

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

In the Matter of the Statement of Issues
Against:

RAYMOND AZUSADA
719 N. Coronado Street, Apt. 1
Los Angeles, CA 90026

Respiratory Care Practitioner License No. 36733

Case No. 7002014000383

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board of California, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on February 17, 2015.

It is so ORDERED February 5, 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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7 **BEFORE THE**
8 **RESPIRATORY CARE BOARD**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
Against:

Case No. 700-2014-000383

12 **RAYMOND AZUSADA**
719 N. Coronado Street, Apt. 1
Los Angeles, CA 90026

13 **STIPULATED SETTLEMENT AND**
14 **DISCIPLINARY ORDER**

Applicant/Respondent.

15
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
17 entitled proceedings that the following matters are true:

18 PARTIES

19 1. Stephanie Nunez ("Complainant") is the Executive Officer of the Respiratory Care
20 Board of California. She brought this action solely in her official capacity and is represented in
21 this matter by Kamala D. Harris, Attorney General of the State of California, by E. A. Jones III,
22 Supervising Deputy Attorney General.

23 2. Respondent RAYMOND AZUSADA ("Respondent") is representing himself in this
24 proceeding and has chosen not to exercise his right to be represented by counsel.

25 3. On or about March 13, 2014, Respondent filed an application dated November 25,
26 2013, with the Respiratory Care Board to obtain a Respiratory Care Practitioner License.

27 JURISDICTION

28 4. Statement of Issues No. 700-2014-000383 was filed before the Respiratory Care

1 Board (Board), Department of Consumer Affairs, and is currently pending against Respondent.
2 The Statement of Issues and all other statutorily required documents were properly served on
3 Respondent on September 4, 2014.

4 5. A copy of Statement of Issues No. 700-2014-000383 is attached as exhibit A and
5 incorporated herein by reference.

6 ADVISEMENT AND WAIVERS

7 6. Respondent has carefully read, and understands the charges and allegations in
8 Statement of Issues No. 700-2014-000383. Respondent has also carefully read, and understands
9 the effects of this Stipulated Settlement and Disciplinary Order.

10 7. Respondent is fully aware of his legal rights in this matter, including the right to a
11 hearing on the charges and allegations in the Statement of Issues; the right to be represented by
12 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
13 the right to present evidence and to testify on his own behalf; the right to the issuance of
14 subpoenas to compel the attendance of witnesses and the production of documents; the right to
15 reconsideration and court review of an adverse decision; and all other rights accorded by the
16 California Administrative Procedure Act and other applicable laws.

17 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
18 every right set forth above.

19 CULPABILITY

20 9. Respondent admits the truth of each and every charge and allegation in Statement of
21 Issues No. 700-2014-000383.

22 10. Respondent agrees that his Respiratory Care Practitioner License is subject to denial
23 and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
24 below.

25 CONTINGENCY

26 11. This stipulation shall be subject to approval by the Respiratory Care Board.
27 Respondent understands and agrees that counsel for Complainant and the staff of the Respiratory
28 Care Board of California may communicate directly with the Board regarding this stipulation and

1 settlement, without notice to or participation by Respondent. By signing the stipulation,
2 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the
3 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
4 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
5 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
6 the parties, and the Board shall not be disqualified from further action by having considered this
7 matter.

8 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
9 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
10 signatures thereto, shall have the same force and effect as the originals.

11 13. In consideration of the foregoing admissions and stipulations, the parties agree that
12 the Board may, without further notice or formal proceeding, issue and enter the following
13 Disciplinary Order:

14 **DISCIPLINARY ORDER**

15 IT IS HEREBY ORDERED that Respondent RAYMOND AZUSADA be issued a
16 conditional license to practice respiratory care, which shall be on probation to the Board for a
17 period of three (3) years on the following terms and conditions:

18 1. **OBEY ALL LAWS** Respondent shall obey all laws, whether federal, state, or local.
19 The Respondent shall also obey all regulations governing the practice of respiratory care in
20 California.

