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

In the Matter of the Accusation Against**:** JULIE RENEE BRUCE, R.C.P. 145 E. 44th Street, #106 San Bernardino, CA 92404 Respiratory Care Practitioner License No. 20731, Respondent.	Case No. 1H-2009-346 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about April 9, 1999, the Respiratory Care Board (Board) issued Respiratory Care Practitioner License Number 20731 to Julie Renee Bruce, R.C.P. (Respondent). Respondent's Respiratory Care Practitioner License No. 20731 lapsed on or about October 31, 2002, and was later renewed on or about December 2, 2002. Respondent's Respiratory Care Practitioner License No. 20731 again lapsed on October 31, 2004, and was later renewed on or about March 28, 2005. Respondent's Respiratory Care Practitioner License again lapsed on or

about October 31, 2006, and was later renewed on or about November 30, 2006. On or about April 5, 2008, the Board issued respondent a 150-day temporary license, pursuant to Family Code, section 17520, with an expiration date of September 7, 2008. On or about September 8, 2008, the Board suspended respondent's Respiratory Care Practitioner License No. 20731 for noncompliance with a judgment or order to pay child support, pursuant to Family Code section 17520, and the license remains on suspended status as of the date of the filing of this Accusation.

JURISDICTION

3. This Accusation 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:

"(a) The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter.

"(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

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 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:

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"(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

"...

"(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

"..."

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

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

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

"(b) Conviction of a crime involving fiscal dishonesty theft, or larceny.

"..."

7. Section 3750.5 of the Code states:

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

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

"(b) Used any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with section 4015) of Chapter 9 of this code."

8. Section 118 of the Code states, in pertinent part,

". . .

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

"(c) As used in this section, 'board' includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,' 'registration,' and 'permit.'"

COST RECOVERY

9. Section 3753.5 of the Code states:

"(a) 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.

"(b) The costs shall be assessed by the administrative law judge and shall not be increased by the board; however, the costs may be imposed or increased by the board if it does not adopt the proposed decision of the case.

"Where an order for recovery of costs is made and timely payment is not made as directed in the board's decision the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any practitioner directed to pay costs.

"(c) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

"(d)(1) The board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

"(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew, for a maximum of one year, the license of any licensee who demonstrates financial hardship, through documentation satisfactory to the board, and who enters into a formal agreement with the board to reimburse the board within that one-year period for those unpaid costs.

"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 to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case."

10. Section 3753.7 of the Code states:

"For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees."

11. Section 3753.1 of the Code states:

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

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime Substantially Related to the Qualifications, Functions and Duties of a Respiratory Care Practitioner)

12. Respondent is subject to disciplinary action under section 3750, as defined by section 3750, subdivision (d), of the Code, in that she has been convicted of a crime substantially related to the qualifications, functions, and duties of a respiratory care practitioner, as more particularly alleged hereinafter:

February 28, 2008 Drug Offense

(a) On or about February 28, 2008, at approximately 3:45 p.m., Officer J.G. of the San Bernardino County Sheriff's Department was dispatched to the home of M.B., to check on the welfare of a child. Upon arrival, Officer J.G. saw respondent and M.B. on the front porch exhibiting signs of being under the influence of a controlled substance. Officer J.G. took respondent's pulse three times at approximately 10-minute intervals, and her pulse was approximately 110 beats per minute each time. Respondent also noticed respondent exhibiting eyelid tremors, and respondent was complaining that her mouth was dry. Officer J.G. checked the house to make sure the living conditions were adequate for the child, and therein found a clear, plastic baggie containing a white crystalline substance and a pipe commonly used for smoking marijuana in plain view in the bedroom. Officer J.G. conducted a field test of the white crystalline substance, which tested positive for amphetamine.

(b) Respondent agreed to talk to Officer J.G. the officer read respondent her Miranda rights. She stated that she did not use methamphetamine, that she had not used methamphetamine for 15 years, and that she did not know to whom the substance belonged. Officer J.G. told respondent that she was exhibiting signs of being under the influence and that he did not believe her, at which time respondent admitted to using the methamphetamine earlier that morning and explained she lied because she did not want to lose her job. Officer J.G. then arrested respondent for being under the influence of a controlled substance.

(c) On or about April 4, 2008, the San Bernardino District Attorney filed a Misdemeanor Complaint against respondent in the case entitled *The People of the State of California vs. Matthew Arnold Balin and Julie Bruce*, Case No. MVA801154. The Misdemeanor Complaint charged respondent with being under the influence of a controlled substance, to wit, methamphetamine, in violation of Health and Safety Code section 11550, subdivision (a).

(d) On or about January 11, 2010, Case No. MVA801154 was dismissed upon the motion of the District Attorney, as part of a plea bargain in Case No. FSB900741, as detailed in paragraph 12(j), below.

February 9, 2009 and February 13, 2009 Car Thefts

(e) On or about February 9, 2009, D.R., a then ex-boyfriend of respondent, filed a police report with the San Bernardino Sheriff's Department alleging that respondent had stolen his car and asked to have her arrested if she did not return with it.

(f) On or about February 12, 2009, D.R. reported that respondent had stolen his car again.

(g) On or about February 13, 2009, respondent was pulled over while driving a vehicle reported by D.R. as stolen.

