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

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

Case No. 1H 2010 517

12 **MATTHEW JONATHAN BECK**  
13 **3704 Wensley Court**  
**Bakersfield, CA 93311**

**STATEMENT OF ISSUES**

14 Applicant/Respondent.  
15

16 Complainant alleges:

17 PARTIES

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

21 2. On or about July 6, 2010, the Respiratory Care Board of California received an  
22 application for a Respiratory Care Practitioner License from Matthew Jonathan Beck  
23 (Respondent). On or about June 28, 2010, Matthew Jonathan Beck certified under penalty of  
24 perjury to the truthfulness of all statements, answers, and representations in the application. The  
25 Board denied the application on September 21, 2010.

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1 JURISDICTION

2 3. This Statement of Issues is brought before the Respiratory Care Board (Board), under  
3 the authority of the following laws. All section references are to the Business and Professions  
4 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 3732 of the Code states:

11 "(a) The board shall investigate an applicant for a license, before a license is issued, in  
12 order to determine whether or not the applicant has the qualifications required by this chapter.

13 "(b) The board may deny an application, or may order the issuance of a license with terms  
14 and conditions, for any of the causes specified in this chapter for suspension or revocation of a  
15 license, including, but not limited to, those causes specified in Sections 3750, 3750.5, 3752.5,  
16 3752.6, 3755, 3757, 3760, and 3761."

17 7. Section 3750 of the Code states:

18 "The board may order the denial, suspension or revocation of, or the imposition of  
19 probationary conditions upon, a license issued under this chapter, for any of the following causes:

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

23 "(m) Denial, suspension, or revocation of any license to practice by another  
24 agency, state, or territory of the United States for any act or omission that would  
25 constitute grounds for the denial, suspension, or revocation of a license in this state.

26 8. Section 3750.5 of the Code states:

27 "In addition to any other grounds specified in this chapter, the board may deny, suspend,  
28 place on probation, or revoke the license of any applicant or licenseholder who has done any of

1 the following:

2 "(b) Used any controlled substance as defined in Division 10 (commencing with Section  
3 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2  
4 (commencing with Section 4015) of Chapter 9 of this code, or alcoholic beverages, to an extent or  
5 in a manner dangerous or injurious to himself or herself, or to others, or that impaired his or her  
6 ability to conduct with safety the practice authorized by his or her license.

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

11 9. Section 3752 of the Code states:

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

21 10. California Code of Regulations, title 16, section 1399.370, states:

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

27 "(c) Conviction of a crime involving driving under the influence or reckless driving while  
28 under the influence."

1 COST RECOVERY

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

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

7 12. Section 3753.7 of the Code states:

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

11 13. Section 3753.1 of the Code states:

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

15 FIRST CAUSE FOR DENIAL OF APPLICATION

16 (Discipline by another healthcare agency)

17 14. Respondent's application is subject to denial under code section 3750(m) in that the  
18 California Emergency Medical Services Authority (EMSA) disciplined Respondent's emergency  
19 medical technician-paramedic (EMT-P) license.

20 The circumstances are as follows:

21 15. On or about July 31, 1995, EMSA issued an EMT-P license to Respondent. On or  
22 about July 19, 2002, EMSA filed Accusation 01-064 against Respondent's license based on his  
23 failure to disclose his January 22, 1996 conviction for a misdemeanor violation of Vehicle Code  
24 section 23152(b) [driving with a blood alcohol level .08% or higher] in his 1998 and 1999 license  
25 renewal applications. Additionally, Respondent failed to disclose his March 30, 2001 conviction  
26 for a misdemeanor violation of Vehicle Code section 23152(a) [driving under the influence of  
27 alcohol] in his 2001 license renewal application. Effective August 21, 2003, Respondent's  
28 license was placed on three years probation with terms and conditions, including an agreement to

1 abstain from drinking alcohol.

2 16. On or about August 7, 2006, EMSA filed an Accusation and Petition to Terminate  
3 Probation based on Respondent's admission that on February 16, 2006, he drank five or six beers  
4 with friends, then went motorcycle riding and was involved in a traffic accident that resulted in  
5 the death of one person. At the scene of the accident, Respondent performed cardiopulmonary  
6 resuscitation on the victim, who was a friend. After Bakersfield Ambulance arrived on the scene,  
7 Respondent attempted to intubate his friend twice without success at a time when Respondent  
8 was not on duty and after he had consumed alcohol. Respondent surrendered his EMT-P license  
9 effective December 12, 2006.

10 17. Therefore, Respondent's application is subject to denial based on a violation of  
11 3750(m) in that the California Emergency Medical Services Authority disciplined his EMT-P  
12 license.

