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

10 In the Matter of the Accusation Against:

Case No. 1H 2008 581

11 **ALLEN G. BOYLE**
12 **4312 Baxter Place**
13 **Las Vegas, NV 89107**

A C C U S A T I O N

14 **Respiratory Care Practitioner License No.**
15 **22903**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about March 25, 2003, the Respiratory Care Board issued Respiratory Care
24 Practitioner License Number 22903 to Allen G. Boyle (Respondent). The Respiratory Care
25 Practitioner License was in full force and effect at all times relevant to the charges brought herein
26 and will expire on March 31, 2010, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Respiratory Care Board (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

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

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

10 6. Section 3750 of the Code states:
11 "The board may order the denial, suspension or revocation of, or the imposition of
12 probationary conditions upon, a license issued under this chapter, for any of the following causes:

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

16 "(g) Conviction of a violation of any of the provisions of this chapter or of any provision of
17 Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or
18 indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or
19 term of this chapter or of any provision of Division 2 (commencing with Section 500).

20 7. Section 3750.5 of the Code states:
21 "In addition to any other grounds specified in this chapter, the board may deny, suspend, or
22 revoke the license of any applicant or license holder who has done any of the following:

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

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1 19. Officer Williams searched the vehicle and found a glass pipe on the floor next to the
2 right front seat, and a white plastic trash bag. Boyle admitted both items were his. The trash bag
3 contained a long plastic tube connected to a glass pipe with what appeared to be, in the officer's
4 training and experience, marijuana residue, and two small glass pipes with a white powder
5 substance. Officer Williams believed this white substance to be methamphetamine residue, based
6 on his training and experience. Officer Williams searched two men's dress shirts hanging in the
7 left rear window and located a plastic baggie containing a substance which he believed to be
8 marijuana.

9 20. Officer Williams arrested Respondent for violating Health and Safety code section
10 11370.1(A) [possession of a firearm with any amount of methamphetamine in possession] and
11 Health and Safety code section 11377(a) [possession of methamphetamine]. Officer Williams
12 then searched his person. In Respondent's right front pants pocket, he found a white spring
13 loaded switchblade knife. In Respondent's left front pocket, he found nineteen pills which were
14 later identified as controlled substances Valium and Methadone. Respondent did not have a valid
15 prescription for either substance.

16 21. On February 17, 2009, a criminal complaint titled *People of the State of California vs.*
17 *Allen Gordon Boyle*, case no. FBA 900110, was filed in San Bernardino County, Barstow
18 District. The complaint charged Respondent with seven counts; two felonies and five
19 misdemeanors. On March 24, 2009, Respondent entered a plea of guilty to a violation of Health
20 and Safety code section 11377(a) [possession of methamphetamine]. Pronouncement of
21 judgment was ordered withheld and conditional and revocable release was granted for three years
22 with terms and conditions. Respondent was ordered to serve two days in jail, pay fines and fees,
23 and attend and complete a drug treatment program pursuant to Proposition 36/Penal Code section
24 1210.1. He was ordered to submit proof of completion by April 24, 2010.

25 22. Therefore, his license is subject to discipline based on his conviction of a violation of
26 Health and Safety code section 11377(a) [possession of methamphetamine], which is
27 substantially related to the practice of respiratory care.

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SECOND CAUSE FOR DISCIPLINE

(Possession of a controlled substance)

23. Paragraphs 17 through 21 are incorporated herein.

24. Respondent's act of being in possession of methamphetamine, marijuana, Valium and methadone without a valid prescription is in violation of code sections 3750.5(a), and is cause to discipline his license.

EVIDENCE IN AGGRAVATION

25. To determine the degree of discipline to be imposed, Complainant alleges that on June 1, 1995, Respondent was convicted of violating Vehicle Code section 23152(b) [driving with over .08% blood alcohol content]; on March 2, 1994, he was convicted of violating Penal Code section 647(f) [public intoxication]; and on December 28, 1984, he was convicted of violating Washington State Statute 69.50.401 [possession of marijuana.]

PRAYER

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

- 1. Revoking or suspending Respiratory Care Practitioner License Number 22903, issued to Allen G. Boyle;
- 2. Ordering Allen G. Boyle to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;
- 3. Taking such other and further action as deemed necessary and proper.

DATED: July 2, 2009

Original signed by Liane Freels for :

STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant

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