

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

In the Matter of the Accusation Against:

Case No. 1H 2010 590

RAYMOND JOSEPH AUGUSTINUS
1971 Church Street, #2
Costa Mesa, CA 92627

Respiratory Care Practitioner License No. 10983

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 July 4, 2014.

It is so ORDERED June 24, 2014.

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

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 LORI JEAN FORCUCCI
Deputy Attorney General
4 State Bar No. 125345
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2080
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
RESPIRATORY CARE BOARD
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 1H-2010-590

14 **RAYMOND JOSEPH AUGUSTINUS, R.C.P.**
15 **1971 Church Street, #2**
Costa Mesa, CA 92627

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 **Respiratory Care Practitioner License**
17 **No. 10983**

18 Respondent.

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

21 **PARTIES**

22 1. Stephanie Nunez (Complainant) is the Executive Officer of the Respiratory Care
23 Board of California (Board). She brought this action solely in her official capacity and is
24 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
25 Lori Jean Forcucci, Deputy Attorney General.

26 2. Respondent Raymond Joseph Augustinus, R.C.P. (Respondent) is represented in this
27 proceeding by attorney Michael A. Goldfeder, whose address is 400 Continental Blvd., 6th Floor,
28 El Segundo, California 90245.

1 **CULPABILITY**

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 1H-2010-590.

4 9. Respondent agrees that his Respiratory Care Practitioner License No. 10983 is subject
5 to discipline and he agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 **CONTINGENCY**

8 10. This stipulation shall be subject to approval by the Respiratory Care Board.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Respiratory
10 Care Board of California may communicate directly with the Board regarding this stipulation and
11 settlement, without notice to or participation by Respondent or his counsel. By signing the
12 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
16 action between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 11. The parties understand and agree that copies of this Stipulated Settlement and
19 Disciplinary Order may be used in lieu of original documents and signatures and, further, shall
20 have the same force and effect as the originals.

21 12. In consideration of the foregoing admissions and stipulations, the parties agree that
22 the Board may, without further notice, formal proceeding, or opportunity to be heard by
23 Respondent, issue and enter the following Disciplinary Order:

24 **DISCIPLINARY ORDER**

25 IT IS HEREBY ORDERED that Respiratory Care Practitioner License No. 10983 issued to
26 Respondent Raymond Joseph Augustinus, R.C.P. is revoked. However, the revocation is stayed
27 and Respondent is placed on probation for three (3) years on the following terms and conditions:

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1 1. **SUSPENSION** Respondent shall be suspended from the practice of respiratory care
2 for 12 working days, beginning the effective date of this Decision and Order. Respondent shall
3 ensure that each employer informs the Board, in writing, that it is aware of the dates of
4 suspension.

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

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

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

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

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

26 If Respondent tests positive for a banned substance (including testing positive for ETG), the
27 Board will contact the Respondent and his employers, human resources personnel, directors,
28 managers, supervisors, and/or contractors and notify them of the positive test, including the

1 substance(s) and levels detected. Thereafter, the Board may contact the specimen collector,
2 laboratory, Respondent, treating physician, treatment provider and/or support group facilitators to
3 determine whether the positive test is evidence of prohibited use. If the Board determines the
4 positive test is not evidence of prohibited use, the Board shall inform the Respondent and others
5 previously contacted, that the positive test was not a violation of his probationary order.

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

13 Respondent shall execute a release authorizing the release of pharmacy and prescribing
14 records as well as physical and mental health medical records. Respondent shall also provide
15 information of treating physicians, counselors or any other treating professional as requested by
16 the Board. Respondent shall ensure that he is not in the presence of or in the same physical
17 location as individuals who are using illegal substances, even if Respondent is not personally
18 ingesting the drug(s). Respondent shall also ensure he is not ingesting or using any product that
19 contains trace amounts of alcohol or any other banned substances (including but not limited to:
20 cold/flu medications, cough syrups, diet pills/products, mouth wash, skin care or hygiene
21 products, perfumes, poppy seeds, dessert or any foods, etc.)

