

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

In the Matter of the Statement of Issues
Against:

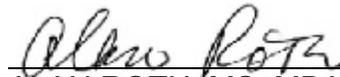
STEVEN D. ASHE
1340 Junipero Avenue, Apt. #5
Long Beach, CA 90804

Case No.: 1H 2012 779

OAH No.: 2013120917

EFFECTIVE DATE OF DECISION AND ORDER

Having met all licensure requirements, the attached Decision and Order adopted by the Respiratory Care Board of California, Department of Consumer Affairs, on September 25, 2014 shall become effective on October 4, 2014.



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

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

In the Matter of the Statement of Issues Against:

STEVEN D. ASHE,

Respondent.

Case No. 1H 2012 779

OAH No. 2013120917

PROPOSED DECISION

Jennifer M. Russell, Administrative Law Judge, Office of Administrative Hearings, heard this matter in Los Angeles, California on July 17, 2014.

Christine R. Friar, Deputy Attorney General, Department of Justice, Office of the Attorney General, represented complainant Stephanie Nunez, Executive Officer, Respiratory Care Board of California (Board). Respondent Steven Douglas Ashe represented himself.

For a second time, respondent seeks licensure as a respiratory care practitioner. And for a second time, complainant has denied licensure contending that respondent has convictions for crimes substantially related to the qualifications, functions, or duties of a licensed respiratory care practitioner. Respondent offers evidence of rehabilitation in support of his licensure.

The matter was submitted for decision on July 17, 2014. The Administrative Law Judge makes the following Factual Findings, Legal Conclusions, and Order.

FACTUAL FINDINGS

1. Complainant brought the Statement of Issues in her official capacity.
2. Respondent is a 50-year old with a history of alcoholism exacerbated by a troubled marriage mired with acts of infidelity until it ended in divorce when his daughter graduated high school and left home to attend college. His sobriety date is March 22, 2010.
3. On September 14, 2005, respondent filed an Application for Licensure for Respiratory Care Practitioner (2005 Application). The Board denied the 2005 Application, and respondent appealed the matter requesting a hearing. After hearing the matter,

Administrative Law Judge Eric Sawyer issued a Proposed Decision, *In the Matter of the Statement of Issues against Steven Douglas Ashe*, OAH case number L2008010092, denying respondent's appeal. In doing so, Judge Sawyer determined that cause existed for the denial of respondent's 2005 Application in that he was convicted of crimes substantially related to the qualifications, functions and duties of a respiratory care practitioner in 1992 (driving with a higher blood alcohol level .08 per cent or higher), in December 1995 (driving with a blood alcohol level .08 percent or higher), and in 2006 (assault with a deadly weapon).¹ After reviewing respondent's background and finding, among other things, that "[r]espondent's convictions from 1992 through 1996 are attributable, in large part, to his alcoholism," Judge Sawyer determined the following regarding respondent's rehabilitation at the time:

... He did not submit any letters from others attesting to his skills in the health care field, nor did he provide proof of his grades in his respiratory care courses. Respondent does not currently attend AA meetings or participate in a 12-step program. Overall, while Respondent established dramatic improvement in addressing the drinking problem that led to his first four convictions, he did not offer sufficient evidence of rehabilitation of an anger-management problem that was on the periphery of some of his first four convictions and was more directly involved in his 2006 conviction.

[¶] ... [¶]

On balance, Respondent failed to meet his burden of proving satisfactory rehabilitation. While Respondent is making encouraging progress, particularly in his battle against alcoholism, his 2006 conviction demonstrates an anger-management issue that needs further resolution. Respondent correctly points out that he has matured late in life. Should he continue making progress in his maturation process, and be able to demonstrate satisfactory rehabilitation, he may be a viable candidate for licensure in the future. At this time, however, it was not established that respondent's being issued a probationary license would be consistent with the public health, safety or welfare.

(Ex. 16 at RCP-0143.)

4. The Board adopted Judge Sawyer's Proposed Decision, which became effective May 10, 2008 (Board's 2008 Decision). (Ex. 16 at RCP-0136.)

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¹ Judge Sawyer determined that respondent's conviction in August 1995 (disturbing the peace) did not constitute cause for denial of respondent's 2005 Application because it "does not qualify as a substantially related crime pursuant to Business and Professions Code section 3752.5." (Ex. 16 at RCP-0139).