21 Respondent shall notify the Board in writing within three (3) days of any incident resulting
22 in his arrest, or charges filed against, or a citation issued against, Respondent.

23 2. **QUARTERLY REPORTS** Respondent shall file quarterly reports of compliance
24 under penalty of perjury, on forms to be provided, to the probation monitor assigned by the
25 Board. Omission or falsification in any manner of any information on these reports shall
26 constitute a violation of probation and shall result in the filing of an accusation and/or a petition
27 to revoke probation against Respondent's respiratory care practitioner license.

28 Quarterly report forms will be provided by the Board. Respondent is responsible for

1 contacting the Board to obtain additional forms if needed. Quarterly reports are due for each year
2 of probation and the entire length of probation as follows:

- 3 • For the period covering January 1st through March 31st, reports are to be
4 completed and submitted between April 1st and April 7th.
- 5 • For the period covering April 1st through June 30th, reports are to be completed
6 and submitted between July 1st and July 7th.
- 7 • For the period covering July 1st through September 30th, reports are to be
8 completed and submitted between October 1st and October 7th.
- 9 • For the period covering October 1st through December 31st, reports are to be
10 completed and submitted between January 1st and January 7th.

11 **3. PROBATION MONITORING PROGRAM** Respondent shall comply with
12 requirements of the Board appointed probation monitoring program, and shall, upon reasonable
13 request, report to or appear to a local venue as directed.

14 Respondent shall claim all certified mail issued by the Board, respond to all notices of
15 reasonable requests timely, appear as requested by the Board, and submit Annual Reports,
16 Identification Update reports or other reports similar in nature, as requested and directed by the
17 Board or its representative.

18 Respondent shall provide to the Board the names, physical work addresses, work mailing
19 addresses, telephone numbers, and e-mail addresses of all employers, human resources personnel,
20 directors, managers, supervisors, and contractors, and any person providing direct supervision,
21 and shall give specific, written consent that the Respondent authorizes the Board and its
22 representatives and the employers, human resources personnel, directors, managers, supervisors,
23 and contractors, and any person providing direct supervision, to communicate regarding the
24 Respondent's work status, performance, and monitoring. Monitoring includes, but is not limited
25 to, any violation or potential violation of any probationary term and condition.

26 Respondent is encouraged to contact the Board's Probation Program at any time he has a
27 question or concern regarding his terms and conditions of probation.

28 **4. PROBATION MONITORING COSTS** All costs incurred for probation

1 monitoring during the entire probation shall be paid by the Respondent. The monthly cost may be
2 adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms and
3 conditions may also cause this amount to be increased. Probation monitoring costs will not be
4 tolled.

5 All payments for costs are to be sent directly to the Respiratory Care Board and must be
6 received by the date(s) specified. (Periods of tolling will not toll the probation monitoring costs
7 incurred.)

8 If Respondent is unable to submit costs for any month, he shall be required, instead to
9 submit an explanation of why he is unable to submit the costs, and the date(s) he will be able to
10 submit the costs including payment amount(s). Supporting documentation and evidence of why
11 the Respondent is unable to make such payment(s) must accompany this submission.

12 Respondent understands that failure to submit costs timely is a violation of probation and
13 submission of evidence demonstrating financial hardship does not preclude the Board from
14 pursuing further disciplinary action. However, Respondent understands that by providing
15 evidence and supporting documentation of financial hardship it may delay further disciplinary
16 action.

17 In addition to any other disciplinary action taken by the Board, an unrestricted license will
18 not be issued at the end of the probationary period and the respiratory care practitioner license
19 will not be renewed, until such time all probation monitoring costs have been paid.

20 The filing of bankruptcy by the Respondent shall not relieve the Respondent of his
21 responsibility to reimburse the Board for costs incurred.

22 **5. EMPLOYMENT REQUIREMENT** Respondent shall be employed a minimum of
23 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of his probation period.