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(h) On or about February 24, 2009, the San Bernardino District Attorney, in the case entitled *The People of the State of California vs. Julie Bruce*, Case No. FSB900741, filed a Felony Complaint against respondent which charged respondent with (1) committing vehicle theft on or about February 13, 2009, in violation of Vehicle Code section 10851, subdivision (a), a felony, and (2) receiving stolen property on or about February 13, 2009, in violation of Penal Code section 496d, subdivision (a), a felony.

(i) On or about March 6, 2009, in the case entitled *The People of the State of California vs. Julie Bruce*, Case No. FSB900741, the San Bernardino District Attorney filed a First Amended Felony Complaint, which, in addition to the two counts alleged in the original Felony Complaint as stated in paragraph 12(g), above, alleged that on or about February 5, 2009, respondent (1) unlawfully drove or took a vehicle, in violation of Vehicle Code section 10851, subdivision (a), a felony, and (2) received stolen property, to wit, a motor vehicle, in violation of Penal Code section 496d, subdivision (a), a felony.

(j) On or about January 11, 2010, in Case No. FSB900741, respondent was convicted of two counts of violating Vehicle Code section 10851, subdivision (a) [vehicle theft]. As part of the plea bargain, Case No. MVA801154 was dismissed upon the motion of the district attorney.

(k) On or about February 10, 2010, respondent was sentenced to supervised probation for a period of 36 months with the following terms and conditions: (1) Serve 365 days in local jail, with credit for time served of 77 days plus conduct credit, (2) Participate in the Inroads (Inmate Rehabilitation Through Occupational and Academic Development) program and complete the required classes, and (3) other standard terms and conditions.

<u>June 3, 2009 Car Theft</u>

(l) On or about June 3, 2009, respondent was again arrested for the theft of a vehicle.

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(m) On or about June 11, 2009, the District Attorney for the County of San Bernardino, in the case entitled The *People of the State of California vs. Julie Renee Bruce*, Case No. FSB902439, filed a Felony Complaint against respondent which charged respondent with vehicle theft, in violation of Vehicle Code section 10851, subdivision (a), a felony. The Felony Complaint further alleged that at the time of the offence on June 3, 2009, respondent was released on bail or on her own recognizance in San Bernardino Superior Court Case No. FSB900741, within the meaning of Penal Code section 12022.1.

(n) On or about January 11, 2010, respondent plead guilty to violating Vehicle Code section 10851, subdivision (a) [vehicle theft], a felony, as alleged in Count 1 of the Felony Complaint.

(o) On or about February 10, 2010, respondent was sentenced to supervised probation for a period of 36 months with the following terms and conditions: (1) Serve 365 days in local jail, with credit for time served of 77 days plus conduct credit, (2) Participate in the Inroads (Inmate Rehabilitation Through Occupational and Academic Development) program and complete the required classes, and (3) other standard terms and conditions. The Court ordered respondent's sentence to run concurrent with her sentence in with Case No. FSB900741 (see, paragraph 12(k), above).

SECOND CAUSE FOR DISCIPLINE

(Unlawfully Obtaining, Possessing, and/or Using a Controlled Substance)

13. Respondent is further subject to disciplinary action under section 3750.5, subdivisions (a) and (b), of the Code, in that she has unlawfully obtained, possessed, and/or used, a controlled substance or dangerous drug, to wit, methamphetamine, as more fully alleged hereinafter:

(a) Paragraphs 12(a) and 12(b), above, are hereby incorporated by reference as if fully set forth herein.

(b) On or about March 20, 2009 at approximately 7:00 p.m., respondent was contacted by Sheriff's Deputy T.V. at the Travelodge Motel in Victorville, California. During this conversation, respondent showed signs and symptoms of being under the

influence of a controlled substance. Respondent had dilated pupils and fast gibberish speech. Deputy T.V. asked respondent when was the last time that she used methamphetamine, and respondent replied that she had used methamphetamine the previous day in the morning.

(c) Deputy T.V. asked respondent to submit to a field evaluation to determine whether she had been using methamphetamine, and respondent agreed. During this evaluation, respondent showed the following signs or symptoms of being under the influence of methamphetamine: (1) dilated pupil size of 6.0 mm in direct light, (2) dilated pupil size of 6.5 mm in room light, (3) dilated pupil size of 7.0 mm in darkness, (4) eyelid tremors, (5) white coating on the tongue, (6) pulse rate of approximately 115 beats per minute, (7) dry mouth, and (8) nervousness.

(d) Respondent was arrested for violating Health and Safety Code section 11550, subdivision (a) [Under the Influence of a Controlled Substance], and later released with a citation.

THIRD CAUSE FOR DISCIPLINE

(Violations of the Respiratory Care Practice Act)

14. Respondent is further subject to disciplinary action under section 3750, subdivision (g), of the Code, in that she violated or attempted to violate, directly or indirectly, or assisted, abetted, or conspired to violate, a provision or term of the Respiratory Care Practice Act, as more fully alleged hereinafter:

(a) Paragraphs 12 and 13, above, are hereby incorporated by reference as if fully set forth herein.

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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. Revoking or suspending Respiratory Care Practitioner License Number 20731, issued to respondent Julie Renee Bruce, R.C.P.;

2. Ordering respondent Julie Renee Bruce, R.C.P., 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;

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

DATED: October 14, 2010

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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