5. Approximately four years later, on October 22, 2012, respondent re-applied for licensure filing another Application for a Respiratory Care Practitioner (2012 Application).²

6. In addition to the 1992, 1995, and 2006 convictions set forth in Factual Finding 2, it appears that respondent disclosed in the 2012 Application a November 19, 2006 restraining order violation, for which the court placed him on summary probation for a term of three years and ordered him to perform 143 hours of community service after he served two days in Los Angeles County Jail. (Exs. 3 and 4.)

7. Respondent explained that, at the time of this 2006 restraining order violation, he was unaware of any court order prohibiting him from having contact with his now former spouse with whom he had engaged consensual sexual intercourse when she called several police officers to their residence for his arrest. Respondent no longer sees or converses with his former spouse. "I have a new life and she has a new life." These circumstances underlying respondent's restraining order violation do not indicate that respondent is unfit to perform licensed functions of a respiratory care practitioner or that respondent is inclined to perform the licensed functions of a respiratory care practitioner in a manner inconsistent with public health. They are indicative of a disintegrating marriage that has since dissolved. It is therefore not established that respondent's 2006 restraining order violation is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

8. The Board denied respondent's 2012 Application. In a September 6, 2013 letter respondent requested a hearing stating the following:

The denial was based on my criminal court record, let me state that it has been a few years since these acts occurred and I have been working diligently to clean and clear my record. There have been significant changes in my life since then. . . .

(Ex. B at 2.)

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² Under penalty of perjury, respondent truthfully answered "yes" on the 2012 Application to the question "Have you ever been convicted in any state court, federal court or foreign country of (a) a citation (including Vehicle Code citations) [or] (b) a misdemeanor (including ALL Vehicle Code violations) [.]" (Ex. 1 at RCP-0002; Emphasis in original.) The 2012 Application instructs applicants to "submit a full and complete explanation to each Yes answer or each conviction on the enclosed 'BACKGROUND STATEMENT' form." (Ex. 1 at RCP-0004.) Neither party provided a copy of the Background Statement form accompanying respondent's 2012 Application. Complainant made no allegation that respondent failed to make a full and complete disclosure of his criminal convictions on his 2012 application.

9. Respondent's September 6, 2013 letter enclosed documentation establishing that, on April 29, 2009, respondent completed a court-ordered, 52-session domestic violence program at Hosanna Counseling Center (Hosanna). Respondent believed that Hosanna was "good," but "did not fix [his] issues." Respondent recognized, as Judge Sawyer found, that his convictions in 1992 through 1996 were attributable to his alcoholism, which he was desirous of fixing, and that underlying his 2006 conviction were unresolved anger management issues requiring redress. According to respondent, "I decided that I was much smarter than to destroy my life. I saw a sign and walked in." He checked himself into a six-month residential program at a Salvation Army Adult Rehabilitation Center (Salvation Army) on March 22, 2010. The Salvation Army program provided respondent with the structure he needed by immersing him in a 12-step process, individual counseling, and classes regarding Domestic Violence, Feelings, Denial, Parenting, Anger Management, Spirituality, Relapse Prevention, and Personal Relations. During the course of the Salvation Army program, respondent received commendations including "Man of the Week." (Ex. A at 6 and 7.) Respondent successfully completed the Salvation Army program on September 22, 2010.

10. Respondent benefited from the Salvation Army program. He testified, "At the time my mind was going haywire. My mom had just died. Why was I messing with a woman who had a boyfriend when I had a wife?" "I went to fix my life. It made me open up. It made me feel better. I started to love me again." The Salvation Army program has taught respondent that "Life is going to be what it is; take it or leave it. I have to be strong about it. Drinking will not solve it; the problem will still be there."

11. As a consequence of respondent's 2006 conviction for assault with a deadly weapon, respondent's certification as a nurse assistant was revoked and his then-employment was terminated. His continuing education credits lapsed. To regain certification as a nurse assistant, respondent enrolled in and successfully completed Goodwill's Certified Nursing Assistant/Home Health Aide Training Program at Long Beach School for Adults on April 8, 2011. (Ex. A at 11 through 15, inclusive.) Effective May 2, 2011, the California Department of Public Health issued certificates 00245682 and 00382353 to respondent for Home Health Aide and Nurse Assistant, respectively. Respondent's certifications expire May 26, 2015. (Ex. A at 16.)

12. Respondent's 2006 assault with a deadly weapon conviction was expunged pursuant to Penal Code section 1203.4 on October 16, 2009. (Ex. A at 28.)