24 Respondent may substitute successful completion of a minimum of 30 additional
25 continuing education hours, beyond that which is required for license renewal, for each eight (8)
26 months of employment required. Respondent shall submit proof to the Board of successful
27 completion of all continuing education requirements. Respondent is responsible for paying all
28 costs associated with fulfilling this term and condition of probation.

1 6. **NOTICE TO EMPLOYER** Respondent shall be required to inform all current and
2 subsequent employers, directors, managers, supervisors, and contractors during the probation
3 period, of the discipline imposed by this decision by providing his current and subsequent human
4 resources personnel, directors, managers, supervisors, and contractors with a complete copy of
5 the decision and order, and the Statement of Issues in this matter prior to the beginning of or
6 returning to employment or within three (3) days from each change in a supervisor or director.

7 If Respondent is employed by or through a registry and is not restricted from working for a
8 registry, Respondent shall also make each hospital or establishment to which he is sent aware of
9 the discipline imposed by this decision by providing his human resources personnel, manager,
10 and supervisor for each shift, at each hospital or establishment with a copy of this decision, and
11 the Statement of Issues in this matter prior to the beginning of employment. This must be done
12 each time there is a change in supervisors or administrators.

13 The employer will then inform the Board, in writing, that he/she is aware of the discipline,
14 on forms to be provided to the Respondent. Respondent is responsible for contacting the Board to
15 obtain additional forms if needed. All reports completed by the employer must be submitted from
16 the employer directly to the Board.

17 In addition, any employer, director, manager, supervisor or contractor, shall report to the
18 Board immediately, within 24 hours, if he/she suspects Respondent is under the influence of
19 alcohol or any substance or has had any occurrence of substance abuse.

20 7. **SUPERVISOR QUARTERLY REPORTS** Supervisor Quarterly Reports of
21 Performance are due for each year of probation and the entire length of probation from each
22 employer, as follows:

- 23 • For the period covering January 1st through March 31st, reports are to be
24 completed and submitted between April 1st and April 7th.
- 25 • For the period covering April 1st through June 30th, reports are to be completed
26 and submitted between July 1st and July 7th.
- 27 • For the period covering July 1st through September 30th, reports are to be
28 completed and submitted between October 1st and October 7th.

- 1 • For the period covering October 1st through December 31st, reports are to be
2 completed and submitted between January 1st and January 7th.

3 Respondent is ultimately responsible for ensuring his employer(s) submits complete and
4 timely reports.

5 8. **CHANGES OF EMPLOYMENT OR RESIDENCE** Respondent shall notify the
6 Board, and appointed probation monitor, in writing, of any and all changes of employment,
7 location, and address within three (3) days of such change. This includes but is not limited to
8 applying for employment, termination or resignation from employment, change in employment
9 status, change in supervisors, administrators or directors.

10 Respondent shall also notify his probation monitor AND the Board IN WRITING of any
11 changes of residence or mailing address within three (3) days. P.O. Boxes are accepted for
12 mailing purposes, however the Respondent must also provide his physical residence address as
13 well.

14 9. **TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE** Periods of
15 residency or practice outside California, whether the periods of residency or practice are
16 temporary or permanent, will toll the probation period but will not toll the obey all laws, quarterly
17 reports, probation monitoring program, probation monitoring costs, or cost recovery
18 requirements. Travel out of California for more than 30 days must be reported to the Board in
19 writing prior to departure. Respondent shall notify the Board, in writing, within three (3) days,
20 upon his return to California and prior to the commencement of any employment where
21 representation as a respiratory care practitioner is/was provided.

22 Respondent's license shall automatically be cancelled if respondent's cumulative period
23 tolling is greater than five years. However, the cancellation of the license does not relieve the
24 respondent from outstanding cost recovery or probation monitoring costs.

25 10. **VALID LICENSE STATUS** Respondent shall maintain a current, active and valid
26 license for the length of the probation period. Failure to pay all fees and meet CE requirements
27 prior to his license expiration date shall constitute a violation of probation.

