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

In the Matter of the Petition for Reinstatement of Revoked License Against: REDEN MERIS CAMONAYAN 19727 Sky View Court Canyon Country, CA 91351	Case No.: D2 2013 365 OAH No.: 2014080560

DECISION AND ORDER

The attached proposed Decision of the Administrative Law Judge is hereby adopted by the Respiratory Care Board of California, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on March 10, 2015.

It is so ORDERED March 3, 2015.

Original signed by:
ALAN ROTH, MS, MBA, RRT-NPS, FAARC
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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

In the Matter of Petition for Reinstatement of Revoked License of: REDEN CAMONAYAN, Respiratory Care Practitioner License No. RCP 14031, Petitioner.	Case No. D2 2013 365 OAH No. 2014080560

PROPOSED DECISION

Howard W. Cohen, Administrative Law Judge, Office of Administrative Hearings, heard this matter on January 20, 2015, in Los Angeles, California.

Wendy Widlus, Deputy Attorney General, represented the Attorney General of California under Government Code section 11522.

Petitioner Reden Camonayan appeared on his own behalf.

Evidence was received, the record was closed, and the matter was submitted for decision on January 20, 2015.

FACTUAL FINDINGS

1. On January 28, 1991, the Respiratory Care Board (Board) issued Respiratory Care Practitioner's License number 14031 to petitioner.

2. The Board revoked petitioner's license by Default Decision effective July 29, 2003, following the filing of an Accusation alleging violations of Business & Professions Code sections 490, 3750, subdivision (d), 3750, subdivision (g), and 3752, and California Code of Regulations (CCR), title 16, section 1399.370, subdivision (a), based on petitioner's conviction of crimes substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

3. In December 2007, petitioner filed a petition for reinstatement of his revoked license. After a November 13, 2009, hearing, the Board denied the petition and made the following findings, adopted herein, in a Decision issued on December 1, 2009, in OAH No. 2009110239:

> 3. On April 24, 2002, Petitioner entered a plea of nolo contendere and was convicted of Penal Code section 422 (making a terrorist threat). Petitioner was placed on summary probation for a period of five years with terms and conditions.
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> 4. The April 2002 conviction stemmed from a March 19, 2002 arrest where while under the influence of illegal drugs, Petitioner stalked his estranged wife and made criminal threats towards her and others.
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> 5. On May 2, 2002, Petitioner was arrested for being under the influence of methamphetamine. On May 7, 2002, he entered a plea of nolo contendere and judgment was deferred pending PC 1000. On September 26, 2002, deferred entry of judgment was terminated and criminal proceedings were reinstated. He was subsequently convicted on July 3, 2003 (while incarcerated for the vehicular manslaughter offense noted below.)
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> 6. On or about July 10, 2002, while still on probation for the April 2002 conviction, Petitioner was arrested and charged with murder. The complaint was later amended to charge felony vehicular manslaughter, and felony failure to stop at the scene of an injury accident.
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> 7. The July 10, 2002 arrest stemmed from the death of a female passenger who along with a male passenger, jumped from Petitioner's car after he threatened to kill them and himself. The female victim died within minutes from blunt force trauma to the head and chest areas. The investigative report was unclear as to whether Petitioner's act of backing over her with his vehicle contributed to her demise.
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> 8. Upon apprehension, Petitioner admitted to officers that he was under the influence of alcohol and methamphetamine.
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> 9. Petitioner pled nolo contendere and was sentenced to seven years in State prison.
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> 10. Petitioner served 3 years and 10 months and was paroled and ordered to complete anger management, substance abuse treatment, and testing.
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> 11. Petitioner completed all court ordered programs and received a Certificate of Discharge from the California Department of Corrections on May 23, 2007. (Ex. 1.)

4. In its December 1, 2009, Decision, the Board found that:

> . . . Petitioner has not met his burden of proving that he has rehabilitated himself and is entitled to have his license restored. Missing is evidence of tools or coping mechanisms that Petitioner can use to avoid relapse. Petitioner testified that he turned to drugs and alcohol during a time when he was working long hours and dealing with family stressors. While Petitioner testified that he is currently sober, he has not worked since his incarceration and as a result is free from the triggers that ultimately led to the revocation of his license. Public protection requires evidence of concrete tools, mechanisms, and a developed support system to assist Petitioner in his recovery. (Ex. 1.)

The Board further found that, of the many character reference letters petitioner submitted, only one, a letter from a licensed health care professional who supervised petitioner, could be considered evidence of rehabilitation under Board regulations.

5. On December 27, 2012, petitioner filed the instant Petition for Reinstatement of Revoked Respiratory Care Practitioner License with the Board. This hearing ensued.

6. Petitioner testified that he has been sober for 13 years, since the July 10, 2002, incident. Since 2009, petitioner has voluntarily undergone drug testing at his own expense, initially on a monthly basis but now every three months. All drug tests have been negative.

7. Petitioner testified that he has not participated in any Narcotics Anonymous or Alcoholics Anonymous meetings over the past eight years, does not have a sponsor, and has not received counseling or therapy from a mental health professional. He has stayed sober and believes he can continue to stay sober on his own, with the support of family and friends.

8. Petitioner has filed a petition for a certificate of rehabilitation in the Superior Court of California, County of Los Angeles; it is scheduled to be heard on August 6, 2015.