13. On June 14, 2011, Colonial Care Center employed respondent as a certified nurse assistant for a period of time not established by the evidence. In a letter dated September 9, 2011, a Colonial Care Center supervisor writes, "He is presently working Long Term Care Unit within our facility, and will be promoted to our Sub Acute Section in the near future due to his experience and dedication." (Ex. A at 29.) For the past year and a half, respondent has been employed at Maria Villa Convalescent Hospital where he has responsibility for patient care including administering to their nutritional and personal grooming needs. His January and August 2012 evaluations report "outstanding" and "above

average” performance. Respondent is regarded as a “team player” demonstrating “natural leadership ability” and possessing “the knowledge and skills necessary to perform his job and duties.” (Ex. A at 19, 20, 21, and 22.)

14. Respondent earned his associate degree as a respiratory therapist from Concord Career College in 2000. On August 29, 2012, respondent completed a course of study in “Law and Professional Ethics for RCPs” offered by the California Society for Respiratory Care with a score of 83 percent. (Ex. A at 24.)

15. Respondent’s pastor wrote a letter, dated August 12, 2009, stating that he believed respondent “has repented for the things that he has done, that caused his nursing license to be revoked and is back on the right track.” The pastor regarded respondent as “a very polite, courteous and conscientious individual.” (Ex. A at 23.)

16. Respondent believes that he has “cleaned up” and that he has matured since the Board’s 2008 Decision. Respondent was motivated to rehabilitate himself because he enjoys caring for others and he wants to pursue a career in respiratory care. Respondent was forthright, sincere, and respectful of the administrative adjudicatory process.

LEGAL CONCLUSIONS

1. Business and Professions Code section 3718 authorizes the Board to issue licenses to practice respiratory care as provided in the Respiratory Care Practice Act.

2. Business and Professions Code section 3750 enumerates several causes for which the Board may order the denial of licensure or the imposition of probationary conditions upon a license issued under the Respiratory Care Practice Act. They include the conviction of a crime that is substantially relates to qualifications, functions, or duties of a respiratory care practitioner. In which case, the record of conviction or a certified copy thereof is deemed conclusive evidence of the conviction. (Bus. & Prof. Code, § 3750, subd. (d).)

3. Business and Professions Code section 3750.5 additionally provides for the denial of a license application when the applicant has done, among other things, the following:

(b) Used any controlled substance . . . or alcoholic beverage, 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 subdivision [(b)].

4. Business and Professions Code section 3752 provides that “[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 The board shall order the license suspended or revoked . . . 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.”

5. California Code of Regulations, title 16, section 1399.370, in pertinent part, provides as follows:

For the purposes of denial . . . 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 include but are not limited to those involving the following:

[(1)] . . . [(1)]

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

[(1)] . . . [(1)]

(h) Failure to comply with a court order.

6. Cause pursuant to Business and Professions Code sections 3750, 3750.5, and 3752, and California Code of Regulations, title 16, section 1399.370 was previously established to deny respondent’s licensure as a respiratory care practitioner on grounds that respondent has been convicted of crimes substantially related to the qualifications, functions, and duties of a respiratory care practitioner in 1992 (driving with a higher blood alcohol level .08 per cent or higher), in December 1995 (driving with a blood alcohol level .08 percent or higher), and in 2006 (assault with a deadly weapon). (Factual Findings 3 and 4.) That determination, previously adopted in the Board’s 2008 Decision, remains unchanged.

7. The remaining issue for determination is respondent’s rehabilitation. Respondent has the burden of establishing his rehabilitation such that a determination regarding any risk of harm his licensure as a respiratory care practitioner would pose to the

public may be assessed. All evidence presented in mitigation and rehabilitation must be considered in light of the Board's criteria for evaluating rehabilitation as set forth in California Code of Regulations, title 16, section 1399.372.³

8a. Application of the Board's rehabilitation criteria to the facts of this case indicates that the licensure of respondent to practice respiratory care is consistent with the public interest. The courts before which respondent appeared have imposed appropriate criminal punishment for his convictions. The purpose of licensing statutes, such as the Respiratory Care Practice Act, and administrative proceedings, such as this, is the enforcement of licensing requirements for public protection and not for the imposition of additional punishment. (See *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) The goal is the prevention of future harm to the public. (*Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 772. More than two decades have elapsed since respondent's 1992 driving under the influence conviction. Nineteen years have elapsed since respondent's December 1995 driving under the influence conviction. Respondent suffered no other alcohol-related conviction since then. More than four years ago, after completing a court-ordered alcohol treatment program, on March 22, 2010, respondent voluntarily checked himself into a comprehensive, residential rehabilitation program. Respondent has achieved success managing his alcoholism. Respondent has not imbibed since then.