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

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

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1 6. **OBEY ALL LAWS** Respondent shall obey all laws, whether federal, state, or local.
2 The Respondent shall also obey all regulations governing the practice of respiratory care in
3 California. Respondent shall notify the Board in writing within three (3) days of any incident
4 resulting in his arrest, or charges filed against, or a citation issued against, Respondent.

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

10 Quarterly report forms will be provided by the Board. Respondent is responsible for
11 contacting the Board to obtain additional forms if needed. Quarterly reports are due for each year
12 of probation and the entire length of probation as follows:

13 For the period covering January 1st through March 31st, reports are to be completed
14 and submitted between April 1st and April 7th.

15 For the period covering April 1st through June 30th, reports are to be completed and
16 submitted between July 1st and July 7th.

17 For the period covering July 1st through September 30th, reports are to be
18 completed and submitted between October 1st and October 7th.

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

21 8. **PROBATION MONITORING PROGRAM** Respondent shall comply with
22 requirements of the Board appointed probation monitoring program, and shall, upon reasonable
23 request, report to or appear to a local venue as directed.

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

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1 Respondent shall provide to the Board the names, physical work addresses, work mailing
2 addresses, telephone numbers, and e-mail addresses of all employers, human resources personnel,
3 directors, managers, supervisors, and contractors, and any person providing direct supervision,
4 and shall give specific, written consent that the Respondent authorizes the Board and its
5 representatives and the employers, human resources personnel, directors, managers, supervisors,
6 and contractors, and any person providing direct supervision, to communicate regarding the
7 Respondent's work status, performance, and monitoring. Monitoring includes, but is not limited
8 to, any violation or potential violation of any probationary term and condition.

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

11 9. **PROBATION MONITORING COSTS** All costs incurred for probation
12 monitoring during the entire probation shall be paid by the Respondent. The monthly cost may be
13 adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms and
14 conditions may also cause this amount to be increased. Probation monitoring costs will not be
15 tolled. All payments for costs are to be sent directly to the Respiratory Care Board and must be
16 received by the date(s) specified. (Periods of tolling will not toll the probation monitoring costs
17 incurred.)

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

22 Respondent understands that failure to submit costs timely is a violation of probation and
23 submission of evidence demonstrating financial hardship does not preclude the Board from
24 pursuing further disciplinary action. However, Respondent understands that by providing
25 evidence and supporting documentation of financial hardship it may delay further disciplinary
26 action. In addition to any other disciplinary action taken by the Board, an unrestricted license
27 will not be issued at the end of the probationary period and the respiratory care practitioner
28 license will not be renewed, until such time all probation monitoring costs have been paid.

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

3 10. **EMPLOYMENT REQUIREMENT** Respondent shall be employed a minimum of
4 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of his probation period.
5 Respondent may substitute successful completion of a minimum of 30 additional continuing
6 education hours, beyond that which is required for license renewal, for each eight (8) months of
7 employment required. Respondent shall submit proof to the Board of successful completion of all
8 continuing education requirements. Respondent is responsible for paying all costs associated
9 with fulfilling this term and condition of probation.

10 11. **NOTICE TO EMPLOYER** Respondent shall be required to inform all current and
11 subsequent employers, directors, managers, supervisors, and contractors during the probation
12 period, of the discipline imposed by this decision by providing his current and subsequent human
13 resources personnel, directors, managers, supervisors, and contractors with a complete copy of
14 the decision and order, and the Accusation(s) in this matter prior to the beginning of or returning
15 to employment or within three (3) days from each change in a supervisor or director.

16 If Respondent is employed by or through a registry Respondent shall also make each
17 hospital or establishment to which he is sent aware of the discipline imposed by this decision by
18 providing his human resources personnel, manager, and supervisor for each shift, at each hospital
19 or establishment with a copy of this decision, and the Accusation(s) in this matter prior to the
20 beginning of employment. This must be done each time there is a change in supervisors or
21 administrators.