9. In 2010, petitioner attended and completed a phlebotomy technician course through the UCLA Medical Center for Pre-Hospital Care. The California Department of Public Health issued petitioner Certified Phlebotomy Technician I license number CPT 00041249, which was effective February 14, 2012, and which was scheduled to expire on May 4, 2014. In 2010, petitioner attended and completed a Certified Nursing Assistant course. The California Department of Public Health issued petitioner Certified Nurse Assistant license number CNA 00822234, which was effective November 10, 2011, and which was scheduled to expire on May 7, 2014. Although the phlebotomy technician license appears to have been renewed, with a new expiration date of May 3, 2016, petitioner testified that he allowed both licenses to expire in May 2014 because he had not obtained employment as either a phlebotomy technician or a certified nursing assistant.

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10. Petitioner testified that he has had no success obtaining employment, though he has been actively seeking a job since 2006. He testified that his inability to find employment has been a source of stress for him and his family and has contributed to his family's financial difficulties. His wife is working full time and petitioner has been staying at home, raising their children.

11. Petitioner credibly expressed deep regret for the actions that led to his criminal convictions. Many of petitioner's character references (see Factual Finding 4) have updated and supplemented their letters, and family members and friends have also submitted eloquent letters attesting to petitioner's rehabilitation and good character, but there is only one letter from a supervising licensed health care provider.

LEGAL CONCLUSIONS

1. The Board may grant a petition for reinstatement that states "any facts as may be required by the board" and that is "accompanied by at least two verified recommendations from licensed health care practitioners who have personal knowledge of the professional activities of the petitioner since the disciplinary penalty was imposed." (Bus. & Prof. Code, § 3751, subds. (a), (d).) "Consideration shall be given to all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability." (Bus. & Prof. Code, § 3751, subd. (f).) The Board may deny the petition "as it deems necessary" and, where a petition is heard by an administrative law judge, who issues a proposed decision, the Board "may take any action with respect to the proposed decision and petition as it deems appropriate." (Bus. & Prof. Code, § 3751, subd. (g).)

2. Petitioner bears the burden of establishing his fitness for reinstatement of his license. An applicant for reinstatement is in the same position as an applicant for initial licensure. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.) The burden rests on petitioner to prove that he has rehabilitated himself and is entitled to have his license restored. (*Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 309, 314.)

3. The Board has established criteria, at CCR, title 16, section 1399.372, for considering petitions for reinstatement. Relevant criteria include:

(a) The nature and severity of the act(s) or offense(s).

(b) The total criminal record.

(c) The time that has elapsed since the commission of the act(s) or offense(s).

(d) Compliance with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against such person.

(e) Evidence of any subsequent act(s) or crime(s) committed.

(f) Any other evidence of rehabilitation submitted that is acceptable to the board, including:

(1) Successful completion of respiratory care courses with a "C" or better, as determined by the institution;

(2) Active continued attendance or successful completion or rehabilitative programs such as 12-step recovery programs or psychotherapy counseling;

(3) Letters relating to the quality of practice signed under penalty of perjury from licensed health care providers responsible for the supervision of his/her work.

(g) Statements, letters, attestations of good moral character, or references relating to character, reputation, personality, marital/family status, or habits shall not be considered rehabilitation unless they relate to quality of practice as listed in section (f).

4. The acts and offenses which led to the revocation of Petitioner's license were severe in nature and involved a person's death. Petitioner's other criminal acts all related to his abuse of alcohol and illegal drugs. Petitioner's case for reinstatement is somewhat more compelling than when his prior petition was denied in 2009, 12 years having now elapsed since petitioner's last criminal act. Petitioner complied with all the terms of parole and paid all related restitution. During the five years since his last petition for reinstatement was denied, petitioner has remained sober, has obtained additional professional licenses, and has been a devoted husband and father.

5. Of greatest import is that petitioner has failed to introduce evidence of rehabilitation directed toward alleviating the concerns the Board expressed in 2009 about his ability to avoid having a relapse triggered by the specific stressors encountered in a work environment. (Factual Finding 3.)

6. Petitioner has not worked since his incarceration; while unemployment has undoubtedly imposed its own stresses on petitioner, he has been free from the specific triggers activated by stress in the workplace. Although a record of employment of any kind might serve to demonstrate that petitioner can continue to avoid a relapse, petitioner did not offer such evidence, nor did he offer sufficient evidence that he has been unable to obtain any employment whatsoever, regardless of whether that employment is in a field in which he has been licensed.

7. Nor did petitioner, lacking evidence of employment, introduce persuasive evidence regarding his ability to cope with stressors that would be encountered in the workplace and demonstrating that he now possesses the specific and concrete tools,

mechanisms, and support system required to prevent a relapse. There was no testimony or documentary evidence reflecting the opinion of a mental health professional or counselor who could attest to petitioner's ability to withstand whatever workplace pressures triggered his drug use in 2002. Petitioner has voluntarily undergone drug testing at his own expense since 2009, but he testified that, after repeated convictions for substance-abuse-related crimes, he does not currently attend any 12-step or other recovery programs, does not have a sponsor, and does not participate in any form of psychotherapy or counseling.

8. With his previous petition, petitioner provided numerous character reference letters and statements, but the Board found that only one came from a licensed health care provider responsible for supervising his work, while the others came from co-workers. (Factual Finding 3.) Although, with his instant petition, petitioner submitted numerous character reference letters ardently advocating for him, there is still only one letter from a supervising licensed health care provider. (Factual Finding 11.) Under CCR, title 16, section 1399.372, item (g), statements, letters, attestations of good moral character, or references related to character, reputation, personality, marital and family status, or habits shall not be considered rehabilitation unless they relate to quality of practice and are from health care providers responsible for the supervision of petitioner's work.

ORDER

Petitioner Reden M. Camonayan's Petition for Reinstatement of Revoked Respiratory Care Practitioner License is denied.

Dated: February 10, 2015

Howard W. Cohen
Administrative Law Judge
Office of Administrative Hearings