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

In the Matter of the Statement of Issues Against**:** **MATTHEW WAYNE BROMAN** **1618 Vosspark Way** **Sacramento, CA 95835** Applicant/Respondent.	Case No. 1H 2010 889 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

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

2. On or about December 23, 2010, the Respiratory Care Board of California, Department of Consumer Affairs received an application for a Respiratory Care Practitioner License from Matthew Wayne Broman (Respondent). On or about October 28, 2010, Matthew Wayne Broman certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on April 8, 2011. Respondent requested a hearing on the denial on May 6, 2011.

JURISDICTION

3. This Statement of Issues 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 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 3732 of the Code states:

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

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

7. Section 3750 of the Code states:

"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:

> "(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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> "(j) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.
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> ...

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

8. Section 3750.5 of the Code states:

"In addition to any other grounds specified in this chapter, the board may deny, suspend, or revoke the license of any applicant or license holder who has done any of the following:

"(a) Obtained or possessed in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or administered to another, any controlled substances 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.

"(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."

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

"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."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Discipline by another state agency)

10. Applicant's application is subject to denial under code sections 3750(m) [discipline by another agency] in that in 2008, Applicant's license to work as an emergency medical technician-paramedic (EMT-P) license was revoked. The circumstances are as follows:

11. The Emergency Medical Services Authority (EMSA) issued EMT-P license number P16818 to Applicant on July 6, 2000. Applicant was employed as a paramedic by Del Norte Ambulance, and as part of his job duties, he routinely utilized Sutter Coast Hospital (Sutter) as the re-stocking facility for drugs used in ambulance transports. On average, Sutter dispensed approximately 10-15 carpujets per month, each filled with 10 milligrams of morphine, to Del Norte Ambulance paramedics. On or about October 2007, Sutter informed Del Norte Ambulance that the average number of carpujets dispensed to its paramedics had dramatically increased to 47 per month. On or about December 1, 2007, Applicant returned a morphine carpujet to Sutter, claiming that it had become damaged or contaminated, and requested a replacement. The hospital sent out the carpujet returned by Applicant to a lab for testing. Test results indicated that the carpujet did not contain morphine but only normal saline. Del Norte Ambulance directed Applicant to take a drug test, and he tested positive for opiates.

12. When confronted, Applicant admitted to removing morphine from carpujets on two occasions, replacing the morphine with normal saline solution and presenting the carpujets to Sutter staff for replacement. In a signed email dated December 7, 2007, Applicant admitted removing morphine on two occasions, expressed remorse for his actions, but insisted that he was not addicted by stating, "I do not have a dependency issue with narcotics, I do not go through withdrawal and I do not have uncontrollable cravings."

13. On or about December 18, 2007, an EMSA investigation conducted an in-person interview with Applicant. During this interview, Applicant admitted he took morphine from the ambulance for personal use on at least three occasions. Applicant admitted that he removed the morphine from the carpujet and replaced the contents with normal saline. He stated that he took the morphine home and injected it intramuscularly while off duty. In an effort to conceal his actions, he presented the carpujet filled with normal saline to hospital staff and was successful in obtaining a replacement cartridge. Applicant also admitted taking morphine on November 30, 2007, while on duty at his work station. He admitted that he took the syringe of morphine that was locked in the ambulance, kept the syringe until the next day, and after work, injected the morphine intramuscularly. To conceal his theft, he concocted a story to hospital staff that the

syringe had fallen under the gurney. This carpujet was tested by the hospital and found to be filled with normal saline. On December 24, 2007, EMSA temporarily suspended Applicant's license pursuant to California Health and Safety Code section 1798.202 [temporary suspension proceedings.]

14. On or about December 26, 2007, EMSA filed Accusation no. 07-0432 against Applicant's license, alleging that his actions described hereinabove constituted cause to revoke his EMT-P license pursuant to Health and Safety Code sections 1798.200(5) commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions and duties of prehospital personnel and section 1798.200(9) addiction to the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.

15. On or about February 6, 2008, Applicant signed a Stipulated Revocation of License, and admitted the truth of each and every allegation contained in Accusation no. 07-0432, and agreed that cause for discipline of his EMT-P license existed. On February 7, 2008, EMSA issued an Order which adopted the Stipulated Revocation with an effective date of March 7, 2008. On or about February 22, 2011, EMSA denied Applicant's Petition for Reinstatement of License.

16. Therefore, Applicant's application for a respiratory care practitioner license is denied based on the revocation of his emergency medical technician-paramedic (EMT-P) license in 2008 and denial of his EMT-P license in 2011, pursuant to code section 3750(m) [discipline by another agency.]

SECOND CAUSE FOR DENIAL OF APPLICATION

(Fraudulent, Dishonest or Corrupt Acts)

17. Paragraphs 11 through 15 are incorporated herein.

18. Applicant's acts of taking morphine for personal use on at least three occasions while on duty as a paramedic, his repeated acts of replacing the morphine in carpujets with saline solution, and taking morphine on November 30, 2007, while on duty at his work station, constitutes fraudulent, dishonest or corrupt acts in violation of code section 3750(j), and are cause to deny his application for licensure.

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THIRD CAUSE FOR DENIAL OF APPLICATION

(Possession and/or Misuse of Controlled Substance)

19. Paragraphs 11 through 15 are incorporated herein.

20. Applicant's acts of taking morphine for personal use on at least three occasions while on duty as a paramedic constitutes possession of a controlled substance in violation of code section 3750.5(a), and his December 2007 positive test result for opiates constitutes use of a controlled substance in violation of code section 3750.5(b).

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 Matthew Wayne Broman for a Respiratory Care Practitioner License;

2. Directing Matthew Wayne Broman to pay to the Respiratory Care Board of California 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 28, 2011

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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