28 11. **VIOLATION OF PROBATION** If Respondent commits a "Major Violation," as

1 identified in the Disciplinary Guidelines, incorporated by reference pursuant to California Code
2 of Regulations, title 16, section 1399.374, he shall receive a notice to cease the practice of
3 respiratory care, as directed by the Board. The Board shall attempt to contact Respondent by
4 electronic and/or telephonic means to advise him/her of the notice to cease practice and shall
5 deliver such notice by certified and regular mail. The Board shall update its licensing database to
6 reflect the status of the license.

7 If the Respondent is ordered to cease practice, he may file a written appeal, within 10 days
8 of the date of the notice to cease practice, to provide additional evidence disputing the finding of
9 the violation(s) that was cause for the notice to cease practice. The Executive Officer will review
10 the appeal and make a determination in the matter, within 10 days from the date the written
11 appeal and all supporting evidence or documentation is received. The probationer shall be
12 notified of the outcome by certified mail.

13 Respondent shall not resume the practice of respiratory care until a final decision on an
14 accusation and/or petition to revoke probation is made or until such time as the Board delivers
15 written notification that the notice to cease practice has been dissolved. The cessation of practice
16 shall not apply to the reduction of the probationary time period.

17 The Board will contact the Respondent and his employers, human resources personnel,
18 directors, managers, supervisors, and contractors and notify them that Respondent has been issued
19 a notice to cease practice.

20 In addition, if Respondent violates any term of the probation in any respect, the Board, after
21 giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the
22 disciplinary order that was stayed.

23 If a petition to revoke probation is filed against Respondent during probation, the Board
24 shall have continuing jurisdiction and the period of probation shall be extended until the matter is
25 final. No petition for modification of penalty shall be considered while there is an accusation or
26 petition to revoke probation or other penalty pending against Respondent.

27 **12. COMPLETION OF PROBATION** Upon successful completion of probation,
28 Respondent's license shall be fully restored.

1 13. **WORK SCHEDULES** Respondent shall be required to submit to the probation
2 monitor work schedules on a weekly/monthly basis for the length of probation for each and every
3 place of employment. Respondent shall ensure the Board has a copy of his current work schedule
4 at all times for each place of employment.

5 14. **BIOLOGICAL FLUID TESTING** Respondent, at his expense, shall participate in
6 random testing, including but not limited to biological fluid testing (i.e. urine, blood, saliva),
7 breathalyzer, hair follicle testing, and/or any drug screening program approved by the Board.

8 Respondent shall be required to make daily contact, to determine if he is required to submit
9 a specimen for testing, each day, including weekends, holidays, and vacations in or outside of
10 California, at a lab approved by the Board. Board representatives may also appear unannounced,
11 at any time to collect a specimen. All collections will be observed.

12 At all times, Respondent shall fully cooperate with the Board or any of its representatives,
13 and shall, when directed, appear for testing as requested and submit to such tests and samples for
14 the detection of alcohol, narcotics, hypnotic, dangerous drugs or other controlled substances. All
15 alternative testing sites, due to vacation or travel outside of California must be approved by the
16 Board, 30 days prior to the vacation or travel.

17 If Respondent is unable to provide a specimen in a reasonable amount of time from the
18 request, while at the work site, Respondent understands that any Board representative may
19 request from the supervisor, manager or director on duty to observe Respondent in a manner that
20 does not interrupt or jeopardize patient care in any manner until such time Respondent provides a
21 specimen acceptable to the Board.

22 If Respondent tests positive for a banned substance (including testing positive for ETG), the
23 Board will contact the Respondent and his employers, human resources personnel, directors,
24 managers, supervisors, and/or contractors and notify them of the positive test, including the
25 substance(s) and levels detected. Thereafter, the Board may contact the specimen collector,
26 laboratory, Respondent, treating physician, treatment provider and/or support group facilitators to
27 determine whether the positive test is evidence of prohibited use. If the Board determines the
28 positive test is not evidence of prohibited use, the Board shall inform the Respondent and others

1 previously contacted, that the positive test was not a violation of his probationary order.