### 13 SECOND CAUSE FOR DENIAL OF APPLICATION

14 (Substantially-related convictions)

15 18. Paragraphs 15 through 16 are incorporated herein.

16 19. Respondent's application is subject to denial under code sections 3750(d), 3750.5(b),  
17 3750.5(d), 3752, and CCR 1399.370(c) [substantially related conviction] in that he has two  
18 substantially-related convictions. The circumstances are as follows:

#### 19 2001 DUI conviction

20 20. On or about February 22, 2001, Respondent was arrested for driving under the  
21 influence of alcohol in violation of Vehicle Code sections 23152(a) [driving under the influence  
22 of alcohol], 23152(b) [driving with a blood alcohol content of .08% or higher], and Penal Code  
23 section 12025(a)(1) [carrying a concealed weapon in a vehicle.]

24 21. On or about Mach 9, 2001, a misdemeanor complaint titled *People of the State of*  
25 *California vs. Matthew Jonathan Beck*, case no. 01CM0576 was filed in Kings County Superior  
26 Court. Count 1 alleged a violation of Vehicle Code section 23152(a) [driving under the influence  
27 of alcohol.] Count 2 alleged a violation of Vehicle Code section 23152(b) [driving with a blood  
28 alcohol content of .08% or higher], with an added allegation for a prior violation of Vehicle Code

1 section 23153(b) [driving with a blood alcohol content of .08% or higher and causing property  
2 damage.] Count 3 alleged a violation of Penal Code section 12025(a)(1) [carrying a concealed  
3 weapon.]

4 22. On or about March 30, 2001, Respondent was convicted on his plea of no contest to a  
5 misdemeanor violation of Vehicle Code section 23152(a) [driving under the influence of alcohol.]  
6 He was sentenced to five years supervised probation on terms which included that he serve 30  
7 days in jail; pay fines; attend and complete an educational, psychological, psychiatric, drug,  
8 alcohol or other rehabilitative program; totally abstain from the use and possession of alcoholic  
9 beverages; not to operate a vehicle with a measurable amount of alcohol, not refuse to submit to a  
10 blood or breath test on sequent arrest; enroll in an SB-38 program; have his driver's license  
11 restricted to driving to and from work, to and from work furlough program, and to and from SB-  
12 38 program for 18 months; submit to alcohol use detection tests.

13 1996 DUI conviction

14 23. On or about November 25, 1995, Respondent was arrested for driving under the  
15 influence of alcohol in violation of Vehicle Code sections 23152(a) [driving under the influence  
16 of alcohol] and Vehicle Code section 23152(b) [driving with a blood alcohol content of .08% or  
17 more].

18 24. On or about December 14, 1995, a misdemeanor complaint titled *People of the State*  
19 *of California vs. Matthew Jonathan Beck*, case no. H953069 was filed in Kings County Superior  
20 Court. Count 1 alleged a violation of Vehicle Code section 23152(a) [driving under the influence  
21 of alcohol.] Count 2 alleged a violation of Vehicle Code section 23152(b) [driving with a blood  
22 alcohol content of .08% or higher.] Count 3 alleged a violation of Penal Code section 12031(A)  
23 [carrying a loaded firearm in a public place.] Count 4 alleged a violation of Penal Code section  
24 12025(a)(1) [carrying a concealed weapon.]

25 25. On or about January 22, 1996, Respondent was convicted on his plea of guilty to a  
26 misdemeanor violation of Vehicle Code section 23153(b) [driving with a blood alcohol content of  
27 .08% or higher.] He was sentenced to three years probation without supervision under the  
28 following terms and conditions: serve 48 hours in jail; serve 40 hours of community service;

1 attend and complete an educational drug and alcohol program; not to operate a vehicle with a  
2 measurable amount of alcohol in his blood, not refuse to submit to a blood, breath or urine test on  
3 sequent arrest; and pay fines.

4 26. Therefore, Respondent's application for a license is denied based on his substantially  
5 related conviction s which are in violation of code sections 3750(d), 3750.5(b), 3752, and CCR  
6 1399.370(c).

7 PRAYER

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

10 1. Denying the application of Matthew Jonathan Beck for a Respiratory Care  
11 Practitioner License;

12 2. Directing Matthew Jonathan Beck to pay the Respiratory Care Board of California the  
13 costs of the investigation and enforcement of this case, and if placed on probation, the costs of  
14 probation monitoring;

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

16 DATED: December 21, 2010

Original signed by Liane Freels for:

17 STEPHANIE NUNEZ  
18 Executive Officer  
19 Respiratory Care Board of California  
20 Department of Consumer Affairs  
State of California  
*Complainant*

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