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

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

4 12. **SUPERVISOR QUARTERLY REPORTS** Supervisor Quarterly Reports of
5 Performance are due for each year of probation and the entire length of probation from each
6 employer, as follows:

7 For the period covering January 1st through March 31st, reports are to be completed
8 and submitted between April 1st and April 7th.

9 For the period covering April 1st through June 30th, reports are to be completed and
10 submitted between July 1st and July 7th.

11 For the period covering July 1st through September 30th, reports are to be
12 completed and submitted between October 1st and October 7th.

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

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

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

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

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1 14. **COST RECOVERY** Respondent shall pay to the Board a sum not to exceed the
2 costs of the investigation and prosecution of this case. That sum shall be three thousand nine
3 hundred fifteen dollars, and no cents (\$3,915.00), and shall be paid in full directly to the Board, in
4 equal quarterly payments, within 36 months from the effective date of this decision. Cost
5 recovery will not be tolled.

6 If Respondent is unable to submit costs timely, he shall be required, instead to submit an
7 explanation of why he is unable to submit these costs in part or in entirety, and the date(s) he will
8 be able to submit the costs including payment amount(s). Supporting documentation and
9 evidence of why the Respondent is unable to make such payment(s) must accompany this
10 submission. Respondent understands that failure to submit costs timely is a violation of probation
11 and submission of evidence demonstrating financial hardship does not preclude the Board from
12 pursuing further disciplinary action. However, Respondent understands that by providing
13 evidence and supporting documentation of financial hardship may delay further disciplinary
14 action. Consideration to financial hardship will not be given should Respondent violate this term
15 and condition, unless an unexpected AND unavoidable hardship is established from the date of
16 this order to the date payment(s) is due.

17 The filing of bankruptcy by the Respondent shall not relieve the Respondent of his
18 responsibility to reimburse the Board for these costs.

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

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28 ///

1 Respondent's license shall automatically be cancelled if Respondent's cumulative period
2 tolling is greater than five (5) years. However, the cancellation of the license does not relieve the
3 Respondent from outstanding cost recovery or probation monitoring costs.

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

7 17. **VIOLATION OF PROBATION** If Respondent commits a "Major Violation," as
8 identified in the Disciplinary Guidelines, incorporated by reference pursuant to section 1399.374,
9 he shall receive a notice to cease the practice of respiratory care, as directed by the Board. The
10 Board shall attempt to contact Respondent by electronic and/or telephonic means to advise him of
11 the notice to cease practice and shall deliver such notice by certified and regular mail. The Board
12 shall update its licensing database to reflect the status of the license.

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

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

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

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

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

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

16 19. **COMPLETION OF PROBATION** Upon successful completion of probation,
17 Respondent's license shall be fully restored.

18 **ACCEPTANCE**

19 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
20 discussed it with my attorney, Michael A. Goldfeder, Esq. I fully understand the stipulation and
21 the effect it will have on my Respiratory Care Practitioner License No. 10983. I enter into this
22 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
23 to be bound by the Decision and Order of the Respiratory Care Board.

24
25 DATED: April 29, 2014

Original signed by: _____

26 RAYMOND JOSEPH AUGUSTINUS R.C.P.
27 Respondent

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1 I have read and fully discussed with Respondent Raymond Joseph Augustinus, R.C.P., the terms
2 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
3 Order. I approve its form and content.

4
5 DATED: April 29, 2014

Original signed by:

MICHAEL A. GOLDFEDER, ESQ.
Attorney for Respondent

7
8 **ENDORSEMENT**

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
10 submitted for consideration by the Respiratory Care Board of the Department of Consumer
11 Affairs.

