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

11 In the Matter of the Accusation Against:

Case No. 1H-2011-116

12 **MARIA E. BETHUNE, R.C.P.**  
13 **7876 E. Horizon View Way**  
14 **Anaheim Hills, CA 92808**

**A C C U S A T I O N**

15 **Respiratory Care Practitioner License No.**  
16 **10302**

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity  
22 as the Executive Officer of the Respiratory Care Board of California.

23 2. On or about May 30, 1986, the Respiratory Care Board issued Respiratory Care  
24 Practitioner License Number 10302 to MARIA E. BETHUNE, R.C.P. (Respondent). The  
25 Respiratory Care Practitioner License was in full force and effect at all times relevant to the  
26 charges brought herein and will expire on January 31, 2012, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Respiratory Care Board, Department of  
3 Consumer Affairs, State of California (Board), under the authority of the following laws. All  
4 section references are to the Business and Professions 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 118, subdivision (b) of the Code states:

11 "The suspension, expiration, or forfeiture by operation of law of a license issued by a board  
12 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order  
13 of a court of law, or its surrender without the written consent of the board, shall not, during any  
14 period in which it may be renewed, restored, reissued, reinstated, deprive the board of its  
15 authority to institute or continue a disciplinary proceeding against the licensee upon any ground  
16 provided by law or to enter an order suspending or revoking the license or otherwise taking  
17 disciplinary action against the licensee on any such ground."

18 7. Section 820 of the Code states:

19 "Whenever it appears that any person holding a license, certificate or permit under this  
20 division or under any initiative act referred to in this division may be unable to practice his or her  
21 profession safely because the licentiate's ability to practice is impaired due to mental illness, or  
22 physical illness affecting competency, the licensing agency may order the licentiate to be  
23 examined by one or more physicians and surgeons or psychologists designated by the agency.  
24 The report of the examiners shall be made available to the licentiate and may be received as direct  
25 evidence in proceedings conducted pursuant to Section 822."

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8. Code section 821 states:

“The licentiate’s failure to comply with an order issued under Section 820 shall constitute grounds for the suspension or revocation of the licentiate’s certificate or license.”

9. Code section 822 states:

"If a licensing agency determines that its licentiate’s ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

"(a) Revoking the licentiate’s certificate or license.

"(b) Suspending the licentiate’s right to practice.

"(c) Placing the licentiate on probation.

"(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

"The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person’s right to practice his or her profession may be safely reinstated. "

**COST RECOVERY**

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

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

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1 illness affecting competency based on the events listed in paragraphs 15(A) through 15(F)  
2 below:<sup>1</sup>

3 A. The September 20, 2010 Police Contact

4 On or about September 20, 2010, respondent summoned the Anaheim Police to her  
5 apartment complex at 7876 E. Horizon View Drive in Anaheim (respondent's apartment  
6 complex). Upon contact, respondent told the police officer that her neighbor was harassing  
7 her by smoking next to her bedroom window and blowing cigarette smoke into her  
8 apartment. The police officer interviewed the neighbor who denied blowing smoke into  
9 respondent's bedroom window. The neighbor pointed out the respondent's window was on  
10 the second floor and thus it would be impossible to blow cigarette smoke from the ground  
11 floor into respondent's window.

12 B. The October 20, 2010 Police Contact

13 On October 20, 2010, Anaheim Police officers responded to a disturbance complaint  
14 made by two of respondent's neighbors. The two neighbors complained that respondent  
15 had been disturbing her neighbors by banging on the apartment walls she shared with her  
16 neighbors. Upon contact, respondent admitted that she banged at the walls in retaliation to  
17 noises made by her neighbors as they took out trash and opened and closed the garage door.  
18 Respondent also stated that her neighbors were "pawns" of the Calvary Church of Costa  
19 Mesa. She claimed the Calvary Church wanted her to leave the neighborhood.