2 **15. ABSTENTION FROM USE OF MOOD ALTERING SUBSTANCES** For
3 purposes of these terms and conditions, a banned substance includes alcohol, marijuana,
4 controlled substances and any and all other mood altering drugs and substances. Respondent
5 shall completely abstain from the possession or use of all banned substances and their associated
6 paraphernalia. Respondent may take other medication when lawfully prescribed by a licensed
7 practitioner as part of a documented medical treatment. Respondent shall provide the Board a
8 copy of a prescription within five (5) days of the date the prescription was filled.

9 Respondent shall execute a release authorizing the release of pharmacy and prescribing
10 records as well as physical and mental health medical records. Respondent shall also provide
11 information of treating physicians, counselors or any other treating professional as requested by
12 the Board.

13 Respondent shall ensure that he is not in the presence of or in the same physical location as
14 individuals who are using illegal substances, even if Respondent is not personally ingesting the
15 drug(s). Respondent shall also ensure he is not ingesting or using any product that contains trace
16 amounts of alcohol or any other banned substances (e.g. cold/flu medications, cough syrups, diet
17 pills/products, mouth wash, skin care or hygiene products, perfumes, poppy seeds, dessert or any
18 foods, etc...).

19 Any positive result that registers over the established laboratory cutoff level for a banned
20 substance, shall be reported to each of Respondent's employers.

21 **16. SUSPENSION** As part of probation, Respondent shall be suspended from the
22 practice of respiratory care for a period of twelve (12) days, beginning the effective date of this
23 decision. Respondent shall ensure that each employer informs the Board, in writing, that it is
24 aware of the dates of suspension.

25 **17. RESTRICTION OF PRACTICE** Respondent may not be employed or function as
26 a member of respiratory care management or supervisory staff during the entire length of
27 probation. This includes lead functions. Respondent is prohibited from working as part of a
28 transport team. Respondent is also prohibited from providing instruction or supervision to

1 respiratory care students or applicants whether in a clinical or classroom setting.

2 18. **SURRENDER OF LICENSE** Following the effective date of this decision, if
3 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
4 the terms and conditions of probation, he may request the voluntary surrender of his license. The
5 Board reserves the right to evaluate Respondent's request and to exercise its discretion whether or
6 not to grant the request or to take any other action deemed appropriate and reasonable under the
7 circumstances. Upon formal acceptance of the surrender, within 15 calendar days Respondent
8 shall deliver his wallet and wall certificate to the Board or its designee and he shall no longer
9 practice respiratory care. Respondent will no longer be subject to the terms and conditions of
10 probation and surrender of Respondent's license shall be deemed disciplinary action. If
11 Respondent re-applies for a respiratory care license, the application shall be treated as a petition
12 for reinstatement of a revoked license.

13
14
15 ACCEPTANCE

16 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
17 stipulation and the effect it will have on my Respiratory Care Practitioner License. I enter into
18 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
19 agree to be bound by the Decision and Order of the Respiratory Care Board.

20
21 DATED: 12/5/2014



RAYMOND AZUSADA
Respondent

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ENDORSEMENT

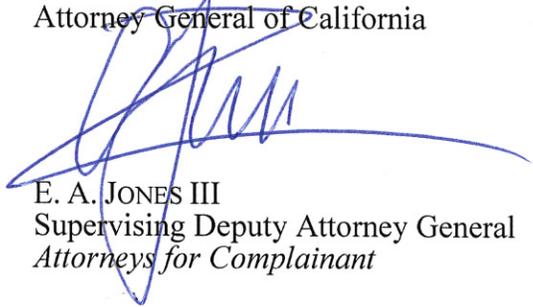
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Respiratory Care Board.