8b. More than seven years have elapsed since respondent's 2006 assault with a deadly weapon conviction. That conviction was expunged five years ago in 2009. Respondent completed a court-ordered domestic violence program as well as an anger-management program making it likely that past problems with his self-management in challenging situations will not recur.

8c. In the several years since respondent first applied for licensure as a respiratory care practitioner, respondent's educational pursuit has resulted in his re-licensure as a certified nurse assistant and his employment in the health care field. Respondent is lauded for his outstanding or above average work performance and his possession of the knowledge and skills pertinent to his duties of caring for members of the public.

8d. Respondent holds an associate degree in respiratory therapy. He successfully completed a course titled "Law and Professional Ethics for RCPs" offered by California Society for Respiratory Care with a score of 83 percent.

8e. Respondent's rehabilitation is evident not only in his conduct, but also in his state of mind. (See *In the Matter of Brown* (1993) 2 Cal. State Bar Ct. Rptr. 309, 317 and *Resner v. State Bar* (1967) 67 Cal.2d 799, 811 [state of mind is an additional important aspect of rehabilitation].) Respondent voluntarily checked himself into a residential

³ The Board's criteria includes consideration of the nature and severity of respondent's acts or offenses, respondent's total criminal record, the lapse of time, respondent's compliance with the terms of probation, evidence of any subsequent misconduct, evidence of rehabilitation, and character references.

rehabilitation center because he was self-aware that he needed to “fix” or confront certain unbecoming aspects of himself. As a consequence, respondent matured, and his maturity was clearly manifested in his respectful demeanor at the hearing.

9. The totality of the facts and circumstances of this case indicates that granting respondent’s application for a respiratory care practitioner license—without the imposition of conditions—is consistent with the protection of the public.

10. All factual and legal arguments asserted during the hearing, held July 17, 2014, not addressed herein are either unsupported by the evidence, irrelevant, without merit, or surplusage.

ORDER

The application of Steven D. Ashe for a respiratory care practitioner license is granted.

DATED: September 2, 2014



JENNIFER M. RUSSELL
Administrative Law Judge
Office of Administrative Hearings

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

11 In the Matter of the Statement of Issues
Against:

Case No. 1H 2012 779

12 **STEVEN D. ASHE**
13 **1340 Junipero Avenue, #5**
14 **Long Beach, CA 90804,**

STATEMENT OF ISSUES

15 Applicant.

16
17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about October 22, 2012, the Board received an Application for a Respiratory
24 Care Practitioner License from Steven D. Ashe (Applicant). On or about October 10, 2012,
25 Applicant certified under penalty of perjury to the truthfulness of all statements, answers, and
26 representations in the application. The Board denied the application on August 27, 2013.

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28 ///

JURISDICTION

1
2 3. This Statement of Issues is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

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

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

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

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

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

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

17 "....

18 "(d) Conviction of a crime that substantially relates to the qualifications, functions,
19 or duties of a respiratory care practitioner. The record of conviction or a certified copy
20 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 contendere made to a
24 charge of any offense which substantially relates to the qualifications, functions, or duties of a
25 respiratory care practitioner is deemed to be a conviction within the meaning of this article. The
26 board shall order the license suspended or revoked, or may decline to issue a license, when the
27 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when
28 an order granting probation is made suspending the imposition of sentence, irrespective of a

1 subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or
2 her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
3 dismissing the accusation, information, or indictment."

4 9. Section 3750.5 of the Code states:

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

8 "....

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

14 "....

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

19 "...."

20 10. Section 3752.5 of the Code states:

21 "For purposes of Division 1.5 (commencing with Section 475), and this chapter [the
22 Respiratory Care Practice Act], a crime involving bodily injury or attempted bodily injury shall be
23 considered a crime substantially related to the qualifications, functions, or duties of a respiratory
24 care practitioner."

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

26 "For the purposes of denial, suspension, or revocation of a license, a crime or act shall be
27 considered to be substantially related to the qualifications, functions or duties of a respiratory care
28 practitioner, if it evidences present or potential unfitness of a licensee to perform the functions

1 authorized by his or her license or in a manner inconsistent with the public health, safety, or
2 welfare. Such crimes or acts shall include but not be limited to those involving the following:

3 "....