20 C. The November 12, 2010 Police Contact

21 On or about November 12, 2010, Anaheim Police officers responded to a  
22 disturbance complaint at respondent's apartment complex. Three of respondent's neighbors  
23 complained of persistent noise disturbance from respondent banging on the wall she shared  
24 with her neighbors. The "wall banging" would start at about 8:00 a.m. and continue until  
25 approximately 2:00 a.m. the following morning. When contacted, respondent denied she  
26 banged on the walls, but told one of the officers that someone broke into her home and

27 <sup>1</sup> The events listed in paragraphs 15(A) through 15(F) came from Anaheim Police Department  
28 incident reports submitted to the Board.

1 sprinkled powder and dust inside her house and clothing. However, the officer could not  
2 find any powder or the dust respondent indicated was in her apartment.

3 D. The November 14, 2010 Police Contact

4 On or about November 14, 2010, one of respondent's neighbors went to the Anaheim  
5 Police Department and filed a disturbance complaint against respondent. The neighbor  
6 complained about the ongoing noise disturbance caused by respondent banging on the  
7 common walls she shared with her neighbors. The neighbor told the police that respondent  
8 told her respondent believed someone at the Calvary Church was trying to kill her; that she  
9 had seen respondent in the street taking pictures and yelling at no one in particular; that  
10 respondent had installed cameras in all her windows; and that she called the police because  
11 respondent had threatened to fight her.

12 E. The February 11, 2011 Police Contact

13 On or about February 11, 2011, Anaheim Police officers responded to a disturbance  
14 complaint at respondent's apartment complex. Respondent's neighbor told the officers that  
15 as she was getting out of her apartment with her one-year-old son, respondent stood at her  
16 window and yelled "I'm gonna fuck you up bitch, I'm gonna kill you, I hate your Herman  
17 Munster family." Other neighbors told the police they heard respondent's threats. On  
18 contact, respondent denied threatening anyone but admitted to the police officer that she  
19 believed she was being watched and followed by unknown persons who were attempting to  
20 harm her. Respondent also claimed her neighbors were conspiring to have her hospitalized  
21 and jailed because "they hate niggers." The officers arrested respondent for threatening to  
22 commit a crime on a person in violation of Penal Code section 422.

23 F. On or about March 8, 2011, a criminal complaint was filed against respondent  
24 charging her with one misdemeanor count of threatening to commit a crime on a person in  
25 violation of Penal Code section 422, and one misdemeanor count of challenging a person to  
26 a fight in violation of Penal Code section 415(1).

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1           G.   Report of D.T.A., M.D.

2           In about April 2011, Complainant forwarded the reports of police contacts (above) to  
3           D.T.A., M.D., for his review and opinion as to whether reasonable cause exists to compel  
4           the psychological examination of respondent pursuant to the provisions of Code section  
5           820. Dr. D.T.A. opined that respondent's conduct shows signs and symptoms that "are  
6           consistent with the diagnosis of schizophrenia, paranoid type, showing positive symptoms  
7           of hallucinations, delusions, and effective instability." Dr. D.T.A. opined further that  
8           respondent has no insight into this condition and shows impaired judgment and reality  
9           testing." He also opined that respondent suffers from a mental illness or physical illness  
10          affecting competency which affects respondent's ability to practice respiratory care with  
11          safety to the public.

12          16.   On or about May 18, 2011, the Board issued an Order Compelling the Psychiatric  
13          Examination (Order) of respondent. The Order required respondent to submit to a psychiatric  
14          examination (psych exam) to be performed at the Board's expense, by M. A. K., M.D. at his  
15          offices in San Diego. The Order also required the psych exam be performed no later than June  
16          17, 2011 and required respondent contact Dr. M.A.K. no later than May 23, 2011, to schedule the  
17          interview.

18          17.   On or about May 26, 2011, respondent contacted the Board. Respondent objected to  
19          San Diego as the venue for the psych exam stating she had a back injury and traveling from her  
20          home in Anaheim to San Diego for the psych exam would be a hardship.

21          18.   On or about May 27, 2011, the Board issued a modified Order. The modified Order  
22          named C.W.C.H., M.D. as the psychiatric examiner, and required the psych exam be performed at  
23          Dr. C.W.C.H.'s offices in Fullerton no later than June 17, 2011.<sup>2</sup>

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27          <sup>2</sup> The modified Order also informed respondent the psych exam had been scheduled for June 16,  
28          2011, at 2:30 p.m.