Dated:

January 12, 2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California



E. A. JONES III
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 700-2014-000383

FILED

STATE OF CALIFORNIA

DRY CASE #

RESPIRATORY CARE BOARD

SACRAMENTO November 4, 2014

BY [Signature] ANALYST

1 KAMALA D. HARRIS
 Attorney General of California
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 9 **BEFORE THE**
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 10 **DEPARTMENT OF CONSUMER AFFAIRS**
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11 In the Matter of the Statement of Issues
 12 Against:

Case No. 700-2014-000383

13 **Raymond Azusada**
 14 **719 N. Coronado St., Apt. 1**
Los Angeles, CA 90026

STATEMENT OF ISSUES

Respondent.

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, Department of
 22 Consumer Affairs (Board).

23 2. On or about March 13, 2014, the Board received an application for a Respiratory Care
 24 Practitioner License from Raymond Azusada (Respondent). On or about November 25, 2013,
 25 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
 26 representations in the application. The Board denied the application on May 19, 2014. On or
 27 about June 11, 2014, Respondent requested a hearing.

28 *///*

JURISDICTION

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3. This Statement of Issues is brought before the Board 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 3732 of the Code states:
"(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:
". . .

"(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.

". . .
"(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, place on probation, or revoke the license of any applicant or licenseholder who has done any of

1 the following:

2 "(a) Obtained, possessed, used, or administered to himself or herself in violation of law, or
3 furnished or administered to another, any controlled substances as defined in Division 10
4 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as
5 defined in Article 2 (commencing with Section 4105) of Chapter 9, except as directed by a
6 licensed physician and surgeon, dentist, podiatrist, or other authorized health care provider, or
7 illegally possessed any associated paraphernalia.

8 ""

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

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

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

17 ""

18 10. Section 492 of the Code states:

19 "Notwithstanding any other provision of law, successful completion of any diversion
20 program under the Penal Code, or successful completion of an alcohol and drug problem
21 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
22 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
23 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
24 division, from taking disciplinary action against a licensee or from denying a license for
25 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
26 record pertaining to an arrest.

27 "This section shall not be construed to apply to any drug diversion program operated by any
28 agency established under Division 2 (commencing with Section 500) of this code, or any

1 initiative act referred to in that division."

2 FIRST CAUSE FOR DENIAL OF APPLICATION

3 (Possession of a Controlled Substance)

4 11. Respondent's application is subject to denial under Code sections 3732, subdivision
5 (b), and 3750.5, subdivision (a), in that he possessed the controlled substances cocaine and
6 ecstasy. The circumstances are as follows:

7 12. On or about April 23, 2012, an Imperial County Deputy Sheriff was dispatched to the
8 U.S. Border Patrol Highway 111 checkpoint regarding two male suspects who had been detained
9 with cocaine and ecstasy pills. The U.S. border patrol agent told the deputy sheriff that when two
10 male suspects drove up to the checkpoint, the border patrol agent's certified K-9 partner alerted to
11 the vehicle, and the agent found the cocaine and ecstasy pills in the vehicle. The border patrol
12 agent handed the deputy sheriff a plastic baggie containing a white powder and four pills, and
13 advised him the baggie was located in a bag which Respondent admitted belonged to him. The
14 deputy sheriff questioned Respondent, and Respondent admitted that the white substance was
15 cocaine and the pills were ecstasy pills and he admitted that they were in his possession. The
16 deputy sheriff arrested Respondent for possession of a controlled substance and possession of
17 ecstasy. Respondent was transported to the Imperial County Sheriff's jail for booking.

18 13. Cocaine is a Schedule II controlled substance, as designated in Health and Safety
19 Code section 11055, subdivision (b)(6). Ecstasy is a Schedule I controlled substance as defined
20 by section 11054, subdivision (d), of the Health and Safety Code.

