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Attorneys for Complainant

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

In the Matter of the Accusation Against: **JIMMY F. BRUHL, R.C.P.** **421 N. Lyon Street #7** **Santa Ana, CA 92701-4364** **Respiratory Care Practitioner** **License No. 2374,** **Respondent.**	Case No. 7002014000479 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 24, 2015, Complainant Stephanie Nunez, in her official capacity as the Executive Officer of the Respiratory Care Board of California (Board), Department of Consumer Affairs, filed Accusation No. 7002014000479 against Jimmy F. Bruhl, R.C.P. (respondent) before the Respiratory Care Board.

2. On or about May 17, 1985, the Board issued Care Practitioner License No. 2374 to respondent Jimmy F. Bruhl, R.C.P. Respiratory Care Practitioner License No. 2374 was in full force and effect at all times relevant to the charges brought in Accusation No. 7002014000479. On December 1, 2014, Respiratory Care Practitioner License No. 2374 was issued a temporary license, pursuant to Family Code section 17520, with an expiration date of May 30, 2015.

Respondent is ordered to reimburse the Respiratory Care Board the amount of $1,977.50 for its investigative and enforcement costs. The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to reimburse the Board for its costs. Respondent's Respiratory Care Practitioner License No. 2374 may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 3753.5 have been paid.

Pursuant to Government Code section 11520, subdivision (c), respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 13, 2015.

It is so ORDERED July 14, 2015.

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

Respiratory Care Practitioner No. 2374 was subsequently denied on May 30, 2015, based on non-compliance with Family Code section 17520, and will remain on a suspended status, unless and until the issues with Family Support are rectified, and will expire on December 31, 2015, unless renewed. A true and correct copy of respondent's certified license history is attached as Exhibit A to the accompanying Default Decision Evidence Packet[1] and is hereby incorporated by reference as if fully set forth herein.

3. On or about February 24, 2015, Tara M. Yoshikawa, an employee of the Board, served by Certified and First Class Mail, true and correct copies of Accusation No. 7002014000479, the Statement to Respondent, Notice of Defense (two copies), Requests for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7, on respondent at his address of record on file with the Board, which was and is: 421 N. Lyon Street, #7, Santa Clara, CA 92701. (Exhibit B, Accusation, related documents, and Declaration of Service.) Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

4. On or about March 30, 2015, the aforementioned documents were returned by the U.S. Postal Service marked "Return to Sender, Unclaimed, Unable to Forward." (Exhibit C, copy of the envelope returned by the post office.) The aforementioned documents mailed to respondent by regular mail have not been returned by the post office.

5. Government Code section 11506 states, in pertinent part:

> "(a) Within 15 days after service of the accusation or District Statement of Reduction in Force, the respondent may file with the agency a notice of defense …
>
> "…
>
> "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of

[1] All exhibits are true and correct copies of the originals, and are attached to the accompanying Default Decision Evidence Packet. The Default Decision Evidence Packet is hereby incorporated by reference, in its entirety, as if fully set forth herein.

defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

6. Respondent failed to file a Notice of Defense within 15 days after Accusation No. 7002014000479 was served on him (Exhibit D, Declaration of Deputy Attorney General Lori J. Forcucci) and, therefore, has waived his right to a hearing on the merits of Accusation No. 7002014000479.

7. On or about April 13, 2015, Deputy Attorney General Lori J. Forcucci mailed a courtesy letter to respondent informing him that he had failed to submit a Notice of Defense, and if it was not received by April 27, 2015, a Default would be filed. Respondent did not send a Notice of Defense to Deputy Attorney General Forcucci by April 27, 2015, or at any time thereafter. (Exhibit E, Letter from Deputy Attorney General Lori J. Forcucci.)

8. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

9. Pursuant to its authority under Government Code section 11520, the Board hereby finds respondent is in default. The Board will take action without further hearing and, based on respondent's express admissions by way of default and the evidence before it, contained in Exhibits A through H, finds that the charges and allegations in Accusation No. 7002014000479, and each of them, separately and severally, are true and correct.

10. 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.]

11. Section 3718 of the Code states:

"The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter."

12. Section 3750 of the Code states, in pertinent part:

"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:

"…

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

"…

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

"…"

13. Section 3750.5 of the Code states, in pertinent part:

"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 license-holder who has done any of the following:

"…

"(b) Used any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9 of this code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, or to others, or that impaired his or her ability to conduct with safety the practice authorized by his or her license.

"…

///

"(d) Been convicted of a criminal offense involving the consumption or self-administration of any of the substances described in subdivisions (a) and (b), or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a), in which event the record of the conviction is conclusive evidence thereof.

"…"

14. Section 3752 of the Code states:

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

15. California Code of Regulations, title 16, section 1399.370, states, in pertinent part:

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

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

"…

///

"(c) Commission of an act or conviction of a crime involving driving under the influence or reckless driving while under the influence.

