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

12 In the Matter of the Statement of Issues Against:

Case No. 1H 2008 205

13 TRACY WILLIAM BRONSON  
7338 Laura Lane  
14 Reseda, California 91335

**STATEMENT OF ISSUES**

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

- 19 1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in  
20 her official capacity as the Executive Officer of the Respiratory Care Board of California,  
21 Department of Consumer Affairs (Board).
- 22 2. On or about March 28, 2008, the Board received an application for a  
23 Respiratory Care Practitioner License from Tracy William Bronson (Respondent). On or about  
24 March 28, 2008, Respondent certified under penalty of perjury to the truthfulness of all statements,  
25 answers, and representations in the application. The Board denied the application on October 1,  
26 2008.

27 JURISDICTION

- 28 3. This Statement of Issues is brought before the Board under the authority of

1 the following laws. All section references are to the Business and Professions Code (Code) unless  
2 otherwise indicated.

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

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

8           6.       Section 3732, subdivision (b) of the Code states:

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

13           7.       Section 3750 of the Code states:

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

17                   “ . . .

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

21                   “. . . .”

22           8.       Section 3752 of the Code states:

23                   “A plea or verdict of guilty or a conviction following a plea of nolo  
24 contendere made to a charge of any offense which substantially relates to the  
25 qualifications, functions, or duties of a respiratory care practitioner is deemed to be  
26 a conviction within the meaning of this article. The board shall order the license  
27 suspended or revoked, or may decline to issue a license, when the time for appeal  
28 has elapsed, or the judgment of conviction has been affirmed on appeal or when an

1 order granting probation is made suspending the imposition of sentence, irrespective  
2 of a subsequent order under Section 1203.4 of the Penal Code allowing the person  
3 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
4 the verdict of guilty, or dismissing the accusation, information, or indictment.”

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

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

12 “ . . .

13 “(c) Conviction of a crime involving driving under the influence or reckless  
14 driving while under the influence.

15 “. . . .”

#### 16 COST RECOVERY

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

18 "In any order issued in resolution of a disciplinary proceeding before the  
19 board, the board or the administrative law judge may direct any practitioner or  
20 applicant found to have committed a violation or violations of law to pay to the  
21 board a sum not to exceed the costs of the investigation and prosecution of the  
22 case."

23 11. Section 3753.7 of the Code states:

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

27 12. Section 3753.1, subdivision (a) of the Code states:

28 "An administrative disciplinary decision imposing terms of probation may

1 include, among other things, a requirement that the licensee-probationer pay the  
2 monetary costs associated with monitoring the probation."

3 CAUSE FOR DENIAL OF APPLICATION

4 (Conviction of a Crime)

5 13. Respondent's application is subject to denial under Business and  
6 Professions Code sections 3750, subdivision (d), and 3752, and California Code of  
7 Regulations, Title 16, section 1399.370, subdivision (c), in conjunction with Business and  
8 Professions Code section 3732, subdivision (b), in that Respondent was convicted of crimes  
9 substantially related to the qualifications, functions or duties of a respiratory care  
10 practitioner. The circumstances are as follows:

11 November 8, 2005, Conviction

12 A. On or about September 8, 2005, a Los Angeles County Deputy  
13 Sheriff responded to a report of a disturbance at Magic Mountain Park in Valencia,  
14 California. A security officer reported that Respondent appeared to be very  
15 intoxicated, had become confrontational with the security officers, and had  
16 threatened to assault them. The deputy sheriff contacted Respondent, and noticed a  
17 strong odor of alcohol on his breath and person. Respondent's speech was slurred  
18 as he attempted to explain what had happened, and he had difficulty maintaining his  
19 balance. He was arrested for public intoxication.

20 B. On or about October 7, 2005, in Los Angeles County Superior Court  
21 Complaint No. 5NE02981, Respondent was charged with public intoxication:  
22 drugs/alcohol, in violation of Penal Code section 647, subdivision (f), a  
23 misdemeanor.

24 C. On or about November 8, 2005, Respondent was convicted upon his  
25 plea of guilty to public intoxication. He was placed on probation for one year, and  
26 was ordered to pay fines and assessments in the amount of \$660.00, and perform 3  
27 days of Cal Trans.

October 14, 2004, Conviction

1  
2           D.     On or about September 19, 2004, Respondent was arrested by the  
3 California Highway Patrol for driving under the influence of alcohol.

4           E.     On or about October 6, 2004, in Los Angeles County Superior Court  
5 Complaint No. 4MT09704, Respondent was charged with driving under the  
6 influence of alcohol, in violation of Vehicle Code section 23152, subdivision (a), a  
7 misdemeanor (Count 1), and driving with .08% or higher blood alcohol level, in  
8 violation of Vehicle Code section 23152, subdivision (b), a misdemeanor (Count 2).

9           F.     On or about October 14, 2004, Respondent was convicted upon his  
10 plea of nolo contendere to driving with .08% or higher blood alcohol level (Count 2).  
11 He was placed on probation for three years with terms and conditions, including: pay  
12 fines and assessments in the amount of \$1,441.00, or in lieu thereof, serve 13 days in  
13 county jail (with credit for 1 day) or perform 12 days of Cal Trans or perform 174  
14 hours of community service; complete a licensed first offender alcohol program and  
15 victim impact program; and comply with all standard driving under the influence  
16 terms and conditions of probation. Respondent's driving privilege was restricted for  
17 90 days.

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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. Denying the application of Tracy William Bronson for a Respiratory Care Practitioner License;

2. Directing Tracy William Bronson 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: December 8, 2008

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