21 14. On or about October 9, 2012, a criminal complaint was filed in the matter entitled *The*
22 *People of the State of California v. Raymond Garcia Azusada*, Imperial County Superior Court
23 Case No. JCF29720. Respondent was charged with possession of the controlled substance
24 cocaine, in violation of Health and Safety Code section 11350, subdivision (a), a felony (Count
25 1), and possession of the controlled substance ecstasy, in violation of Health and Safety Code
26 section 11377, subdivision (a), a felony (Count 2).

27 15. On or about December 14, 2012, Respondent entered a plea of nolo contendere to
28 possession of the controlled substance cocaine in violation of Health and Safety Code section

1 11350, subdivision (a), a felony (Count 1). Count 2 of the complaint was dismissed. Criminal
2 proceedings were suspended. The matter was referred to the Probation Officer for a report and
3 recommendation.

4 16. On or about January 25, 2013, the Court ordered Respondent admitted into the
5 Deferred Entry of Judgment Program for 18 months. Respondent was ordered to comply with the
6 following terms and conditions, among others: participate in a counseling/educational program;
7 abstain from the use of drugs and narcotics; submit to alcohol and drug testing; not associate with
8 users and sellers of narcotics; obey all laws; and pay a diversion fee of \$100.00 per section
9 1001.90, subdivision (b), of the Penal Code.

10 17. On or about July 25, 2014, Respondent having successfully completed the Deferred
11 Entry of Judgment Program, the Court changed Respondent's plea to not guilty and dismissed the
12 case.

13 SECOND CAUSE FOR DENIAL OF APPLICATION

14 (Revocation of a License by Another Agency)

15 18. Respondent's application is subject to denial under Code sections 3732, subdivision
16 (b), and 3750, subdivision (m), in that in about March 2013, his Emergency Medical Technician
17 (EMT) certification was revoked, the revocation was stayed, and his certification was placed on
18 probation until completion of the Deferred Entry of Judgment program. The revocation was
19 based on Respondent's conviction for possession of a narcotic controlled substance, which act
20 would constitute grounds for the denial of a license by the Respiratory Care Board.

21 THIRD CAUSE FOR DENIAL OF APPLICATION

22 (Commission of a Fraudulent, Dishonest or Corrupt Act)

23 19. Respondent's application is subject to denial under Code sections 3732, subdivision
24 (b), and 3750, subdivision (j), and California Code of Regulations, title 16, section 1399.370,
25 subdivision (a), in that he committed a fraudulent, dishonest, or corrupt act which is substantially
26 related to the qualifications, functions and duties of a respiratory care practitioner. The
27 circumstances are as follows:

28 20. On November 25, 2013, Respondent signed his application for licensure by the Board

1 under penalty of perjury certifying the information contained in the application was true and
2 correct. Respondent answered "No" to Question 21 of on the application which reads, "Has any
3 disciplinary action ever been taken by any federal, state or other governmental agency or other
4 country against any professional or vocational registration, certificate or license you now hold or
5 have held in the past?" Respondent was dishonest in that he failed to disclose on his license
6 application the disciplinary action that was taken against his EMT certification. The facts and
7 circumstances of the Second Cause for Discipline are incorporated herein by reference.

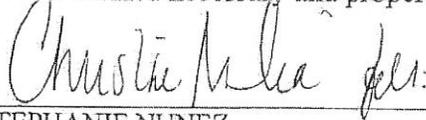
8 21. Respondent answered "No" to Question 14 of on the application which reads, "Have
9 you ever applied for or been issued a registration, certificate or license to practice any other
10 healing art in California or any other state?" Respondent was dishonest in that he failed to
11 disclose on his license application that he was issued an Emergency Medical Technician (EMT)
12 Certification Number E079829 on February 17, 2009.

13 PRAYER

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

- 16 1. Denying the application of Raymond Azusada for a Respiratory Care Practitioner
17 License;
- 18 2. Directing Raymond Azusada to pay the Respiratory Care Board of California, if
19 placed on probation, the costs of probation monitoring; and
- 20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: September 4, 2014

22 
23 STEPHANIE NUNEZ
24 Executive Officer
25 Respiratory Care Board of California
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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