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

6 "....

7 "(h) Failure to comply with a court order.

8 "...."

9 COST RECOVERY

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

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

18 13. Section 3753.7 of the Code provides that for purposes of the Respiratory Care
19 Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees,
20 expert witness fees, and other administrative, filing, and service fees.

21 14. Section 3753.1, subdivision (a), of the Code states:

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

25 CAUSE FOR DENIAL OF APPLICATION

26 (Conviction of a Crime)

27 15. Applicant's application is subject to denial under Code sections 3750, subdivision (d),
28 3750.5, subdivisions (b) and (d), 3752, 3752.5 and California Code of Regulations, title 16,

1 section 1399.370, subdivisions (c) and (h), in conjunction with Code section 3732, subdivision
2 (b), in that Applicant was convicted of crimes substantially related to the qualifications, functions
3 and duties of a respiratory care practitioner. The circumstances are as follows:

4 November 20, 2006 Conviction

5 a. On or about November 19, 2006, Torrance Police Officers (Officers) were
6 dispatched to a residence in response to unknown trouble. Upon arrival, they met with Applicant
7 who told them that he and his wife were having marital problems and were having an argument.
8 The victim informed the Officers that she had a valid restraining order, which she showed to the
9 Officers, stating that Applicant must stay at least one hundred (100) yards from her. The Officers
10 ran a computer inquiry on Applicant and discovered that there was an outstanding five thousand
11 (\$5,000.00) warrant for his arrest. Applicant was arrested.

12 b. On or about November 20, 2006, in *The People of the State of California v.*
13 *Steven Douglas Ashe*, Los Angeles Superior Court, Case No. 6S109140, Applicant was charged
14 with violating Penal Code section 166, subdivision (a)(4) (misdemeanor willful disobedience of a
15 court order).

16 c. On or about November 20, 2006, Applicant was convicted upon his plea of nolo
17 contendere for violating Penal Code section 166, subdivision (a)(4). He was placed on summary
18 probation for three (3) years on a number of terms and conditions, among others: serve two (2)
19 days in county jail (with credit for two (2) days) and ordered to pay fines, assessments, fees and
20 restitution totaling \$1300.00.

21 May 3, 2006 Conviction

22 d. On or about April 27, 2006, Los Angeles County Sheriff's Deputies (Deputies)
23 responded to a disturbance call. The victim, who was Applicant's girlfriend, told the Deputies
24 that Applicant had assaulted her at their worksite, College Hospital. Specifically, earlier in her
25 shift, Applicant had harassed her at work and took her cell phone. The victim further informed
26 the Deputies that she had made a work-related harassment complaint to her supervisor against
27 Applicant prior to going home. At approximately 2:00 AM, the victim reported that she received
28 a message telling her that she could retrieve her cell phone from work. As the victim arrived at

1 her worksite, the Applicant confronted her and attempted to open her vehicle door. Fearing for
2 her safety, the victim drove away, at which time, the Applicant threw her cell phone at her
3 vehicle. Applicant then chased the victim with his vehicle, which he intentionally collided with
4 her vehicle in an attempt to stop her. Applicant grabbed the victim's hair while she was driving,
5 violently pulling her head backward and then left the scene. Torrance police officers were
6 notified, and they detained Applicant at his residence until the Deputies arrived. Upon
7 questioning, Applicant admitted that he threw his girlfriend's cell phone at her vehicle, and that it
8 was possible his vehicle came into contact with her vehicle. Applicant was arrested.

9 e. On or about May 2, 2006, in *The People of the State of California v. Steven*
10 *Douglas Ashe*, Los Angeles Superior Court, Case No. 6BF02267, Applicant was charged with
11 violating Penal Code section 245, subdivision (a)(1) (misdemeanor assault with a deadly weapon),
12 and Penal Code section 594, subdivision (a), (vandalism).

13 f. On or about May 3, 2006, Applicant was convicted upon his plea of nolo
14 contendere for violating Penal Code section 245, subdivision (a)(1). He was placed on summary
15 probation for three (3) years subject to a number of terms and conditions, among others: serve
16 nine (9) days in county jail (with credit for nine (9) days), pay a fine of \$100.00 plus an
17 assessment of \$20.00, perform eleven (11) days of Cal Trans and complete a fifty-two (52) week
18 domestic violence program. The vandalism charge was dismissed.