12 DATED: May 5, 2014

Respectfully submitted,

13 KAMALA D. HARRIS
Attorney General of California
14 THOMAS S. LAZAR
Supervising Deputy Attorney General

15
16 Original signed by:

LORI JEAN FORCUCCI
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 1H-2010-590

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 SAMUEL K. HAMMOND
Deputy Attorney General
4 State Bar No. 141135
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2083
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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9 **BEFORE THE**
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11 In the Matter of the Accusation Against:

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12 **RAYMOND JOSEPH AUGUSTINUS**
13 **1971 Church Street, #2**
Costa Mesa, CA 92627

A C C U S A T I O N

14 **Respiratory Care Practitioner**
15 **License No. 10983**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about May 8, 1987, the Respiratory Care Board issued Respiratory Care
24 Practitioner License Number 10983 to Raymond Joseph Augustinus (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 August 31, 2014, unless renewed.

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JURISDICTION

1
2 3. This Accusation is brought before the Respiratory Care Board (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 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,
6 hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the
7 Respiratory Care Practice Act]."

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

10 6. Section 3750 of the Code states:
11 "The board may order the denial, suspension or revocation of, or the imposition
12 of probationary conditions upon, a license issued under this chapter, for any of the
13 following causes:

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

17 "..."

18 7. Section 3750.5 of the Code states:
19 "In addition to any other grounds specified in this chapter, the board may deny,
20 suspend, or revoke the license of any applicant or license holder who has done any of
21 the following:

22 "(a) Obtained or possessed in violation of law, or except as directed by a
23 licensed physician and surgeon, dentist, or podiatrist administered to himself or
24 herself, or furnished or administered to another, any controlled substances as defined
25 in Division 10 (commencing with Section 11000) of the Health and Safety Code, or
26 any dangerous drug as defined in Article 2 (commencing with section 4015) of
27 Chapter 9 of this code.

28 "..."

1 abused her on several occasions in the past and was afraid for life her life because the “issues”
2 between her and Respondent were escalating. The Deputy requested an Emergency Protective
3 Order (EPO) for CA’s protection.

4 C. Sometime during August 18, 2010, the OCS Deputy interviewed Respondent at
5 the home he shared with CA. During the interview, Respondent admitted hitting CA with a
6 pillow when their minor child was present. Respondent also admitted smoking marijuana on
7 August 1, 2010. The deputy obtained Respondent’s consent for a search. The deputy found
8 approximately one (1) gram of marijuana from Respondent’s bedroom dresser drawer.
9 Respondent was arrested. At about 1236 hours on or about August 17, 2010, an Emergency
10 Protective Order (EPO) was issued ordering Respondent to immediately move out of the house he
11 shared with CA for the protection of CA and her two children.¹

12 D. On or about August 24, 2010, a Temporary Restraining Order (TRO) was
13 granted ordering Respondent to comply with the TRO, including, but not limited to: not contact
14 (directly or indirectly), telephone, send messages, mail or email CA.

15 E. On or about September 23, 2010, the Temporary Restraining Order was
16 reissued.

17 F. On or about September 24, 2010, a hearing on the Domestic Violence (DV)
18 Restraining Order was held. Respondent was ordered to comply with the orders in the TRO,
19 including, but not limited to, not contact (either directly or indirectly) telephone, or send
20 messages or mail or email to CA. The TRO also ordered Respondent to enroll in a 52-week
21 Batterer’s Intervention Program within 10 days and attend the first session within 30 days of the
22 enrollment date. Respondent was allowed telephone contact with his children on Wednesdays
23 between 6:00 p.m. and 8:00 p.m., and Saturdays between 12:00 p.m. and 2:00 p.m.

24 G. On or about November 5, 2010, a Stipulation for Visitation, a Modification of
25 the DV Restraining Order, was entered into wherein the parties agreed that Respondent shall have

26 ¹ Respondent was arraigned on or about August 23, 2010, however, bail was exonerated on
27 or about September 13, 2010, because a complaint was not filed within 15 days of the date
28 arraignment. The case was closed on September 23, 2011.