"…"

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

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law or any term and condition of board probation to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case. A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the official custodian of the record or his or her designated representative shall be prima facie evidence of the actual costs of the investigation and prosecution of the case."

17. Section 3753.7 of the Code states:

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

18. Section 3753.1 of the Code states, in pertinent part:

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

"…"

19. Respondent has subjected his Respiratory Care Practitioner's License No. 2374 to disciplinary action under section 3750, as defined by sections 3750, subdivision (d), 3750.5, subdivision (d), and 3752, of the Code, and section 1399.370, subdivision (c), of title 16 of California Code of Regulations, in that he has been convicted of crimes substantially related to the qualifications, functions, or duties of a respiratory care practitioner, as more particularly alleged hereinafter:

/ / /

20. On or about April 24, 2014, Officer P.B. of the Santa Ana Police Department was dispatched to the scene of a collision, in which respondent had lost control of his vehicle, and had driven onto a center median on East Park Court Place. Upon contact with respondent, Officer P.B. noticed a distinct odor of an alcoholic beverage on respondent's breath. Further, respondent's speech was slurred and very slow. Respondent admitted to Officer P.B. that he had consumed ten Bud Light beers before driving.

21. On or about September 11, 2014, respondent was convicted on his plea of guilty to the following counts:

(a) Count 1, a misdemeanor violation of section 23152, subdivision (a) (driving under the influence of an alcoholic beverage); and

(b) Count 2, a misdemeanor violation of section 23152, subdivision (b), (driving with a BAC 0.08% or more) with an enhancement of violation section 23538, subdivision (b)(2), of the Vehicle Code (driving with having a 0.20% BAC or more).

22. On or about September 11, 2014, on Counts 1 and 2, respondent was sentenced to three years probation with terms and conditions, including but not limited to, requirements that he attend and complete a nine-month Level 2 First Offenders Program, attend and complete MADD Program, complete 80 hours of community service, and to pay fines and restitution. However, the Court stayed the imposition of the sentence on Count 2, pursuant to Penal Code 654. (Exhibit F, Certified copy of Complaint, Plea, Misdemeanor Sentence Recommendation, and Minute Order.)

23. Respondent has further subjected his Respiratory Care Practitioner's License No. 2374 to disciplinary action under sections 3750 and 3750.5, as defined by section 3750.5, subdivision (b), of the Code, in that he has used alcoholic beverages to an extent or in a manner dangerous or injurious to himself or others, as more particularly described in paragraphs 19 through 22, above, which are hereby incorporated by reference as if fully set forth herein.

24. Respondent has further subjected his Respiratory Care Practitioner's License No. 2374 to disciplinary action under section 3750, as defined by section 3750, subdivision (g), of the Code, and section 1399.370, subdivision (a), of title 16 of the California Code of Regulations, in that he has violated a provision or provisions of the Respiratory Care Practice Act, as more

particularly described in paragraphs 19 through 23, above, which are hereby incorporated by reference as if fully set forth herein.

25. To determine the degree of discipline, if any, to be imposed on respondent, complainant alleges that an Accusation was filed against respondent on June 23, 2000, in a prior disciplinary action entitled, *In The Matter of the Accusation Against: Jimmy F. Bruhl*, Case No. R-1473. In that Accusation, respondent was charged with having been convicted of crimes substantially related to the qualifications, functions, and duties of a respiratory care practitioner: (violating Penal Code section 273.5, (corporal injury-spouse); violating Penal Code section 243, subdivision (e)(1), (battery against spouse); and, violating Penal Code section 240, (assault)); using of alcoholic beverages, to an extent, or in a manner dangerous or injurious to himself, or another person; and crimes involving bodily injury (corporal injury-spouse; battery against spouse, and assault). In a stipulated settlement, which was adopted by the Board with an effective date of June 10, 2001, respondent admitted the truth of each and every charge and allegation in the Accusation, his Respiratory Care Practitioner License No. 2374 was revoked, the revocation was stayed, and he was placed on probation for three (3) years on various terms and conditions. The Board's Decision and Order in Case No. R-1473 is now final and is hereby incorporated by reference as if fully set forth herein. Effective February 11, 2003, the Board granted respondent's Petition to Terminate Probation, and respondent was issued an unconditional license. (Exhibit G, Board's Decision and Order in Case No. R-1473.)

26. The Board finds that pursuant to Business and Professions Code section 3753.5, the costs of investigation and enforcement of the case prayed for in the Accusation total $1,977.50, based on the Certification of Costs contained in Exhibit H (Exhibit H, jointly, Declaration of Costs of Executive Officer, Stephanie Nunez and Declaration of Costs of Deputy Attorney General Lori J. Forcucci.)

