifications, functions, or duties
16 of a respiratory care practitioner. The circumstances are as follows:

17 **May 25, 2008, Conviction**

18 (a) On or about May 24, 2008, respondent was arrested in Lake Havasu City, Arizona,
19 after he broke the window of an apartment. According to police reports, respondent was staying
20 in the apartment, did not have a key, and was upset with the occupants.

21 (b) On or about May 25, 2008, respondent was charged with and convicted of criminal
22 damage before the Lake Havasu City Consolidated Court, County of Mohave, State of Arizona, in
23 case number MCR200800729. Respondent was ordered to pay fines and was given credit for
24 time served in jail.

25 **May 8, 2008, Conviction**

26 (c) On or about December 12, 2007, officers from the California Highway Patrol
27 observed respondent driving at a high rate of speed and failing to stop at a red light. Officers
28 initiated a traffic stop. Respondent subsequently failed all field sobriety tests and refused to

1 submit to either a breath test or a blood test.

2 (d) On or about March 20, 2008, respondent was charged with violating Vehicle Code
3 sections 23152, subdivision (a) [driving under influence of alcohol], 23152, subdivision (b)
4 [driving under influence with blood alcohol of 0.08% or more], and 14601.2, subdivision (a)
5 [driving with a suspended/revoked license], before the Superior Court of California, County of
6 Riverside, in case number RIM511113.

7 (e) On or about May 8, 2008, respondent was convicted of all charges following his
8 guilty plea. Respondent was placed on probation for 5 years, ordered to serve 120 days in jail and
9 pay various fines.

10 **October 24, 2006, Conviction**

11 (f) On or about August 28, 2006, respondent was observed by officers from the
12 Moreno Valley Police Department driving erratically and at a high rate of speed. A traffic stop
13 was initiated and respondent subsequently failed all field sobriety tests. It was revealed that
14 respondent had been driving with a blood alcohol content between 0.22 percent and 0.14 percent.

15 (g) On or about October 23, 2006, respondent was charged with violating Vehicle
16 Code sections 23152, subdivisions (a) and (b), and 14601.1, subdivision (a) [driving with a
17 suspended license], before the Superior Court of California, County of Riverside, in case number
18 RIM489498.

19 (h) On or about October 24, 2006, pursuant to a plea bargain, respondent was
20 convicted of violating Vehicle Code section 23152, subdivision (a). Respondent was ordered to
21 serve 20 days in county jail.

22 **September 29, 2005, Conviction**

23 (i) On or about June 7, 2005, officers from the California Highway Patrol responded
24 to a multiple vehicle crash involving respondent. Respondent had been observed driving at a high
25 rate of speed and at one point his vehicle rolled over. Respondent was placed under arrest for
26 driving under the influence of an alcoholic beverage after he exhibited several symptoms of being
27 under the influence.

28 (j) On or about July 11, 2005, respondent was charged with violating Vehicle Code

1 sections 23152, subdivisions (a) and (b), and 14601.1, before the Superior Court of California,
2 County of Riverside, in case number RIM471228.

3 (k) On or about September 29, 2005, pursuant to a plea bargain, respondent was
4 convicted of violating Vehicle Code sections 23152, subdivision (a), and 14601.1, subdivision (a).
5 Respondent was placed on probation for 48 months and ordered to serve 35 days in county jail
6 and pay various fines.

7 **October 18, 2004, Conviction**

8 (l) On or about August 30, 2003, respondent was observed by officers from the San
9 Bernardino County Sheriff's Department driving erratically. Officers initiated a traffic stop.
10 Further investigation revealed that respondent had been driving with a 0.10 blood alcohol content
11 and he was placed under arrest.

12 (m) On or about May 24, 2004, respondent was charged with violating Vehicle Code
13 section 23152, subdivisions (a) and (b), before the Superior Court of California, County of San
14 Bernardino, in case number TWV044568.

15 (n) On or about October 18, 2004, pursuant to a plea bargain, respondent was
16 convicted of violating Vehicle Code section 23152, subdivision (b). Respondent was placed on
17 probation for 36 months with various terms and conditions, and ordered to serve 1 day in county
18 jail.

19 **January 31, 2001, Conviction**

20 (o) On or about September 29, 2000, respondent was arrested by officers from the
21 Corona Police Department for stealing beer from a Thrifty Sunshine Food Store. Prior to entering
22 the convenience store, respondent and his conspirator, removed the license plate from the vehicle
23 they were driving to avoid detection by video camera surveillance.

24 (p) On or about October 16, 2000, respondent was charged with violating Penal Code
25 section 459 [burglary], before the Superior Court of California, County of Riverside, in case
26 number RIF093841.

27 (q) On or about January 31, 2001, pursuant to a plea bargain, respondent was
28 convicted of violating Penal Code section 459. Ultimately, respondent was placed on probation

1 for 36 months with various terms and conditions. Respondent was also ordered to serve 2 days in
2 county jail.

3 **March 1, 2000, Conviction**

4 (r) On or about December 16, 1999, officers from the Riverside County Sheriff's
5 Department, arrested respondent as part of an investigation into a stolen motor vehicle.
6 According to statements obtained during the investigation, respondent and friends had stolen a
7 vehicle, removed its stereo, and abandoned the vehicle.

8 (s) On or about December 20, 1999, respondent was charged with violating Vehicle
9 Code section 10851, subdivision (a) [taking a vehicle without consent] and Penal Code section
10 496 [receiving stolen property], before the Superior Court of California, County of Riverside, in
11 case number PEF003672.

12 (t) On or about March 1, 2000, pursuant to a plea bargain, respondent was convicted
13 of violating Vehicle Code section 10851, subdivision (a). Respondent was placed on probation
14 for 36 months and ordered to spend 90 days in custody.

15 **PRAYER**

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

18 1.1. Denying the application of BRYAN CRAIG COUEY for a Respiratory Care
19 Practitioner's License;

20 1.2. Directing Bryan Craig Couey to pay the Respiratory Care Board of California the
21 costs of the investigation and enforcement of this case, and if placed on probation, the costs of
22 probation monitoring; and,

23 1.3. Taking such other and further action as deemed necessary and proper.

24
25 DATED: July 20, 2009

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