1 unsupervised visitation from 12:00 p.m. on November 6, 2010 through 12:00 p.m. on November
2 7, 2010. The stipulated DV TRO was also modified to permit Respondent to “brief and peaceful
3 contact as required for any court ordered or stipulated visitation of the children.”

4 H. On or about November 7, 2010, CA contacted the OCS stating Respondent
5 called her multiple times on her cell phone in violation of the restraining order. CA recorded the
6 calls. During the first call, CA asked why Respondent was calling since the restraining order
7 ordered Respondent not to contact her. Respondent told CA to “quit hiding from me” and CA
8 owed him a conversation. He also stated the following: “you threw me out like trash, you owe it
9 to the children, I don’t need to be punished, I’m not the enemy, stop torturing me, why can’t we
10 work it out.” CA said “you are not supposed to be calling me.” Respondent continued to talk
11 about CA’s male friend saying: “he is a coward, dirt bag, class act, and to give me my wife back.”
12 On the second recording, Respondent stated: “I’m still your husband, you owe it to me...quit
13 running...this asshole, you’ll never get a penny from me.” On a third recording, Respondent
14 asked CA, “are you going to talk to me at noon” and stated “you shouldn’t have strangers in our
15 house.”

16 The Deputy attempted to contact Respondent by leaving a voice mail asking
17 Respondent to return his call. Respondent did not return the Deputy’s phone call.

18 I. On or about November 13, 2010, CA contacted the OCS to report her husband
19 calling her twice in violation of the restraining order. At approximately 1227 hours, Respondent
20 left a voicemail stating: “you’re such a coward, you’re so cruel, evil, and wicked”. At
21 approximately 1236 hours, Respondent left another voicemail saying: “you can run but you can’t
22 hide coward, and it hurts to hear your son hear the truth, he’ll always hear the truth.” Upon
23 contact with Respondent, he told the Deputy the court order was modified and it allows him to
24 contact CA about the children.² The Deputy instructed Respondent to follow the orders
25 completely and keep a copy of all modifications with him. He also recommended Respondent
26 avoid negative comments or remarks to CA and/or the children.

27 ² On or about November 5, 2010, the Court modified the TRO allowing “brief and
28 peaceful contact as required for any court ordered or stipulated visitation of the children.”

1 J. On or about November 20, 2010, a third party witness saw Respondent drive
2 past CA's home in violation of the restraining order. CA reported the incident to the OCS. The
3 witness reported to the Deputy that after Respondent drove past CA's house, Respondent drove
4 past the witness's house and they made eye contact. On December 29, 2010, a Deputy contacted
5 Respondent about the incident. Respondent denied driving by CA's home. He did admit to
6 making phone calls to CA in violation of the restraining order. When Respondent was told the
7 witness observed him drive by CA's home, Respondent named MJ as the witness who made the
8 statement and that they used to be friends. Respondent stressed to the Deputy that he did not
9 want to violate the restraining order and was having a hard time with the separation.

10 K. On or about November 22, 2010, at approximately 0900, while CA was in court
11 regarding her pending divorce, Respondent approached CA and began harassing her as she waited
12 to be screened by security. A Deputy intervened and separated them. At approximately 1155
13 hours, Respondent sent texts to CA's cell phone at 1629 and 1741 hours regarding the appearance
14 in court. On November 23, 2010, at approximately 1030 hours, Respondent again sent a text to
15 CA.

16 L. On or about November 24, 2010, Respondent sent CA another text in violation
17 of the restraining order. A portion of the message reads: "I sear (swear) on my life this is the last
18 time I make contact with you. You're nothing but a ruthless whore."

19 M. On or about February 25, 2011, Respondent contacted CA by calling her cell
20 phone from an unknown number in violation of the restraining order. Respondent complained
21 CA had dropped his Auto Club benefits. CA reported this incident to the OCS.