19 December 11, 1995 Conviction

20 g. On or about November 9, 1995, a Los Angeles County Sheriff's Deputy
21 (Deputy) responded to a call that a vehicle was parked on the street facing the wrong way. The
22 Deputy found Applicant asleep inside his vehicle with a half-full 24-ounce can of beer between
23 his legs. The Deputy observed the Applicant to exhibit signs of intoxication. Applicant failed to
24 successfully complete field sobriety tests. Applicant was arrested.

25 h. On or about November 30, 1995, in *The People of the State of California v.*
26 *Steven Douglas Ashe*, Los Angeles County Municipal Court, Case No. 95M04966, Applicant was
27 charged with violating Vehicle Code section 23152, subdivision (a) (misdemeanor driving under
28 the influence of alcohol), and Vehicle Code section 23152, subdivision (b) (misdemeanor driving

1 with a blood alcohol level of .08% or higher). Applicant's blood alcohol level had tested at .20%.

2 i. On or about December 11, 1995, Applicant was convicted upon his plea of nolo
3 contendere for violating Vehicle Code section 23152, subdivision (b). He was placed on
4 summary probation for three (3) years subject to a number of terms and conditions, among others:
5 serve forty-eight (48) hours in county jail, pay fines, assessments and restitution in the amount of
6 \$1,535.00 and complete an eighteen-month licensed second offender alcohol program.
7 Applicant's driver's license was restricted for one (1) year. The charge brought under Vehicle
8 Code section 23152, subdivision (a), was dismissed.

9 August 24, 1995 Conviction

10 j. On or about April 17, 1995, Gardena Police Officers (Officers) responded to a
11 domestic disturbance incident. They observed Applicant yelling at his wife, who was seated in a
12 vehicle, along with his daughter. Applicant leaned into the vehicle, grasped his daughter's wrist,
13 and violently yanked her arm in an attempt to extract her from the vehicle. Applicant disregarded
14 the Officer's commands to release his daughter who was screaming. The Officers restrained
15 Applicant by wrestling him to the ground and handcuffing him. While searching Applicant, the
16 Officers found a plastic bag containing a leafy green substance resembling marijuana protruding
17 from his pocket.

18 k. On or about July 31, 1995, in *The People of the State of California v. Steven*
19 *Douglas Ashe*, Los Angeles County Municipal Court, Case No. 95M07037, Applicant was
20 charged with violating Health & Safety Code section 11357, subdivision (b) (misdemeanor
21 possession of less than one ounce of marijuana).

22 l. On or about August 24, 1995, the complaint was amended to add one count of
23 violating Penal Code section 415 (misdemeanor disturbing the peace). On or about August 24,
24 1995, Applicant was convicted upon his plea of nolo contendere for violating Penal Code section
25 415. He was placed on summary probation for one (1) year and was ordered to pay a fine of
26 \$250.00. The charge brought under Health & Safety Code section 11357, subdivision (b), was
27 dismissed.

28 ///

January 10, 1992 Conviction

1
2 m. On or about October 25, 1991, a Long Beach Police Officer (Officer) made an
3 enforcement stop after he observed Applicant commit a traffic violation. When Applicant exited
4 his vehicle, he displayed signs of being under the influence of alcohol. He failed to successfully
5 complete the field sobriety tests. The results of his breath tests indicated his blood alcohol level
6 was .18% and .17%.

7 n. On or about October 29, 1991, in *The People of the State of California v. Steven*
8 *Douglas Ashe*, Los Angeles County Municipal Court, Case No. 91L11551, Applicant was charged
9 with violating Vehicle Code section 23152, subdivision (a) (misdemeanor driving under the
10 influence of alcohol), Vehicle Code section 23152, subdivision (b) (misdemeanor driving with a
11 blood alcohol content of .08% or higher) and Vehicle Code section 14601.1, subdivision (a),
12 (misdemeanor driving with a suspended license).

13 o. On or about January 10, 1992, Applicant was convicted upon his plea of nolo
14 contendere for violating Vehicle Code section 23152, subdivision (b). He was placed on
15 summary probation for three (3) years subject to a number of terms and conditions, among others:
16 serve forty-eight (48) hours in county jail (with credit forty-eight (48) hours), pay a fine and
17 assessments in the amount of \$1,062.00, and complete a three (3) month licensed first offender
18 alcohol program. The remaining charges were dismissed.

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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 Steven D. Ashe for a Respiratory Care Practitioner License;
2. Directing Steven D. Ashe to pay 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: December 19, 2013

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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