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, respondent Jimmy F. Bruhl, R.C.P., has subjected his Respiratory Care Practitioner License No. 2374 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. Pursuant to its authority under California Government Code section 11520, and based on the evidence before it, the Board hereby finds that the charges and allegations contained in Accusation No. 7002014000479, and the Findings of Fact contained in paragraphs 1 through 26, above, and each of them, separately and severally are true and correct.

4. Pursuant to its authority under California Government Code section 11520, and by reason of the Findings of Fact contained in paragraphs 1 through 26, above, and Determination of Issues 1, 2, and 3, above, the Board hereby finds that respondent Jimmy F. Bruhl, R.C.P., has subjected his Respiratory Care Practitioner License No. 2374 to disciplinary action in that:

(a) Respondent has been convicted of crimes substantially related to qualifications, functions, or duties of a respiratory care practitioner, in violation of Business and Professions Code sections 3750, subdivision (d), 3750.5, subdivision (d), and 3752, and section 1399.370, of title 16 of the California Code of Regulations;

(b) Respondent has used alcoholic beverages to an extent or in a manner dangerous or injurious to himself or others, in violation of Business and Professions Code section 3750.5, subdivision (b); and

(c) Respondent has violated or attempted to violate, directly or indirectly, a provision of provisions, of the Respiratory Care Practice Act, as found in paragraphs 4(a) and (b), above, in violation of California Business and Professions Code section 3750, subdivision (g) and section 1399.370, subdivision (a), of title 16 of the California Code of Regulations.

ORDER

IT IS SO ORDERED that Respiratory Care Practitioner License No. 2374, heretofore issued to respondent Jimmy F. Bruhl, R.C.P., is revoked.

If respondent ever files an application for relicensure in the State of California, the Board shall treat it as a petition for reinstatement of a revoked license. Respondent must comply with all laws, regulations and procedures for reinstatement of a revoked license at the time that the application for relicensure or petition for reinstatement is filed.

/ / /

Respondent is ordered to reimburse the Respiratory Care Board the amount of $1,977.50 for its investigative and enforcement costs. The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to reimburse the Board for its costs. Respondent's Respiratory Care Practitioner License No. 2374 may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 3753.5 have been paid.

Pursuant to Government Code section 11520, subdivision (c), respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 13, 2015.

It is so ORDERED July 14, 2015.

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

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Attorneys for Complainant

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

In the Matter of the Accusation Against: **JIMMY F. BRUHL, R.C.P.** **421 N. Lyon Street #7** **Santa Ana, CA 92701-4364** **Respiratory Care Practitioner** **License No. 2374,** Respondent.	Case No. 7002014000479 **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

2. On or about May 17, 1985, the Respiratory Care Board issued Respiratory Care Practitioner License No. 2374 to respondent Jimmy F. Bruhl, R.C.P. (respondent). Respiratory Care Practitioner License No. 2374 was in full force and effect at all times relevant to the charges and allegations brought herein and will expire on December 31, 2015, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, 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 3750 of the Code states, in pertinent part:

"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:

"…

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

"…

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

"…"

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7. Section 3750.5 of the Code states, in pertinent part:

"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 the following:

"…

"(b) Used any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9 of this code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, or to others, or that impaired his or her ability to conduct with safety the practice authorized by his or her license.

"…

"(d) Been convicted of a criminal offense involving the consumption or self-administration of any of the substances described in subdivisions (a) and (b), or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a), in which event the record of the conviction is conclusive evidence thereof.

"…"

8. Section 3752 of the Code states:

"A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of any offense which substantially relates to the qualifications, functions, or duties of a respiratory care practitioner is deemed to be a conviction within the meaning of this article. The board shall order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or

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her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment."

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

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

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

"…

"(c) Commission of an act or conviction of a crime involving driving under the influence or reckless driving while under the influence.

"…"

COST RECOVERY

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

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law or any term and condition of board probation to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case. A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the official custodian of the record or his or her designated representative shall be prima facie evidence of the actual costs of the investigation and prosecution of the case."

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11. Section 3753.7 of the Code states:

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

12. Section 3753.1 of the Code states, in pertinent part:

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

"…"

FIRST CAUSE FOR DISCIPLINE

(Conviction of Crimes Substantially Related to the Qualifications, Functions and Duties of a Respiratory Care Practitioner)

13. Respondent's license is subject to disciplinary action under section 3750, as defined by sections 3750, subdivision (d),3750.5, subdivision (d), and 3752, of the Code, and section 1399.370, subdivision (c), of title 16 of California Code of Regulations, in that he has been convicted of crimes substantially related to the qualifications, functions, or duties of a respiratory care practitioner, as more particularly alleged hereinafter:

14. On or about April 24, 2014, Officer P.B. of the Santa Ana Police Department was dispatched to the scene of a collision, in which respondent had lost control of his vehicle, and had driven onto a center median on East Park Court Place. Upon contact with respondent, Officer P.B. noticed a distinct odor of an alcoholic beverage on respondent's breath. Further, respondent's speech was slurred and very slow. Respondent admitted to Officer P.B. that he had consumed ten Bud Light beers before driving. Due to respondent's high level of intoxication, respondent was unable to stand without assistance. He was unable to tell Officer P.B. the time, his location, or how long he had been driving. Officer P.B. decided it was unsafe for respondent to attempt Field Sobriety Tests. Respondent was arrested for violating section 23152, subdivision (a), of the Vehicle Code (driving under the influence of alcohol) and violating section 23152, subdivision (b), of the Vehicle Code (driving while having a blood alcohol content (BAC) of

0.08% or more). A blood sample later obtained from respondent at the Santa Ana Detention Facility showed a blood alcohol content of 0.30%.

15. On or about May 28, 2014, in the Orange County Superior Court case entitled, *The People of the State of California v. Jimmy Freddy Bruhl, AKA Jimmy Freddy Garcia,* Case No. 14CM04833, respondent was charged with:

(a) Count 1, a misdemeanor violation of section 23152, subdivision (a), of the Vehicle Code (driving under the influence of alcohol); and

(b) Count 2, a misdemeanor violation of section 23152, subdivision (b), of the Vehicle Code (driving while having a 0.08% and more of blood alcohol), with the enhancement that in the commission of said offense, respondent had a blood alcohol concentration of 0.20% or more, *to wit*: 0.30%, within the meaning of section 23538, subdivision (b)(2), of the Vehicle Code.

16. On or about September 11, 2014, respondent was convicted on his plea of guilty to the following counts:

(a) Count 1, a misdemeanor violation of section 23152, subdivision (a) (driving under the influence of an alcoholic beverage); and

(b) Count 2, a misdemeanor violation of section 23152, subdivision (b), (driving with a BAC 0.08% or more) with an enhancement of violation section 23538, subdivision (b)(2), of the Vehicle Code (driving with having a 0.20% BAC or more).

17. On or about September 11, 2014, on Counts 1 and 2, respondent was sentenced to three years probation with terms and conditions, including but not limited to, requirements that he attend and complete a nine-month Level 2 First Offenders Program, attend and complete MADD Program, complete 80 hours of community service, and to pay fines and restitution. However, the Court stayed the imposition of the sentence on Count 2, pursuant to Penal Code 654.

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SECOND CAUSE FOR DISCIPLINE

(Used Alcoholic Beverages to an Extent or in a Manner Dangerous or Injurious to Himself or Others)

18. Respondent's license is further subject to disciplinary action under sections 3750 and 3750.5, as defined by section 3750.5, subdivision (b), of the Code, in that he has used alcoholic beverages to an extent or in a manner dangerous or injurious to himself or others, as more particularly alleged in paragraphs 13 through 17, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Violation of a Provision or Provisions of the Respiratory Care Practice Act)

19. Respondent's license is further subject to disciplinary action under section 3750, as defined by section 3750, subdivision (g), of the Code, and section 1399.370, subdivision (a), of title 16 of the California Code of Regulations, in that he has violated a provision or provisions of the Respiratory Care Practice Act, as more particularly alleged in paragraphs 13 through 18, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

DISCIPLINE CONSIDERATIONS

20. To determine the degree of discipline, if any, to be imposed on respondent, complainant alleges that an Accusation was filed against respondent on June 23, 2000, in a prior disciplinary action entitled, *In The Matter of the Accusation Against: Jimmy F. Bruhl*, Case No. R-1473. In that Accusation, respondent was charged with having been convicted of crimes substantially related to the qualifications, functions, and duties of a respiratory care practitioner: (violating Penal Code section 273.5, (corporal injury-spouse); violating Penal Code section 243, subdivision (e)(1), (battery against spouse); and, violating Penal Code section 240, (assault)); using of alcoholic beverages, to an extent, or in a manner dangerous or injurious to himself, or another person; and crimes involving bodily injury (corporal injury-spouse; battery against spouse, and assault). In a stipulated settlement, which was adopted by the Board with an effective date of June 10, 2001, respondent admitted the truth of each and every charge and allegation in the Accusation, his Respiratory Care Practitioner License No. 2374 was revoked, the revocation

was stayed, and he was placed on probation for three (3) years on various terms and conditions. The Board's Decision and Order in Case No. R-1473 is now final and is hereby incorporated by reference as if fully set forth herein. Effective February 11, 2003, the Board granted respondent's Petition to Terminate Probation, and respondent was issued an unconditional license.

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 Care Practitioner License No. 2374, issued to respondent Jimmy F. Bruhl, R.C.P.;

2. Ordering respondent Jimmy F. Bruhl, R.C.P., 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; and

3. Taking such other and further action as deemed necessary and proper.

DATED: February 24, 2015

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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