22 N. On or about April 20, 2011, Respondent went to the home of MJ, Respondent's
23 former friend and neighbor. Respondent pounded on MJ's front door shouting "I know you're in
24 there" and "I'm gonna kill you motherfucker." MJ went into the garage so his children wouldn't
25 hear Respondent yelling profanity. When MJ opened the garage door, Respondent came over to
26 MJ and shoved MJ into the garage wall punching MJ with a closed fist three to four times in the
27 face and neck area. Respondent was saying "What you gonna do, call the cop, pussy" and
28 Respondent spit in MJ's face. MJ was able to push Respondent away. As he walked away,

1 Respondent stated “I’ll be back and I’m gonna kill you.” MJ reported this incident to the Sheriff’s
2 Department.

3 A Deputy contacted Respondent about the incident. Respondent did not want to
4 cooperate stating he wanted his lawyer present.

5 O. On or about March 20, 2012, the District Attorney for the County of Orange
6 filed a Felony Complaint Amendment 1 in Superior Court of California, County of Orange,
7 Harbor Justice Center, Newport Beach Facility, in the case of *People of the State of California v.*
8 *Raymond Joseph Augustinus*, Case No. 11HF1499, charging Respondent with one count of
9 making criminal threats in violation of Penal Code section 422, a felony (Count 1); one count of
10 assault in violation of Penal Code section 240, a misdemeanor (Count 2); one count of battery in
11 violation of Penal Code section 242, a misdemeanor (Count 3); six counts of violation of a
12 protective order in violation of Penal Code sections 273.6(a) and 273.6(b), misdemeanors (Count
13 4 through Count 9); and one count of harassing telephone calls in violation of Penal Code section
14 653m(a), a misdemeanor (Count 10).

15 On or about July 2, 2012, the *People of the State of California* represented they were
16 unable to proceed and made a motion to dismiss the case. The motion was granted and the case
17 was dismissed.

18 **CITATION FOR DRINKING IN PUBLIC**

19 14. On or about April 2, 2012, a Costa Mesa Police Department police officer
20 observed Respondent drinking alcohol in public. Respondent was drinking a 12 oz. bottle of
21 Corona beer. The officer arrested Respondent and issued Citation No. CMZ 154443 to
22 Respondent for drinking in public in violation of Costa Mesa Municipal Code (CMMC) section
23 11-3. On or about April 20, 2012, the Costa Mesa Police Department filed Citation No. CMZ
24 154443 IA before the Superior Court of California, Orange County, charging Respondent with
25 one (1) count of drinking in public, an infraction, in violation of CMMC section 11-3. On or
26 about April 23, 2012, a “Courtesy Notice of Violation” was sent to Respondent. On or about
27 April 27, 2012, Respondent paid a \$275.00 bail forfeiture in satisfaction of the citation, and the
28 case was closed on or about April 28, 2012.

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SECOND CAUSE FOR DISCIPLINE

(Obtained, Possessed, Used or Administered to Himself a Controlled Substance)

15. Respondent’s license is further subject to disciplinary action under Code section 3750.5, as defined by section 3750.5, subdivision (a), in that he possessed and used a controlled substance, to wit: marijuana, as more particularly described in paragraphs 13A, 13C and 14, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

16. Respondent’s license is further subject to disciplinary action under Code section 3755, in that he engaged in conduct that breaches the rules or ethical code of the medical profession or conduct which is unbecoming to a member in good standing of the practice of respiratory care, and which demonstrates an unfitness to practice respiratory care, as more particularly alleged in paragraphs 13 through 15, above, which are hereby incorporated by reference and realleged as though fully set forth herein.

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. Revoking or suspending Respiratory Care Practitioner Certificate Number 10983, issued to Raymond Joseph Augustinus;
- 2. Ordering Raymond Joseph Augustinus to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: May 28, 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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